

RURAL DEVELOPMENT COMMITTEE

Tuesday 24 April 2001
(*Afternoon*)

Session 1

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RURAL DEVELOPMENT COMMITTEE

11th Meeting 2001, Session 1

CONVENER

*Alex Johnstone (North-East Scotland) (Con)

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

Mrs Margaret Ewing (Moray) (SNP)

*Alex Fergusson (South of Scotland) (Con)

*Rhoda Grant (Highlands and Islands) (Lab)

*Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)

*Richard Lochhead (North-East Scotland) (SNP)

*George Lyon (Argyll and Bute) (LD)

*Dr Elaine Murray (Dumfries) (Lab)

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*Elaine Smith (Coatbridge and Chryston) (Lab)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Adam Ingram (South of Scotland) (SNP)

WITNESSES

Gordon Brown (Scottish Executive Rural Affairs Department)

David Cassidy (Scottish Executive Rural Affairs Department)

Richard Clark (National Farmers Union of Scotland)

John Kinnaird (National Farmers Union of Scotland)

Professor Ron Roberts (National Farmers Union of Scotland)

Dr Ron Stagg (Scottish Executive Rural Affairs Department)

CLERK TO THE COMMITTEE

Richard Davies

SENIOR ASSISTANT CLERK

Tracey Haw e

ASSISTANT CLERKS

Neil Stewart

Jake Thomas

LOCATION

Committee Room 1

Scottish Parliament

Rural Development Committee

Tuesday 24 April 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:02*]

Committee Business

The Convener (Alex Johnstone): As we have reached the appointed time and we have a quorum, we will begin.

Item 1 is for us to consider taking item 7 in private. The conveners liaison group has recommended that the item, consideration of future committee business, be taken in private. At a previous meeting when dealing with a previous paper on the same subject, the committee decided to go ahead in public. Do members have comments about whether they wish to take the item in public or in private?

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): You said that we would take the item in public.

The Convener: No, I said that when we addressed a similar paper previously, the committee made the decision to take the item in public rather than in private.

Mr Rumbles: I agree with that. It is neither confidential nor is it a draft report.

The Convener: Do members of the committee agree that, as previously, we take the item in public against the recommendation of the conveners liaison group?

Members indicated agreement.

The Convener: If we are content with that, we will proceed on that basis.

I remind members that we have previously agreed to deal with item 8, the draft land reform paper, in private.

Diseases of Fish (Control) Regulations 1994

The Convener: Item 2 deals with petition PE272, which was submitted by the National Farmers Union of Scotland. It seeks amendment of the Diseases of Fish (Control) Regulations 1994 to include compensation payments, rights of appeal and access to scientific data. Representatives from the NFUS and the Scottish Executive are here to give evidence on the petition. In the papers that have been circulated, members should have a copy of the *Official Report* of our meeting of 6 March—when we discussed the petition briefly—a copy of the petition, the NFUS briefing paper and the Executive response to that submission. Members should also have received a bound volume from the NFUS with additional statements relating to the petition.

The purpose of today's discussion is to examine the case being made by the petitioners in the light of the response that has been made by the Executive. Our first witnesses are from the NFUS. They are John Kinnaird, Professor Ron Roberts and Richard Clark. I invite them to make the brief opening statement that I understand they plan to make. Following that, members can direct questions to the panel of witnesses.

John Kinnaird (National Farmers Union of Scotland): I thank the convener and members of the committee for giving us the opportunity today to speak to our petition, which has in excess of 2,500 signatures. I will leave the petition with the committee at the end of the meeting. The NFUS position on the matter is clear: all farming practices rely on good husbandry and practice to deliver quality produce wherever that is required. It also relies heavily on good science and good science should never, at any time, appear to be flawed. Any farming practice, however mixed, relies on the people whose jobs make them part of the rural community. In many instances, that rural community is very fragile.

Without making this challenge to the Scottish Executive's position, the NFUS would be accepting that members have to carry out their business with an uninsurable risk. That would mean that the Government could confiscate their property and do so without compensation. That would be a dangerous and biased precedent to set. I will pass over to Richard Clark of Maclay Murray and Spens, before Professor Ron Roberts, an internationally renowned professor of aquatic pathobiology, concludes our presentation.

Richard Clark (National Farmers Union of Scotland): At the committee's meeting of 6 March, members decided to invite evidence from the petitioners and officials of the Scottish

Executive. The petition that members are invited to consider has, as its primary objective, the introduction of a scheme to pay compensation to those who suffer loss as a result of the imposition of slaughter or containment orders in respect of the fish disease infectious salmon anaemia. The right to obtain full scientific data and information and the right to appeal are secondary to that prime objective.

As is clear from a number of statements that have been made by ministers on behalf of the Executive, and as is set out in the Executive's letter of 19 December 2000 to the Rural Development Committee, the United Kingdom has chosen not to agree to pay compensation for losses associated with the list 1 disease ISA. The petitioners seek to redress what they and the industry they represent see as an unjustified discrimination.

There is no bar in law to the payment of the compensation that is sought. As the Executive has stated, its position is that there is no legal obligation to pay compensation in the case of fish. Under the Animal Health Act 1981, Government policy provides for compensation being paid to the owners of other animals that are slaughtered to contain or eradicate disease. The reason for the distinction the Executive is making has been stated to Parliament as being that of a long-standing policy not to compensate for fish. No reason for such a policy has been set out.

Evidence from the implementation of the Executive's policy following outbreaks of ISA demonstrates that even when fish are of a sufficient size and age to be marketable, there is likely to be little or no financial return to the farmer following such salvage sale. The costs that he will incur complying with slaughter requirements or site clearance under the regulations, combined with the depressed price on the marketplace, will—as likely as not—account for the overall salvage price that is obtained.

Furthermore, fish on a farm will all be at varying stages of development. At the time of service of an order, many fish will be too small to become marketable. Will the farmer still be able to buy his feed or obtain credit to finance the purchase of feed once it is known that an order has been served on his farm? Without feed, no fish can be grown on to marketable size. Smolt—the baby salmon—caught by the existing policy at a freshwater site must go into seawater not later than May in any year. Their biological timetable is not capable of being determined by the Scottish ministers.

None of this takes account of the significant cost, particularly to a small farmer, of following a site, which might last for up to two and a half years. The hardship resulting from the Executive's

choice not to pay compensation thus remains largely unaffected by the withdrawal scheme that has been introduced with effect from 27 February 2001.

The petitioners support the practice of good husbandry and farming by NFUS members and within the industry as a whole. However, where ISA exists in the wild, an outbreak among farmed stock must always remain a possibility. The petitioners understand that the Executive's scientific advisers have concluded that ISA exists in wild fish stocks, albeit falling from 5 per cent to 0.5 per cent. Not only is that, as the petitioners contend, confirmation that ISA is endemic in Scottish waters—0.5 per cent is one in 200 fish—such a finding is not surprising.

Good science, which, as Mr Home Robertson has told Parliament, must underpin the Executive's considerations, indicates that ISA has been around since the ice age in waters shared by Norway, Iceland, Scotland, Ireland, Canada and the east coast of the United States of America. ISA is known to be present in Norway, Canada and, most recently, the USA.

In the papers that we have provided, members will see that Dr Marian McLoughlin, who is not only president of the Fish Veterinary Society but currently on leave from her position as head of the fish diseases unit of the Department of Agriculture and Rural Development in Northern Ireland, concludes that eradication of a viral disease from the aquatic environment is impossible. The petitioners contend that ISA is poorly infectious. Professor Roberts, who is a member of the Royal College of Veterinary Surgeons and an international consultant on the control of epidemic and endemic fish diseases to, among others, the United Nations, and who is with us this afternoon, concurs with that view, which he addresses in detail in his statement.

Independent sampling and testing carried out by Aqua-Lab AS in Norway on the fish removed for slaughter at the Nordvik Salmon site concluded that none of the fish showed any signs of ISA, supporting the conclusion that a policy of eradication frequently involves the slaughter of largely healthy stock. The witness statements that have been provided to the committee, which describe the devastating effect upon an important Scottish industry of that flawed policy, need no further amplification from me. It is a flawed policy that is not based upon Mr Home Robertson's good science. It is a flawed policy in which no reason has been given to Parliament for the Executive choosing to refuse payment of compensation.

I commend the petition to the committee. The witnesses are now open to questions from members of the committee.

The Convener: We have reached the completion of the NFUS submission. I had understood that the representatives of the Executive did not want to respond directly, but I will be delighted to hear from Gordon Brown.

Gordon Brown (Scottish Executive Rural Affairs Department): There was some mix-up over whether we would respond but I think that, on reflection, we would like to. I would like to found my response on the submission that we gave back in December; that is our starting point. However, that was four months ago, so I would like to take the opportunity to update the committee and emphasise a number of points in that submission. I would also like my colleague, Dr Ron Stagg, who is deputy director of Fisheries Research Services at the marine laboratory in Aberdeen, to say a few words.

I shall begin with a couple of general points, following the order of the submission that we gave in December. The petition implies that the strategy that we pursued on ISA was of the Executive's making. That is not so. It is worth emphasising that the Executive's handling of ISA was driven by our obligations under EC legislation and the objective was, and still is, to eradicate the disease.

14:15

It was a terribly difficult period. At its height, the outbreak ran for 18 months. We had to take difficult decisions and develop certain measures during the period of those outbreaks. It was, after all, the first time the disease had appeared, not only in this country but in the European Community. Driven by European law, but with some uncertainty along the way and with the need for measures to be developed, we therefore had a very close relationship with the Commission authorities, sharing information and taking advice from them. We also kept the Standing Veterinary Committee and other member states closely informed of what we were doing. Advice was also sought from EU fish health experts.

Last year, as the petition says, we had a predictable and rigorous audit, from the Commission's own inspectors, of how we had tackled the outbreaks. I was pleased with the generally satisfactory report that they produced after their visit.

Lessons have undoubtedly been learned over the past three years and the strategy has developed along the way. One of the key changes in the policy has been the additional flexibility that we have managed to persuade other member states was necessary over the withdrawal of fish from infected farms. In the early outbreaks—indeed in most of the outbreaks—we were faced with the requirement for immediate slaughter. We

still retain that option under the flexibility that has been negotiated, but we now have options to look at each case on its own merits and perhaps have a more staged withdrawal, depending on the risks involved.

We have nothing of substance to add to what was in our earlier response on compensation. We have to accept that there is a fundamental difference of view between the Executive and the petitioners on that point; the matter is now before the European Court of Justice. The committee may be interested to know that, on 15 May, somewhat sooner than expected, the European Court of Justice will take oral hearings on the issue of entitlement to compensation. The industry petitioners, the Executive and the UK Government will be making observations at that time. That should mean that, by late summer or early autumn, which is sooner than expected, we should have a decision about the entitlement or otherwise to compensation. I believe that there will be a report of the court hearings in May and a judgment once the court has come to its conclusions. If it helps the committee, I am happy to make those available to members in due course.

The NFUS petition mentions access to the European Community's veterinary fund, whereby member states may claim back a contribution to the costs that they have incurred dealing with a disease such as ISA. I want to draw to the committee's attention the fact that, on a recommendation of the European Parliament, the Commission has made a formal proposal to add ISA to the veterinary fund list. It is being considered by member states and, if approved, would allow member states that are dealing with ISA to seek a contribution from that source.

On page 3 of our submission we mentioned the Highlands and Islands restart scheme, which ministers set up. The figures are slightly out of date—the committee might be interested to know that 17 companies have been assisted to the tune of £2.9 million. Six other applications are under consideration. If they are approved, they will take the value of the assistance up to about £4.3 million.

Highlands and Islands Enterprise will produce a report of the activities under the scheme in the past 12 months, which is required as part of the state aids approval. We will have to submit it to the Commission. The European Committee has considered ISA and asked to see the report. I will ensure that this committee also sees it.

The figures reflect an element of underspend of the original £9 million that was made available, but the scheme remains open until March next year. Although we all hope and pray that there will be no further outbreaks of ISA, we cannot rule out that or further claims on the fund. Ministers will review the

budget position later in the summer.

On the right of access to scientific information, we realise that the issue of scientific rationale and results, and the decisions that are taken on the back of them, is a complex and sensitive area. Despite claims to the contrary by the NFUS, the Executive has tried hard, using a number of means, to explain the policies and to provide the results and the decisions that they have led to. Some of the concerns may relate to the early days of ISA, three years ago. Things have changed, but as I said earlier there were difficult decisions in difficult situations in those times and perhaps we were not as quick off the mark in certain regards as people would have liked.

However, I do not recall at any time any refusal to provide scientific results and information about how they informed decisions. We have used a number of means to communicate information. In the early days, we conducted industry briefings, or roadshows as we affectionately called them because we took them round the country and met groups from the industry. Two years ago, we introduced a written reporting system for all test results taken from farms. Farmers and their veterinary advisers are routinely invited to meet scientists at the marine laboratory and hear for themselves how results were arrived at and how they informed decisions. Most of the companies that have been affected by ISA over the past three years have taken up that offer. Nobody thus far has challenged the scientific rationale or the results that we have arrived at.

During the height of the ISA problem, we established a joint working group from Government and industry to share information and to try to ensure that we took steps to avoid a recurrence of the disease. That led to the issue of a code of practice for the industry last year. Due to the success of that group, we have established a joint Government and industry aquaculture health group, which allows us to consider existing problems, review policy where appropriate and look ahead, to try to anticipate problems and ensure that we have in place appropriate measures. The industry would agree that it is working well. It has been a useful means of communicating.

I hand over to Dr Stagg to speak to a number of scientific points.

Dr Ron Stagg (Scottish Executive Rural Affairs Department): The first point I want to make is on the nature of the disease. I disagree with the references in the petition to its infectiousness and its seriousness. ISA is a very infectious disease. Its epidemiology—the ease with which it has been broadcast around Scotland—shows that to be the case. There is also an emerging scientific or experimental basis,

which is the infectious dose of ISA that is required to cause mortality in experimental systems. The petitioners are confusing the survival of the agent in the environment with its infectiousness.

The seriousness of the disease stems from whether it is identified in its early stages. From cases where we have known epidemiological links, we know that the incubation time of the disease on a farm can be at least three months. If it is allowed to progress, it can cause 15 to 30 per cent mortality in a cage. There is a misunderstanding here, in that it appears that if a farm is caught early, it is not a serious disease; but if it is allowed to progress, all the evidence from Canada, Norway and those farms in Scotland where it has occurred is that it causes serious mortality.

Finally, there is emerging evidence that sub-clinical infections are important in the transmission of the disease. We know that—experimentally at least—fish that have been exposed to and survived an ISA challenge can remain infectious and transmit that disease to naïve individuals up to 18 months after the initial challenge.

The second issue I want to address is the origin of ISA in Scotland. There are a number of hypotheses to explain it. We will never know for sure which hypothesis was correct and are unlikely unequivocally to demonstrate one over the others, but the hypothesis that the petitioners have opted for, which is that the disease is endemic in Scottish waters, does not stand up to the scientific data that is emerging from the epizootic studies. It is important to say that its origin is not especially relevant to the control measures that we put in place at a farm.

That brings us on to controls. As the petitioners rightly say, the best prevention is good husbandry. To that effect, we established the joint working group, which did a lot to improve husbandry in the industry and, as Gordon Brown said, to bring about codes of practice. However, we are still left with what we do in the event of an outbreak of the disease.

It has been demonstrated, especially in Scotland and less so in Norway because it had the disease for a good number of years before it even understood what it was, that standard epidemiological controls—in other words, in the event of an outbreak of the disease to stamp it out—is the only effective control measure. The petitioners would seem to agree with that when they say that affected cages should be culled. There is no alternative at present because, although an experimental vaccine is being developed in Canada, my contacts there tell me that it is at a very preliminary stage. In the changes that we have brought about within the EC directive, we have made provision for the use of a

vaccine, should one emerge.

I must also address misdiagnosis. In three cases in Scotland, ISA has progressed to the stage at which many fish were dying in the cages. I think that the official service has done a good job. The officials do their job properly when they identify at an early stage of the infection which farms are infected. Unfortunately, in some cases that has been misconstrued as misdiagnosis, because only a few fish have shown clinical signs of infection and there has been no large-scale mortality.

The diagnosis of confirmed cases in Scotland was not based on any single test. Changes have been made to EC legislation, but the legislation that was then in place required that a range of evidence—from clinical signs right through to laboratory tests—be used before a decision on confirmation was reached. Although some of those tests were difficult, in the cases that we have looked at, when all the tests are taken together, the weight of evidence for confirmation has been overwhelming.

14:30

Because of the changes in EC legislation and the indications from the Commission, we will in future be required to confirm on the basis of virus isolation. That is in common with nearly every other notifiable disease. Virus isolation is the preferred method of confirmation for diseases in the Office International des Epizooties international guidance. Let me add that, now we have that in place, the withdrawal of fish from an infected farm can be done in proportion to risk. Under the new withdrawal scheme, if there were no signs of mortality on a farm or if the risk to adjacent farms was in proportion, those farms would be allowed to proceed to normal harvest.

Finally, a lot of comment has been made that misquotes the OIE guidelines about the use of unvalidated tests. The guidelines specify that the tests should be used for confirmation. The tests are used by the OIE reference lab, by Canada and by ourselves. Tests are validated for confirmation. A positive result confirms the presence of the virus. Tests that are used for screening purposes—to demonstrate that a fish is free of the agent—are not validated, because the tests do not always report the virus to be present when there are clinical signs that the virus is present. That is the difficulty. There is a fundamental difference between the use of tests for screening—to demonstrate absence—and for confirmation. A positive test is a positive test.

The Convener: Thank you. Before we come to questions, I take the opportunity to welcome David Cassidy, who is the only person I have not so far welcomed. He, too, is part of the Executive

delegation.

I invite members to address questions to specific witnesses. However, I will be prepared to accept comments from witnesses on other questions and answers that they have heard.

Richard Lochhead (North-East Scotland) (SNP): Compensation for the salmon farmers was one of the first issues to confront Parliament, so the issue has been around for a long time. Many members found it irrational that the Government was not paying compensation, given that there are other circumstances in which compensation is paid when livestock is slaughtered because of Government policy.

There is a slight danger of being blinded by science. I take on board the previous comments, but the petition refers specifically to compensation. I appreciate that there are many interesting scientific debates, which the witnesses may wish to discuss after the meeting, but we want to address the one issue—compensation—that is the crux of the petition.

In the light of that, perhaps Gordon Brown will respond to a couple of comments. First, we have heard that it is not the Government's policy to compensate under such circumstances. Clearly, Governments come and go, but the policy seems to have remained. When was the policy established? Who established it? When was it reaffirmed by the current Government? Secondly—perhaps the NFUS and the Executive will comment on this—what is the situation in other countries? Do other countries pay compensation for the disease? If not, what reasons are given in those countries?

David Cassidy (Scottish Executive Rural Affairs Department): Richard Lochhead describes not paying compensation as irrational. The conclusion might be made that compensation must as a matter of law be paid because to do otherwise would be irrational. That issue is before the courts, so it will be resolved and we will get an answer in the fullness of time. The question must therefore be at the lower level of policy. Is the policy irrational? Is there a justification for the policy? Given the fact that, as a matter of law, we are not required to provide compensation, what is the rationale and justification for providing it?

I would put that on its head: what is the rationale for paying compensation to farmers for other diseased animals? I do not wish to teach anyone how to suck eggs, but we must look at the tradition and history of the issue.

As we know, fish farming is a relatively new aspect of farming, but land-based farming has been around for a long time. Since the war, support for land-based farming has been rooted, in the first instance, in the need for the production of

food and, more recently, in recognition of the contribution that farming businesses make to the environment and to land management. When finite resources are being allocated, farmers have enjoyed support in the production of food and—perhaps more recently—in recognition of the environmental contribution that they make.

Fish farming does not make the same contribution. Indeed, one might argue that it makes no contribution to land management. Therefore, when we are allocating finite resources to support business, the question is, "How do we support businesses?" The business might be an electronics factory or a new car factory, but we put public funds into such businesses in recognition of the jobs that they provide and of their contribution to the economy. That is why there is a compensation scheme, which has been processed and put in place through HIE, to recognise the economic contribution that fish farmers make rather than to give economic support against a business risk—which is represented, in this instance, by disease.

Gordon Brown: I will attempt to answer Richard Lochhead's second question, which was about arrangements elsewhere.

Richard Lochhead: I would like an answer to the other question as well.

Gordon Brown: Was the first point on when the policy was established?

Richard Lochhead: Yes.

Gordon Brown: To be perfectly honest, I do not know. I might as well be honest about that. However, you are absolutely right in the sense that successive Administrations across the United Kingdom, including the post-devolution Executive—the issue blew up immediately after the Parliament was established—have taken the same view over a number of years. That is the best that I can do. I am not sure how far the policy goes back.

The second point was about provisions in other countries. I do not believe that there is any form of compensation support for fish disease losses in the European Community. One might argue that there could be, because there is a big trout industry in the Scandinavian countries and a big bass and bream industry in the Mediterranean countries.

Norway has had an insurance arrangement for some years, although that arrangement is struggling a bit, as Dr Stagg and I discovered during our fact-finding visit two or three years ago. There was a danger that claims might exceed premium and income to the insurance companies. However, I believe that insurance remains available there.

I do not know the details of the position in Canada, but I recall that it has put in place a system that is based on a levy from the industry to form a war chest against the possibility of outbreaks. That is the best description that I can give.

Professor Ron Roberts (National Farmers Union of Scotland): Dr Stagg made a glib and not utterly correct statement about the scientific community's general view on what the Scottish Executive rural affairs department is doing. That is not especially relevant to compensation, but I put a marker down about it.

Except in Dr Stagg's unpublished research, there is little evidence for the claim that the virus is not endemic in Scottish waters. The universal view—for which there is good scientific evidence—is that the virus is endemic in all the other countries around the north Atlantic. There are no snakes in Iona because St Columba cast them out, but it is difficult to understand why there should be no infectious salmon anaemia in the west coast and the Shetland islands when the disease is endemic elsewhere.

We must consider the unique compensation situation in this country as compared with the situation in other countries. The Government's non-compensation policy is likely to destroy an industry that represents 40 per cent of Scotland's food exports. The industry is large and significant. It has a good technical base, with major opportunities for exporting more than just fish. I would like MSPs to bear that in mind. We are not talking about a little fringe enjoyment of a few crofters. The industry is significant. It is excellent that crofters and others derive economic benefit from it, but it will die if we do not resolve the problems that the regulations are creating.

It has been suggested that the aquatic health group is a meeting of minds of the industry and SERAD. If that is the case—from what members who represent farmers tell me, it does not appear to be—why was the system introduced without consulting farmers? The farmers insist that they were not consulted on the use of the presence of the virus as an indicator that meant the same as the presence of a clinical infection. That is a separate issue.

Scotland has a problem because no compensation is available and the risk is uninsurable, unlike in other countries, where one of those options is available. Norway has an insurance scheme. I spoke to the head of fish diseases there last week. He is a former student of mine—he trained in Scotland. He assures me that Norway's scheme works well. The number of ISA cases there increased slightly this year. He suspects that that is because Norway has had much bigger runs of wild salmon this year. As we

know, the disease is endemic in wild fish—that is his view. However, for the past two or three years, Norway has had a small number of cases, in an industry that is much larger than ours and is carried out on a longer coastline.

The Norwegians have a system for dealing with an acute clinical outbreak. I agree with Dr Stagg. When an acute clinical outbreak of the disease occurs—as with an acute clinical outbreak of tuberculosis in the dairy herd—we want to control it, break it up and remove the risk of infection spreading. However, tuberculosis is endemic at a low level in Scotland's countryside.

Similarly, with ISA, we want to be able to do what Dr Stagg insists on. The person who suffers from the situation should be compensated under a compensation scheme such as the one that the NFU is trying to encourage, or SERAD should handle the condition in such a way as to make it an insurable risk. It does not matter to the industry which system is chosen. However, at the moment, neither system applies. That situation will bankrupt the industry, because bankers will not support it, investors will not invest in companies and any farm that is wiped out is unable to rejuvenate. That is the key issue. If the Executive adjusts its policy to make insurance feasible, the problem will go away. If it is unprepared to do that, it must accept that a compensation policy is necessary.

14:45

Richard Clark: I agree with Mr Lochhead that the petition concerns compensation. Dealing with the infectivity of ISA and such issues does not address whether compensation should be payable. Any decision that the European Court of Justice reaches on the matters that have been referred to it will not, or should not, affect the Executive's ability to choose to pay compensation, just as it has chosen not to pay compensation to date. The case in the European Court of Justice concerns whether some aspects of European Community law impose an obligation to pay compensation. The case does not concern the right to choose to pay compensation.

The petitioners have said that they encourage and support good husbandry. The Executive also supports good husbandry. It may interest committee members to know that most of, if not all, the European directives and decisions that have been issued on the control of animal diseases treat compensation as an important element of ensuring that good husbandry is maintained, by encouraging farmers to report the presence of disease on their farms. That is another beneficial aspect of good husbandry.

It is my understanding that the long-standing policy of non-compensation for fish was first

referred to in 1996.

Mr Rumbles: I have some questions that I hope will be quick. I understand that the European Court of Justice case concerns whether the Executive is obliged to pay compensation. That does not relate to my question. The second page of the Executive's response to the NFU's petition says that

"there is no legal obligation (or powers) to pay compensation in the case of fish."

I would have assumed that the Scottish Executive had such a power, although it might choose not to exercise it.

Will someone please tell me whether the insurance scheme that applies to the Norwegian industry is industry-led or Government-led?

I have another question to whoever wishes to respond. I am delighted to hear that 17 companies—it is hoped that the number will rise to 23—will be involved in the ISA restart scheme. What proportion of the industry does that represent? What assistance is that to the industry?

David Cassidy: I will deal with the first point about the response saying that there are no powers to pay compensation. It is not current policy to pay compensation, so there is no legal framework for providing compensation. If compensation were to be paid as a matter of law or with the exercise of discretion, powers would have to be put in place and legislation would have to provide for the payment. That is the point that is being made.

Mr Rumbles: I understand. What about my second point?

Professor Roberts: You asked whether the insurance scheme that applies to the Norwegian industry is industry-led or Government-led. What I said was slightly wrong, as the Canadian Government has a compensation or industry-support scheme. In Norway, compensation is commercial insurance industry-led, but the outcome of any claim is a result of discussions between the insurers, the regional veterinary officers, the state veterinary office, the farmer and other local farmers. Working together, the parties find a solution that will not inhibit production in the area, will allow the best deal in terms of salvaging the fish at an appropriate time and will destroy any severely clinically affected fish through the withdrawal system in order to maximise the value of the stock. In that case, fish either die or have to be destroyed because it is assumed by the insurers that they would have died anyway.

Insurers will insure for death. We could insure for death from ISA, but, unfortunately, our fish do not get to the stage of dying from ISA as we have a bug-hunting mentality. Because the virus is

endemic—which it is, given that it is present in one in 200 fish in the wild—if one goes looking for bugs in fish farms, one will find them. Once one has found fish with ISA, the legislation allows the Scottish Executive to declare the site suspicious, which makes it impossible for the farm to sell its fish, and to slaughter the stock without any agreement with the insurers or the farmers. That sort of death is not insurable.

Mr Rumbles: I want to find out how our industry compares with the Norwegian industry. Are you saying that the Norwegians do not have a bug-hunting mentality? Is there a definite difference in policy between SERAD and the Norwegian Government?

Professor Roberts: That is my belief. I raised the issue with Dr Håstein last week. He told me that the Norwegians do not go looking for ISA, although they know it is there. They deal with it only when they have a clinical outbreak and they do so in such a way that the insurance covers the loss.

The withdrawal scheme has two separate parts. One is based on finding the bug in totally healthy stocks, which, in my view, is no different from finding one in 200 fish with ISA in the wild. One might find that one in 200 salmon in the River Tweed has ISA, but it would be difficult to forbid people to take salmon away from the Tweed. However, that is the equivalent of the argument that is being applied to farms. That presents a problem for the sense of a control scheme. I am not the only person who believes that it is impossible to eradicate a disease that is present in one in 200 wild fish. Recognition of that fact is key to whether our industry will grow and survive.

There should be a proper partnership arrangement, similar to that which exists in Norway, involving SERAD, the relevant authorities, the state veterinary service—which has the expertise in handling notifiable diseases and control programmes—the farmers and the insurance industry. That would ensure that we had rational and sensible control.

The Convener: Do you want to respond to that, Dr Stagg?

Dr Stagg: I think that I have to. The ISA withdrawal scheme that we have adopted requires the removal of fish from a farm and is triggered by mortality. That is important to remember.

Professor Roberts: That is not correct.

Dr Stagg: The removal of fish from a farm is predominantly triggered by mortality.

Professor Roberts: “Predominantly” is not the same as “is”.

The Convener: Professor Roberts, I would like

to hear from Dr Stagg. You can respond after that.

Dr Stagg: The sense of the withdrawal scheme is that we move towards a Norwegian-style situation. We should make no bones about that.

The surveillance that is undertaken for ISA is based on checking for clinical disease; it is not based on checking for existence of the virus. The only virus work that we have done was done to answer some epidemiological questions. We conducted a survey during the course of the epidemic to establish answers to questions such as whether ISA is endemic. We were asked such questions by the industry. We have not isolated a virus from wild fish, except in areas where there are farms that have been infected. We have established that there is some genetic material, which is very similar to the ISA virus and may be that virus, in wild fish. That material is more broadly distributed and has the level of prevalence that Ron Roberts mentioned.

We were the first people to begin to do such work. What we cannot establish at the moment is whether those agents will cause the disease. We know that when we get the kind of virus that was isolated at Loch Nevis, it is very serious and can spread very quickly. Although we are not looking for the virus, if we get indications that it is present, we have to find a way of dealing with it and of establishing whether it is the nasty agent that can spread easily or whether there is no cause for concern. That is far as we have gone in chasing the virus—such work has been done simply when the virus has been found for other reasons. Our surveillance is all based on clinical disease.

Mr Rumbles: Could someone answer my last point about the size of the ISA restock scheme and the 23 companies?

Gordon Brown: It is nice to be able to agree with the NFU on something. We agree with Professor Roberts’s comments on the insurance arrangements and how they operate. The only caveat that I would add is that when we spoke to the industry—about 18 months ago—it questioned the future of the arrangements because of the liabilities involved.

It is difficult to say what proportion of the industry has benefited—I do not feel able to give you a percentage. However, I would say that those who benefited are all small and medium companies in critical places, with critical jobs associated with them. The really big players have not applied for the scheme. That may be for two reasons. First, the discretionary nature of the scheme—Highlands and Islands Enterprise’s schemes are usually discretionary, such as the finance for business scheme—may mean that the big players feel that they have reserves that will work against them. Secondly, the really big

players are involved in the litigation that is being pursued at the European Court of Justice.

It is difficult to quantify how many companies are benefiting, but, in general, it is small to medium companies in critical places across the country. Shetland in particular has benefited. It is not exclusively salmon farms that have benefited—at least one marine trout farm has also benefited.

Mr Rumbles: The NFU made the point that fish farming is a major industry that is suffering significant problems and which needs help. The committee and I would like to know how much help is being given to the industry. You are suggesting that the 23 companies are spread throughout the Highlands and Islands and that they are mostly small to medium companies.

Gordon Brown: Yes. I suspect that all the figures will appear in due course in Highlands and Islands Enterprise's report. The figures go from £9,000 up to £300,000. The money will help companies that have been hit by infectious salmon anaemia and which have taken a drop in income to recover their position. I do not recall all the details of the scheme, but there are tests for viability and compliance with good practice in future and there is a requirement for an undertaking that grants will be repaid if the company does not carry on for something like at least three years.

15:00

David Cassidy: I want to add something to a comment that was made by Richard Clark. Whether discretion on compensation is removed at European Community level through a decision of the European Court of Justice, or through a subsequent European Community instrument, we will have to implement that through legislation in this Parliament.

Richard Clark: I have some comments on the withdrawal scheme. I hope that they will assist Mr Rumbles in understanding the differences between here and Norway. Under the heading "Withdrawal of Fish", the scheme says that:

"When the presence of the disease is confirmed on a farm the following factors will be taken into account by the Scottish Ministers in determining the appropriate process of withdrawal".

That idea flows right through the scheme—the control of what happens is determined by Scottish ministers or the inspectors who are appointed to act on their behalf. It has been indicated to the committee that, in Norway, the farmer, the insurer, the farmer's vet and the state's vet all determine how the issue can best be resolved. I am advised that that combination of people allows the insurer—who has an input and is therefore able to mitigate his loss—to participate. The UK scheme

is different, because control remains with Scottish ministers.

The main thing that we are concerned with today is whether there should be compensation, rather than how the disease should best be controlled. However, it is worth noting that the preamble to the scheme says that:

"The principles upon which the guiding European legislation are founded are that this disease should be eradicated from any place on which it is found and that whilst that is being undertaken appropriate measures should be introduced to prevent its spread.

These are the principles upon which this scheme is based and it should be read in the light of them."

As has been indicated, that applies to the question of suspicious status. The diagnostic provisions for suspicion and confirmation of the disease, as set out in the withdrawal scheme, allow SERAD officials to rely on tests that have nothing to do with the clinical presence of disease—they are for something that a farmer could not see—and have been shown to be less than entirely reliable and less than sufficient for confirming suspicious status. Suspicion can be enough to close down a business, because the restrictions that flow from it would prevent, for example, the removal of fish from site.

I ask members to take into account the example of the smolt supplier. Smolt cannot choose when they have to go into seawater. If they are not taken from the freshwater into seawater, they either die or have to be destroyed.

Gordon Brown: I will reply to part of that. Certainly, the insurance companies, with which we have had several meetings over the past three years, would not consider insurance while there was a policy of third-party or member-state intervention and immediate slaughter requirements. We have tried to keep the insurance companies apprised of the additional flexibility in the directive and the scheme to which Mr Clark alludes. Now that we have the scheme, I do not say that we will move entirely to a Norwegian model, where there is a dialogue and it almost seems that decisions are reached by consensus; the scheme does not permit that, so the ultimate decision rests with the member state.

I hope that we do not have to use the scheme again, but if we do, with the experience that we have gained and the options that the scheme gives, I hope that—subject to what Dr Staggs and his colleagues say—there will be dialogue on how to manage an infected farm from the point at which infection is confirmed until such time as there is a need to clear it. The ultimate decision on clearance rests with ministers.

John Kinnaid: I return to Mr Rumbles's question. According to Farmgate, the fish farming

industry is worth approximately £250 million. The financial damage that has been done to the industry by the slaughter without compensation is estimated to be £50 million and we are talking about only up to £4.2 million or £4.3 million coming back in. That gives an idea of the scale of shortfall that faces members of the fish farming community.

Dr Stagg: I will comment on the withdrawal scheme. The criteria for removing fish are based on a risk assessment. Mortalities on the farm, their distribution, the rate at which mortality occurs, the cause of those mortalities and risks to other farmers are sensible criteria for determining whether one should take fish out of the water. They require dialogue with the farmer because the farmer provides some of the data for them. For example, the farmer is required regularly to supply the official service with mortality data.

Some of the criteria for determining suspicion are based on infection alone. The purpose of the suspicious category is to establish whether a farm is likely to progress to a clinical stage—in other words, where there is a risk to others. It is worth mentioning that small producers are in a difficult position because they produce fish not for consumption but for sale to other farmers; they are therefore of enormous risk to other farmers if they have infection. The purpose of the suspicious category is to determine whether fish are threatened and whether they are likely to develop to clinical disease; if so, one is duty bound to put in place restrictions because those fish may go the length and breadth of the country. Of course, having one's fish placed in the suspicious category is very difficult for a farmer who puts fish on the market.

Professor Roberts: ISA is not the only controlled disease in this country. Another disease, which I consider to be significantly more important if the control mechanisms for both are applied properly, is infectious pancreatic necrosis. That disease is much more important for egg and smolt producers, who have the biggest investment in technology and so on in the industry—that is the same as in any other agriculture industry. They have to produce specific pathogen-free fish—fish that are not carrying infection. The Swedish Government has ensured that Sweden no longer has any salmonella in its eggs, and we would like to be the same.

We have a perfectly good system, which I first implemented more than 20 years ago, and as far as I know it has never broken down. In a population with carriers of IPN virus, we can ensure, by testing in conjunction with the marine laboratory in Aberdeen, that only brood stock which are free of the disease are able to spawn. With ISA, the virus does not pass through the egg, so it is an even easier disease to manage.

Surely those enlightened arrangements between SERAD and producers—in the same way that the Norwegian Government co-operates with its producers—are a much better approach than looking for a virus and, even if you half find it, saying, “You are suspicious” and destroying someone's business. It will take only one or two small producers to go out of business and everyone will find that their banks will not give them loans and their insurers will stop insuring them. Our Scottish industry, which was buoyant until about three years ago, and has the opportunity to rise again, would fall by the wayside.

The concern about the relationship between brood stock and the virus is one of the most critical. ISA does not occur in freshwater, it is not passed by the egg, and it is easy to eliminate brood stock that might be carrying the virus in order to provide absolute certainty that there is no risk whatever. Even though the virus does not pass through eggs, people still want to know that the eggs have come from stock that did not have the virus. That is perfectly feasible, if we can have technical discussions instead of beating the drum and saying, “You are suspicious. You will go out of business.” The companies are not told that they will go out of business, but that is the end result.

The Convener: I intend to progress fairly quickly to a point at which members can discuss the strict and specific question of whether we support the call that is contained in the petition. Fergus Ewing and George Lyon wish to participate. I encourage them to be concise.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I address my question to Professor Roberts; I hope he has received some notice of it. In paragraph 22 of your evidence, you state:

“In Norway, over-stocking and poor transportation methods are two of the key aspects of poor husbandry that tend to induce the disease”.

In paragraph 23, you go on to argue:

“These two factors have been identified as representing serious initiating factors in Norway and may have also played a significant part in the first clinical outbreaks and subsequent spread of clinical ISA in Scotland in 1998.”

I am extremely supportive of the salmon farming industry—I hope that that is known—but I have one simple question on whether compensation should be paid. If bad husbandry leads to outbreaks of ISA, or to the greater likelihood of outbreaks, would not the payment of compensation simply encourage bad husbandry?

Professor Roberts: No. In any compensation scheme—which it is not for me to construct—it must be implicit that there is an element of proportionality. If you are the poor chap down the

road who gets foot-and-mouth disease because someone has imported infected meat into his pig farm and not sterilised it, and you are being slaughtered out for the benefit of the community, you deserve full compensation because it is not your fault. If you are the guy who did the stupid thing and brought in the disease, or if you are the fellow who reared your pigs or cattle wrongly, you should not get compensation. The same should apply to fish farming.

One of the fish farming industry's problems is that it is only 20 years old. It has grown spectacularly. The potential worldwide growth of the industry is massive, and it is difficult to get all the correct structures and operations in place over a short time. The controls that exist over welfare issues, for example in the higher animals, have not properly surfaced within SERAD and the industry to ensure that such questions are addressed properly. A compensation scheme must take into account, particularly in an initial outbreak, the proportionality of one's own responsibility as opposed to one's innocence in the matter.

ISA did not break out in this country until around 1998. I believe that the virus was there all the time, although the husbandry did not until then create a situation in which it could break out. I am quite sure that mechanisms could be put in place to ensure that people who behave badly do not receive compensation.

Fergus Ewing: Thank you. I have a further question for the Executive witnesses. If the industries in Norway and Canada—two of our major competitors in salmon farming—have the great advantage that their Governments provide compensation and/or insurance schemes, how on earth can our industry continue to compete on a long-term basis or, indeed, survive?

15:15

Dr Stagg: I do not know whether it helps, but a comment was made in the submission about the increase in production in Norway since the outbreak began.

Fergus Ewing: A tenfold increase?

Dr Stagg: Yes. Over the same period, production in the Scottish industry has increased thirty-threefold. The average increase in growth in the industry, per annum, over the three years before the ISA outbreak, was about 15 per cent per annum. During the epidemic, in 1998, that growth was 11 per cent per annum, and in 1999 it was 14 per cent.

Fergus Ewing: I see some gentlemen who are practising salmon farmers indicating dissent at some of the statistics that you have cited.

Perhaps, when those people are witnesses, they can help us by giving us their response.

Judging from the silence of Mr Brown and Mr Cassidy, I take it that they accept my premise that, without a compensation scheme or an insurance scheme, or both, the Scottish salmon farming industry does not have a long-term future.

Gordon Brown: We have always put store by the high level of fish health in this country. After applying the measures of the regime, we have not had an outbreak of the disease for almost two years—it will be two years next month—and there have been no suspected cases for some 18 months. We hope that the measures—which I emphasise are part of a Community regime and part of our Community obligations—have allowed us to stamp out ISA and regain that high level of fish health.

Fergus Ewing: I am disappointed that the Community is being blamed. The statement that we received from Mr Crowe pointed out that the Ministry of Agriculture, Fisheries and Food was the architect of the EU regulations. Trying to pass the blame to the EU seems to be obfuscatory, disingenuous and unhelpful.

Dr Stagg: It is worth remembering that there was only one outbreak of ISA in Scotland, which was broadcast to the other farms. That is an important piece of epidemiological information, as it implies that ISA will emerge only rarely in Scotland.

I was not around when the EC directive was drafted, but I believe that it was drafted by Community experts from Germany, Denmark and Norway, where the head of the OIE fish diseases commission is based. A range of other experts were involved, including an expert from MAFF who is also on the OIE fish diseases commission. The EC directive is being revised, and the current group of experts represents a number of countries in the Community. The industry is also being consulted thoroughly by the commission to obtain its views on the emerging legislation.

Richard Clark: I raise a further point that is pertinent to Mr Ewing's point. I have in front of me a copy of a letter from the Bank of Scotland's business banking division, dated 19 April, which concerns a request that was made by a fish farmer for financing and support. I am happy to make the letter available to committee members. It says:

"As everyone involved in the salmon farming sector is aware, there remains the very live issue of the potential for stock to be destroyed as a result of ISA without any compensation being paid. I accept that ISA has 'gone quiet' recently but the fundamental problem of compulsory stock destruction without compensation must be kept in mind."

That shows the attitude of the banking community to support for the hard-pressed salmon farming

industry.

Fergus Ewing: I have a final question for Mr Brown and Mr Cassidy. Mr Cassidy said that the failure to compensate salmon farmers, in contrast to other livestock producers, for pre-emptive culls was based on the fact that salmon farming is new. That does not seem much of a reason for making such an exception. Would it not be possible to justify the provision of a uniform compensation policy for all livestock and fish that are slaughtered in pre-emptive culls on the basis that the salmon farming industry supports up to 6,500 jobs—70 per cent of which are concentrated in constituencies such as mine, which include the remotest communities in Scotland?

David Cassidy: The distinction that I was attempting to draw was with the historical pattern of support for the farming industry. There is a compensation package of funds to support fish farming, which recognises the contribution that fish farming makes in a community that may have limited opportunities for other businesses. That support recognises the risks that may have been incurred and the damage that may have been done by an outbreak of ISA and it provides financial support for the businesses in recognition of the contribution that they make to their local economies.

Compensation for pre-emptive culls of land animals goes back at least to 1959, when compensation for disease outbreaks was put in place.

George Lyon (Argyll and Bute) (LD): I am astounded that the industry and its sponsoring department are sitting here fighting each other instead of sorting out the future of one of our great industries, which is especially important for rural Scotland. That beggars belief. The only beneficiaries in all this are our competitors in Norway, who must be laughing all the way to the bank as they watch us fight instead of coming up with sensible solutions.

On the issue of compensation, I invite John Kinnaird, Richard Clark or Ron Roberts to describe the pattern of ownership of the Scottish fish farming industry.

Professor Roberts: In contrast to the situation in Norway, a significant part of our industry is now foreign owned, as a result of the way in which the industry has been handled. That concerns me, but it does not alter the fact that the investors have been prepared to put their money in and create jobs and a product where others have not. There is a significant proportion of foreign investment.

George Lyon: Can you give us a rough percentage?

Professor Roberts: Probably more than 50 per

cent. However, a much larger proportion of the smolt and brood stock stages are Scottish owned. That is where Scottish skills and science are making a contribution. For example, my company is attempting to create a £25 million high-tech investment in Campbeltown, which is a very economically distressed part of your constituency. That investment will involve only salmon, but there are tremendous opportunities for marine flatfish and cod, and for selling expertise from that base throughout the world. As a result, we should not just explore how much of the salmon industry receives Norwegian investment. Unless we can get this kind of problem right, there will be no investment that will allow us to build an industry.

George Lyon: I understand that. Is the Norwegian Government involved in that foreign ownership?

Professor Roberts: The Norwegian Government has a significant share of ownership of both the fish and the infrastructure. For example, much of the second largest feed company is owned by it. However, that ownership is mostly conducted through subsidiaries and in a positive way without which we would be lost for capital.

George Lyon: What is your estimate of the total outstanding compensation owed to the industry since ISA was detected and the slaughter policy initiated?

Professor Roberts: The losses for which we should have been compensated run to about £50 million.

George Lyon: So the amount of compensation is £50 million.

Professor Roberts: Yes, if those losses had been compensated. If SERAD is so confident that it has dealt with that one outbreak and now has a very robust system—which Gordon Brown seems to be very proud of—surely the risk of having to pay compensation in future is so low, it could offer to pay the outstanding amount of compensation. That would lift the other weights of the bank managers, insurers and so on and allow the industry to fly.

George Lyon: Would more than 50 per cent of that £50 million of outstanding compensation go to overseas companies and the Norwegian Government?

Professor Roberts: Yes, if compensation were paid. However, we should remember that they have had an asset taken off them.

George Lyon: I am just trying to clarify the issue.

Professor Roberts: We need that overseas investment. It is not good business to threaten

overseas companies with the idea that they will not receive compensation if they invest in a foreign country. We would not take that approach with a Japanese television manufacturer.

George Lyon: Your evidence makes it clear that the view of the industry was that, for it to grow, there had to be either compensation or discussions with SERAD about introducing insurance on commercial properties that your companies own so that they could insure against any risk.

My next question is for the Scottish Executive officials. Why can you not introduce the same type of policies that are pursued by our Norwegian and Canadian competitors? What is fundamentally wrong with examining and copying those systems? There is not much point in securing disease-free status for the fish-farming industry if there is no industry.

Gordon Brown: Are you talking about compensation?

George Lyon: No, I am talking about how fish farmers in Norway are able to insure their property rights. Our fish farmers cannot be insured against the Government destroying property without paying compensation. How can Norway introduce a policy that tackles ISA while still allowing commercial insurers to underwrite the industry so that it can grow? Why can the Scottish Executive not do the same? The growth—indeed the whole future—of the industry is at stake.

Gordon Brown: One reason is that, as we are in the European Community and Norway is not, we are governed by certain legislative rules that do not apply to Norway, so Norway has a bit more flexibility.

We spoke earlier about the discussions that take place in Norway around decisions to clear infected farms, which seem to be arrived at by consensus. We do not have the same freedom in the European Community.

George Lyon: Is that because the Community policy is to eradicate completely, rather than to control?

Gordon Brown: The policy of the legislation is to eradicate.

George Lyon: Is that not the policy in Norway? Is the policy there to control and to live with the disease?

Professor Roberts: In Norway, the policy is not to eradicate the disease from the environment, because the people responsible there know that they cannot eradicate it. They are also quite certain that it is in our environment and that we cannot eradicate it. However, an awful lot more Norwegian salmon are sold, while our industry

goes bankrupt.

George Lyon: That is the point.

15:30

Gordon Brown: We have an obligation to eradicate. I would say—subject to what Ron Stagg might add—that the Norwegians are in a different situation. Their policy is indeed about control rather than eradication. They live with outbreaks of ISA year on year; this year, there have been about 15 or 16 outbreaks.

We have tried to keep in touch with the key marine insurance companies with regard both to the old policy and to the unfolding new policy. Clearly, we cannot insist that they insure for ISA; all we can do is explain the changes that we have endeavoured to make to the policy to make the regime more palatable, so that insurance cover might be provided.

I would not want to leave members with the thought that the Executive is not supporting fish farming in this country. It does that by a whole host of other means. It has clearly not conceded on the principle of compensation per se, but it has introduced the Highlands and Islands Enterprise scheme and assistance worth £9 million. There is a new programme under the financial instrument for fisheries guidance—the FIFG—through which aquaculture stands to benefit, as it did under the old programme, from new investment and so on to the tune of several million pounds.

We operate a free fish health inspection service. The cost of that, which is in excess of £1 million, falls on the taxpayer. There is also an extensive research and development programme to support the industry. Although we may not be in agreement with the industry about compensation, there are many other issues on which we are supporting the industry.

George Lyon: But compensation seems to be the fundamental issue that stands in the way of the industry developing and expanding. We hope that the 6,000 jobs—many of which are in my constituency and in Fergus Ewing's constituency—will support further jobs. Compensation is surely the fundamental stumbling block that the industry and the department have to resolve so that we can go forward. Why is that matter not being addressed? Why is other, lateral thinking not taking place to progress the situation?

Gordon Brown: All these arguments—I refer to Mr Ewing's asking why we should compensate someone whose husbandry is bad or who does not look after his farm—and all the pros and cons regarding compensation have been put to ministers. I am afraid that, so far, there has been no agreement.

George Lyon: But there are two issues here.

The Convener: I think that—

George Lyon: Just one more, then?

The Convener: Richard Clark wishes to respond.

Richard Clark: It may be of assistance if I remind members of the submissions that were made on behalf of the Scottish Executive, which state that the reason for not paying compensation is simply the choice of the Scottish Executive.

George Lyon: I was trying to reiterate the point that we have two choices as to how to proceed. I am trying to explore the second option.

Professor Roberts, what are the effects on the Norwegian salmon industry's young brood stock exports of not having a policy of eradication, similar to that required in the European Union? I know very well, from the tour conducted around the Landcatch facility at Ormsary, in Argyll, that you are very much into exporting smolts to Chile and to major European markets. If we move to a Norwegian system, under which, as I understand it, the disease is controlled and lived with, rather than eradicated—which seems to be what the Executive officials are saying is the case—what impact would that have on our ability to export high-health-status stock to other countries?

Professor Roberts: The Norwegians have had the disease since 1984. I strongly believe that we should not shift live animals around the country, never mind shifting them around the world. The foot-and-mouth outbreak has made that even more obvious to the world. Few people support extensive movements of live animals from country to country.

Movements are generally of germ plasm—eggs or milt from closely controlled, specific pathogen-free situations, which enter quarantine when they arrive at their destinations. That system is accepted for all animals and works well.

Our system is tremendously stupid, as one can import and export tropical fish, which can carry anything, from and to anywhere, but that is a different argument and is not part of the SERAD-Ministry of Agriculture, Fisheries and Food regime. Apart from that system, one can move smolts or live fish only between Ireland and Scotland, and that trade is not significant.

The market for fish movements will probably become tighter, rather than slacker. A paper is to be published shortly that will show incontrovertibly that ISA also exists in Chilean waters, which means that every significant salmon producing country in the world has the virus in its own waters. ISA is not transmitted through eggs and I do not think that it would be a long-term factor if

we were either to move to a policy that is similar to the Norwegian policy or to harmonise with the Norwegian policy. Although Norway had the disease, it exported eggs to Chile every year since 1988—until this year, when most movements were stopped by the Chileans through what I view as a non-tariff barrier.

The question about insurance that Mr Lyon is trying to get at is, "Why is SERAD not able to move down the Norwegian route?" The answer is that we are hefted to the European Union system and I assume that the EU will not allow SERAD to do that. If that is so, we should consider compensation, which is the other plank of the EU system. We must have one or the other. If we have neither, we will run into all kinds of human rights problems and the industry will be destroyed.

The Convener: I am keen to move the committee on to the point where we are able to take a position on the petition. One or two members still wish to raise points, but I encourage them to be brief and I ask for concise answers.

Alex Fergusson (South of Scotland) (Con): Mr Lyon mentioned exports, Professor Roberts mentioned exports to Chile and much of the evidence that we were sent also mentioned exports.

We have talked a lot about the Norwegian situation, but I understand that one of our principal competitors in the export of eggs to Chile is the Republic of Ireland. Some people have suggested that ISA is endemic in wild salmon. If that is so, what is the situation in the Republic of Ireland? Is the Scottish Executive in discussion with the equivalent agencies in the Republic of Ireland on their attitude towards ISA?

Professor Roberts: I do not know, but I personally certified eggs for export from the Republic of Ireland for about 20 years until five years ago. Almost all the eggs were exported from one farm. However, there is no difference in status, and I cannot conceive that there is any difference in risk, between a farm in Donegal and a farm in south Argyll. The farm in Donegal is at least as near, if not nearer, to any of our clinical outbreaks. However, Ireland is a different country and, by default, it cleaned up on egg exports this year.

I believe that that happened because of the demonisation of this disease in Scotland. The press releases on the alleged ubiquity of the virus in Scotland—which I believe is probably true—came to the attention of the Chilean authorities and led them to say, "In that case, we are not taking any eggs from Scotland." That opened a massive door for the Irish and the question would not have arisen had the Chileans not seen those press releases.

Gordon Brown: I will answer Mr Fergusson's question briefly.

We have had no reports of ISA problems in the Republic of Ireland. We meet the Irish regularly throughout the year to discuss both health and the market. They are, and have been, our allies in Europe when it comes to considering health issues. They see things in the same way that we do and were the principal supporters of the proposal for the withdrawal scheme under the ISA regime.

Richard Lochhead: I have two brief questions for the NFUS. Each requires a one-word answer. How many jobs have been lost because compensation was not forthcoming? Do you agree that any conditions that are attached to a compensation package should include provision that there should be restocking and that employees on fish farms should have direct benefit from the package?

John Kinnaid: In excess of 200 jobs have already been lost, but a Norwegian company has paid in excess of £22 million to support the industry.

We should return to the discussion. I take on board Mr Lyon's points about our having reached almost an impasse and why we are here today. We need to get over the problem of a precedent being created in which no compensation is paid for the slaughter and destruction of stock. We cannot suffer that. It cannot be allowed to go on.

The importance and value of the fish farming industry to Scottish aquaculture and the rural economy at large is at the bottom of the matter. We cannot allow that industry to die and disappear with people having no control over it.

Mr Rumbles: I have a question for Professor Roberts that follows on from George Lyon's question. You said that the majority of companies that are involved in the industry are overseas companies. That was a surprise to me. You also said that a significant proportion of that majority is owned by the Norwegian Government. What do you mean by a significant proportion? Are we asking for compensation to be paid from the Scottish Government to the Norwegian Government?

Professor Roberts: What you ask relates to retrospective questions of compensation.

Mr Rumbles: I would like a simple and straight answer. What do you mean by a significant proportion?

Professor Roberts: As a result of problems with ISA and securing investment from UK or European sources, for example, 90 per cent of the Scottish industry is in foreign ownership and around 60 per cent is in Norwegian ownership. I

am talking about ownership of the industry, not just cages in the sea. About 30 per cent of that ownership is in significant Norwegian Government ownership. However, BP owns a very large part of the Norwegian oil industry.

Mr Rumbles: We are not talking about the oil industry.

Professor Roberts: No, but we must not demonise Norwegian investors.

Mr Rumbles: I was not demonising anybody; I was only asking for the facts.

Professor Roberts: Those figures are approximate.

The Convener: We have come to a point at which we can safely dismiss the witnesses. I thank them very much for coming to the meeting to help the committee. The witnesses are welcome to stay and listen to the next part of the discussion.

The committee must make a straightforward decision. The Executive's response to the petition has been considered. Should the petitioners' case be rejected, noted or supported? I would like brief comments to indicate how members feel.

Fergus Ewing: The petition should be supported, subject to certain conditions, two of which have been mentioned by Richard Lochhead.

The evidence has focused on compensation. I would like to refer briefly to no right of access to information and no right of appeal, which are the second and third proposed reforms in the petition. Time has prevented us from considering those points.

I have studied the petition, the papers and the submissions of Mr Nimmo and Mr Currie. It seems that the petition must be well founded if we assume that those two gentlemen are correct in stating that they were denied access to scientific data.

Mr Brown stated that he could think of no case when the results had not been disclosed to a salmon farmer, but that is not the issue. The issue is not the results; it is the scientific data. We have to give the Executive an opportunity to respond on that issue, as time did not permit it today. I would be astonished if the petitioners' claim in that respect was other than well founded. I was very concerned about the way in which that aspect was dealt with. The right of appeal should also be supported, especially on the basis of the submissions that have been made.

15:45

On the right of compensation, the case is extremely strong. We should support it on the basis that a number of conditions are applied.

First, it should be payable only when high standards of husbandry are met. Secondly, it should be subject to restocking. Thirdly, we must ensure that the jobs that are underpinned by the industry are maintained as a result of the compensation. I am sure that a scheme can be devised that would meet those objectives.

I think that it was Professor Roberts who stated that we could have an EU regime of eradication but it must be supported by compensation. I agree. He postulated the alternative of the Norwegian method, which, put simply, is control. That can be accompanied by insurability. We must, however, have something in place, so I would be inclined to support the petition.

George Lyon: We have not discussed the issues, especially the right of appeal, in enough detail to come to a view on them. As we know from other diseases, control measures do not carry a right of appeal. The NFUS appears to be arguing that there should be a right of appeal on this scheme, but not on any others.

I could not support the point of view that compensation should go to the 90 per cent of companies that are overseas owned. There is £9 million to help small, indigenous companies in Scotland to try to restart after the ISA outbreak. The committee should send a strong recommendation to the Scottish Executive and its ministers that they sort out the issue of insurability. That would be the right way forward. If the Norwegians can do it, I do not see why we in Scotland cannot make progress on it.

The Executive officials appeared to have great difficulty defending the position that they find themselves in. Indeed, they were embarrassed about trying to defend their position. I therefore strongly recommend that the committee put its full weight behind an exploration of a Norway-type scheme, where commercial insurance becomes a reality. The property rights and the value of individual farmers can be insured for the future. I firmly believe that that is the right way forward. It would enable the Scottish fish farming industry to continue to grow in future and to be able to compete head-on with the Norwegians, Canadians and Chileans.

Rhoda Grant (Highlands and Islands) (Lab): I suggest that, because of some of the comments that have been made, we note the petition. We should wait to find out the results of matters that are under way, such as the review by the European Court of Justice and the application that has been made to the veterinary fund. We need to ask questions about how small, local companies are being supported and ensure that they are getting the support they need.

The Scottish Executive rural affairs department

has said that it is working with salmon farmers on whether their stocks can be marketed, but smolt farmers cannot market their stocks. There are further questions that we should ask, but at this point, because the petition covers such a huge area of ground—only aspects of which we may agree with—we should note the petition and take up specific matters that have arisen.

Mr Rumbles: Whatever we have heard today, the status quo is not acceptable. I echo what George Lyon said: insurance is certainly the way forward, as I see it.

We should reject the petition. People would not understand if we asked for the Scottish Government to pay compensation to the Norwegian Government because the Norwegian Government owns about 30 per cent of the industry. That is not an appropriate way forward, but neither is it appropriate to retain the status quo. We must move towards some sort of insurance arrangement. I urge the Scottish Executive to take that suggestion on board.

Alex Fergusson: I disagree with Mike Rumbles. The position that he and George Lyon have taken—that compensation should not be paid simply because a large proportion of the Scottish fish farming industry is owned by Norwegian interests—is probably insulting to Norwegians and is fairly insulting to me. It is quite extraordinary that we could take that position simply because something is foreign-owned, particularly if, as Fergus Ewing suggested, compensation was tied to a restocking programme.

I agree with Mike Rumbles that the status quo is not an option. I also agree with Rhoda Grant that we should accept the petition to a degree. I do not believe that we should reject it. I have spent a large part of the last six weeks arguing for compensation that is due to a lot of individuals and businesses in the south of Scotland, albeit for a different reason. I am sure that I will spend an even bigger part of the next six weeks doing the same. I will argue as strongly as I can that compensation needs to be expanded from the position that obtains at present.

On that ground and on the others that I have mentioned, I tend to support the petition.

Richard Lochhead: I agree with Alex Fergusson's comments. With reference to the Liberals, I thought that William Hague had joined us for a wee while today, given that the problem with the salmon farming industry is that Scottish companies do not get enough support to dominate the industry and stop Norwegians coming in and buying up Scottish business.

I am sympathetic to the petition for many of the reasons that Fergus Ewing gave. There is also a great need for consistency in compensating

Scottish industries when Government policy intervenes, especially by slaughtering livestock. Apparently, the scallop industry was not compensated because amnesic shellfish poisoning is a natural phenomenon. Salmon farmers are not compensated because they farm salmon, which is not done on land. There is no consistency in those examples with industries that get compensation when livelihoods are removed by Government policy.

The key is that if Government policy dictates the removal of livelihoods or dictates a high cost due to the slaughter of livestock, it should step in to keep businesses afloat by compensation, just as a commercial company that takes a commercial decision to close a factory must by law compensate for doing so.

Clarification and consistency are essential. The issue will continue: the situation with the salmon farming industry is just yet another case. I am sympathetic to the petition.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I will briefly pick up a couple of points that were made by George Lyon and Rhoda Grant. I have listened carefully to the arguments that have been advanced today. I find it astonishing that a solution has not been arrived at. Surely there is an obligation on the industry and the Executive to find a way forward that ensures that we do not keep having, time and time again, to rely on the public sector to pick up the tab for things that could have been prevented or to provide a separate scheme to make the necessary insurance available.

We should take up the points that have been made by saying that we note the contents of the petition. There are certain parts with which we agree, but there are other parts to which we could not all subscribe. We should take the opportunity to raise with the Executive some of the questions that have been raised today and to urge that a solution be found for the future.

Dr Elaine Murray (Dumfries) (Lab): My point is not dissimilar. I have found the highlighting of different attitudes to control of ISA taken by the different producing nations interesting. There are questions as to whether the current policy of eradication is correct. That policy has to be investigated in more detail, as a number of people have said. I know that that may require action at a European or UK Government level, and not just at an Executive level, but I agree with George Lyon and Cathy Jamieson that it is ridiculous that this situation keeps coming round. Some progress on policy should have been made to enable a stable solution to be found. I concur with Rhoda Grant's suggestion that we note the petition and that we agree with a number of issues, but that we do not necessarily accept that compensation is the best

possible solution to this problem.

Richard Lochhead: On a point of clarification, there is a lot of agreement in this committee today and, whatever happens, I hope that we can reflect the agreement that the current situation is unacceptable.

I wish to return to Cathy Jamieson's point. An important distinction has to be drawn. Cathy says that she is fed up with the Government being asked time and time again to pick up the tab with regard to specific industries.

Cathy Jamieson: That is not what I said. Do not put words in my mouth.

Richard Lochhead: The point is that economic loss has resulted due to Government policy, so the Government will have to compensate.

Cathy Jamieson: With all due respect, that is not what I said. I said that it is important that we find a solution so that we do not arrive at this situation in the future. That is slightly different.

Richard Lochhead: It may have been the phrase, "time and time again," which you used, that misled me. An important distinction, which Cathy Jamieson did not address, has to be drawn: economic loss resulted from Government policy. That is why the Government is being asked to compensate.

Cathy Jamieson: The point that Elaine Murray made is the correct one. We have to look at the policy again. She made that clear in relation to UK and European policy. As you will know, this matter was discussed in the European Committee and it was the subject of a report.

Fergus Ewing: It is obvious that there is insufficient support for the petition, which asks for three things: compensation, right of access and right of appeal. It does not specifically call for an insurance scheme coupled with a control regime as an alternative, although that point was raised today. Given that that was raised today, it might be considered to be an amendment to the petition, but we do not have a procedure for that.

I detect that there is support among the committee members who are not fully disposed to support the petition today to find a solution. We are all agreed about that. The solution may be, as George Lyon and others said, insurance coupled with control. Rather than painting ourselves into a corner and going back to our trenches, it might be useful, to find a way forward, to defer consideration of the petition and to consider further the aspects that we do not have time to explore today. As George Lyon said, they would be the right of appeal and the right of access, but we could also obtain evidence on the feasibility of the option that many members have supported—insurance and control. In addition, we could use

the intervening period to see what the Executive wishes to do in response to this useful session today.

To sum up, it might be helpful if, rather than just reach a conclusion that would not take the issue forward, we defer consideration of the petition to allow the petitioners to come back soon and address the other arguments.

Mr Rumbles: There is a unanimous view round the table that insurance is a way forward. Many members do not agree with a lot of what is in this petition, especially on compensation, and the committee should reject it. I know that the witnesses are listening to this conversation. They should be encouraged to submit another petition on an insurance scheme, because that would be well received by committee members. This petition should either be rejected or noted—however it should be put—but the petitioners should be encouraged to come back to the committee on this issue.

Elaine Smith (Coatbridge and Chryston) (Lab): I have listened to everything that has been said. Would it be possible to note the petition and take forward in other ways the other points that have been raised, rather than defer the petition? That is what I would do.

The Convener: Would noting the petition and drafting a letter to Ross Finnie, covering the issues that have been raised in the discussion, meet with the agreement of the committee? Given the consensus on the points that George Lyon raised, a letter outlining them would seem a viable way forward. On receipt of a response from the minister, we could decide how we wish to proceed.

16:00

George Lyon: I support what Elaine Smith said and what the convener has just suggested. Some key decisions are about to be taken, one of them in the European Court of Justice. A review of the policy in Europe is also under way. Given the importance of the fish-farming industry to Scotland, I do not think that we want to draw a line under the matter, albeit we can draw a line under the petition. I ask the committee to make a commitment to revisiting the subject when, in the light of some of the decisions that will emerge in the next couple of months, we explore how to proceed from that point.

Adjustments might be made to European policy and a decision on compensation might be taken in Europe that could change the committee's view. I ask for the subject to be kept on the agenda and that we devote some real time to it again inside the next two or three months, in the light of those decisions. The subject is too important to be allowed to drift off into the wide blue yonder. We

could perhaps get the minister in front of us so that we can ask him some of the hard questions that the industry has posed here today. It is not fair to let officials defend the policy. We have to have the politicians here and to let them do that.

Alex Fergusson: I disagreed with George Lyon last time around, but I am happy to agree with him this time. I accept that there is not a will to approve the petition, but I would not want it rejected. The petition should be noted. The discussions that we have had are excellent groundings for further discussion at a future date. I can live with that quite happily.

The Convener: We will note the petition and we will draft a letter that covers the issues that have been part of the discussion. We will send that letter to the minister and bring the subject back to the agenda immediately we have a response, along with the other issues that have been suggested.

Fergus Ewing: We will also invite the minister to come and address us on these matters.

The Convener: I will give the committee an opportunity to discuss the minister's response before we move ahead with that.

Budget Process 2002-03

The Convener: I remind members that we still have a full agenda in front of us.

Item 3 allows us to address the budget process 2002-03. The committee agreed to consult selected organisations on the first stage of the next year's budget process. Members have copies of the responses that have been received and an explanatory note from the Executive. The item has been put on the agenda today to enable the committee to identify matters that are to be examined on 8 May when the Minister for Finance and Local Government is due to appear before us.

Do we need further information and, if so, who do we need it from? While we are all thinking about what we want to do, I welcome Adam Ingram who is here as a reporter from the Finance Committee.

Mr Adam Ingram (South of Scotland) (SNP): Do members want me to say something?

The Convener: Feel free.

Mr Ingram: I am here to try to improve the Finance Committee's understanding of the issues of concern in its subject area that the Rural Development Committee might have with the Executive's spending strategy for the 2002-03 year and beyond.

As members know, the Finance Committee, in conjunction with the subject committees, can propose changes to the budget within the constraint that the overall resources available cannot be expanded. It has not been able to go through the whole process as originally envisaged, given that we have been going up a steep learning curve in the first two years of the Parliament. This year, the Finance Committee is determined to go through the process properly, consult the subject committees and get itself into a position where it can influence the Executive's budget.

I dare say that the Rural Development Committee has a continuing interest in several issues about funding and the like. There was a discussion at the Finance Committee this morning about who will pay for the compensation packages for the foot-and-mouth outbreak. Will it come out of the UK reserve or will some of it come out of the reserves that the Scottish Executive is putting together? The Finance Committee convener, Mike Watson, is writing to Angus MacKay about the matter, because we do not have a clear understanding of the rules on the reserves. It is a grey area, which is of concern to the Finance Committee and no doubt to this committee as well.

Those are the kinds of issues that we will be examining in the next month or two. The Rural

Development Committee is expected to produce a written report by the end of June. The Finance Committee will study it and try to take it forward.

The Convener: I have been told that it is the end of May.

Mr Ingram: Right.

We will have all the committee reports by the beginning of June. I am here so that I can inform the Finance Committee of this committee's main concerns prior to that.

The Convener: We should be concerned about the likely impact of the foot-and-mouth outbreak on the broader budget. There were several estimates in the papers over the weekend of the total cost. The figures indicated that the cost would be significant if it had to be dealt with entirely through the Executive's budget.

Cathy Jamieson: When we knew that we would be reviewing the budgets, nobody could have anticipated the foot-and-mouth problems. Having to look across a whole range of budget lines gives me cause for concern. More questions could be asked at the moment than there are answers.

The Scottish Parliament information centre briefing note indicated that provision for the organic aid scheme is scheduled to fall from £5 million to £3 million. Those amounts of money are probably relatively small in comparison to the amount that is being paid out in compensation but, as I have an interest in the future of agricultural practices, I certainly question the rationale behind reducing that provision in the coming years.

Dr Murray: I agree that we must include the financial effects of the foot-and-mouth outbreak.

The explanatory note from the Executive seems to be written in a different language—I do not feel that it explained anything. I do not understand it and I am not sure what its purpose is. It would be helpful to know how it related to any other matter.

We must consider several issues. Following on from what Cathy Jamieson said about the organic aid scheme, I would be interested to examine the way in which rural development issues are to be financed and progressed. That relates to what might need to be done in response to the outbreak of foot-and-mouth disease and to how rural economies are to be regenerated. I would like more information on whether the rural development regulations might be revisited in the light of the outbreak and whether there might be further funding for the diversification of rural economies.

Cathy Jamieson: An important issue that does not fall within the rural development budget heading is the funding that was potentially available to local authorities. In the broader

context, we should consider taking a cross-cutting approach, particularly in relation to authorities, such as Dumfries and Galloway Council and those in Ayrshire and the south-west of Scotland, that have borne the brunt of the measures that have been taken in response to foot-and-mouth disease.

Elaine Smith: When we examine budgets, we should bear in mind the fact that we should consider them from the equalities point of view and how they impact on certain groups in communities.

Richard Lochhead: I agree with Elaine Murray's point about trying to work through the Executive's guidance, which is a complete nightmare. I make a serious point: I do not understand why MSPs have never been sent on a crash course on the budget—that is one of the first things that should happen to MSPs after they are elected to the Parliament.

The rural budget is complicated for two reasons. First, in relation to the cross-cutting aspects of the budget, the rural affairs department is given a minuscule budget, although the Executive will argue that so much of other budgets is spent in rural Scotland. Therefore, it is difficult for us to ascertain how much Government money goes into rural Scotland. Secondly, the irony is that the rural affairs department does not really have a budget, because the vast bulk of its money is tied to European funding. Only a tiny fraction of the headline figure is subject to the discretion of the Minister for Environment and Rural Development. We have never fully addressed that important matter, which the Finance Committee might take on board. I cannot recall the figures off the top of my head, but the minister has discretion for only a few per cent of the overall rural development budget. The minister acts as a postman for the £500 million a year that comes from Europe.

The Convener: Do all members have in front of them the private briefing paper on the budget, which is headed private: members only? [MEMBERS: "Yes."] I am wondering how I managed to lose it.

Richard Lochhead: My final point is that, when the Executive publishes the budget, perhaps it could also issue notes to explain why budgets have changed drastically. For example, if there is a reason for those changes, it could simply issue an explanatory note.

Mr Ingram: To be fair, the "Annual Expenditure Report" is a significant improvement on last year's budget documents. I do not know whether members have managed to work their way through the document yet, but the Executive took on board many of the recommendations that the Finance Committee made. However, it is not an

easy read, to say the least.

Richard Lochhead: I agree with Adam Ingram. An improvement that has been made is that the EU and non-EU moneys that come to the department have been divided. Last year, we were given extremely complex information about that, but the division is clearer this year, because the Rural Affairs Committee drew the Government's attention to that matter.

The Convener: The paper that is in front of members is based on our previous discussions and decisions, although certain areas might require clarification. Are members content with the way in which the paper is set out and with what it leads us to discuss?

Dr Murray: Are you talking about the paper that makes a suggestion about something called CHABOS, of which I have never heard.

The Convener: A note has just been passed to me about that. CHABOS stands for the committee of the heads of agricultural and biological organisations of Scotland—I have written it out carefully.

Alex Fergusson: How long has CHABOS existed?

The Convener: I do not know. The best answer that I can get is that it has existed for a few years.

Meeting CHABOS might provide us with the opportunity to find our way into the issue of scientific support. Elaine Murray raised that issue before the foot-and-mouth outbreak sneaked up on us. If we consider the likely financial impact on the organisations that are involved in CHABOS of the broader budget, which funds those organisations, it becomes all the more relevant for us to meet representatives of CHABOS. That would be a valuable process for us to enter into, because we would be able to inform ourselves about the likely impact of foot-and-mouth disease.

We will find out what CHABOS is when its representatives tell us. Are we content to invite it to send a representative to the committee on 8 May?

Members indicated agreement.

The Convener: The minister is coming to address budget issues on that day. Is there anybody else from whom the committee wants to take evidence?

Dr Murray: Members who represent the south of Scotland are conferring. Alex Fergusson and I met Tony Fitzpatrick of Dumfries and Galloway Council last week. He has interesting views about the need for rural diversification following the foot-and-mouth disease epidemic, in terms of rural communities' becoming involved in different types of developments. He has suggestions concerning

the way in which article 33 of the European rural development regulations might be used to achieve that. I wonder whether it might be worth hearing more from Tony Fitzpatrick.

Alex Fergusson: I support that. I was at that meeting. Tony Fitzpatrick has some innovative ideas, which we would benefit from hearing about, especially concerning the interpretation of the European rural development regulations. He is also worth listening to on the issue of recovery from the foot-and-mouth disease epidemic, which I hope we shall soon be doing.

The Convener: Does that meet with the approval of other members?

16:15

Elaine Smith: As several councils are involved, perhaps the Convention of Scottish Local Authorities might be asked whether it wants to send a representative of councils in rural areas.

The Convener: We have received a written response from COSLA. Did members find that response unsatisfactory? We could ask those who submitted written responses to come and discuss their evidence further. However, we also have the option to invite individuals who have ideas of their own, and who are able to contribute to the discussion in which we are involved. Elaine Murray's and Alex Fergusson's suggestion is the kind of action that we need to take, to provide some new thinking in the process.

Dr Murray: Alex Fergusson and I just remarked that we might want to invite COSLA, but it would probably send the convener of Dumfries and Galloway Council, who is its rural matters spokesperson. That would take us round in a circle. There are issues for other councils, but some of Tony Fitzpatrick's views on rural development are not related purely to the council that he represents, and they have interesting implications for rural communities throughout Scotland.

Cathy Jamieson: One of the difficulties that we face might be in distinguishing between considering rural development in its broader context—a good thing that we should be doing—and focusing on some of the budgetary questions that we need to answer now. We must be clear about our purpose in inviting more witnesses.

The Convener: Yes. The reason must be related to the budget.

Cathy Jamieson: So many issues relate to the impact on local authorities of the recent foot-and-mouth outbreak that it might be worth giving members the opportunity to ask further questions. If that means inviting the convener of Dumfries and Galloway Council, so be it.

The Convener: So—to whom should we talk?

Alex Fergusson: Tony Fitzpatrick.

Rhoda Grant: I suggest that we invite COSLA to send a representative. We could cover the issues that we have been discussing and those that have been raised by other rural councils. That one person could cover all the issues. Even if that person came from Dumfries and Galloway Council, as a representative of COSLA, they could put forward points of view from other councils as well.

The Convener: We have a combination of ideas. If we put them together and express them to COSLA, we might be able to please everybody.

Alex Fergusson: I am quite happy with that. Tony Fitzpatrick heads up a group that has representatives of all the councils that are affected by objective 5b funding, and he is a multi-council representative on issues of European funding. However, I am perfectly happy for the committee to approach COSLA.

The Convener: Do we need any information further to that which we have received? If so, from whom? Is there anyone from whom members would like to request additional information?

Members indicated disagreement.

The Convener: As there are no suggestions, we have probably approached all those with whom we want to deal.

We have already begun to deal with the next question, which is whether we want to invite anybody else to give evidence in a fortnight. We have dealt with the suggestion that we should ask CHABOS and we have worked out what it does. COSLA has also been suggested. Does the committee want to hear from anybody else, apart from those two groups and the minister?

Richard Lochhead: There has been murmuring about the Scottish Agricultural College.

The Convener: The SAC is part of the organisation that we have already agreed to invite. Previously, we discussed the possibility that, given that there have been changes in the finance arrangements for the SAC, there might be a conflict of interests if we invited representatives from SAC to speak to the committee on that matter.

Richard Lochhead: Are there any bodies working with communities, other than local government bodies? I am thinking of charitable or voluntary organisations.

The Convener: It is difficult to see how such bodies tie in with the budget of the rural affairs department.

Richard Lochhead: The Government has just given money out of the rural affairs budget to rural stress organisations, for example.

The Convener: We must ensure that we deal specifically with issues that are raised by the budget. The Finance Committee will expect a report based on that. If members have other suggestions, they should contact the clerks within the next 24 hours.

Does the committee wish to have a private briefing on the lines of questioning that we are likely to want to put to the minister before the 8 May meeting?

Richard Lochhead: No.

Alex Fergusson: No.

The Convener: Okay. We will take the opportunity to ensure that a paper that contains possible questions is circulated so that, if members' infinite imaginations run dry, they will be able to keep the process going. I doubt that that will be necessary.

Do we agree to proceed on that basis?

Members *indicated agreement.*

Fuel Prices in Remoter Rural Areas

The Convener: As members will be aware, the report on fuel prices in remoter rural areas was published during the recess. I invite our two reporters, Rhoda Grant and Fergus Ewing, to comment on the report.

Rhoda Grant: I was not involved in drawing up the report because, although Fergus Ewing and I were allowed to sit in on the evidence-taking sessions, we did not take part in writing the report. One of the things that has come out of the evidence loud and clear is that the oil companies are keen to make the same amount of profit from oil, regardless of where it is sold. If they sell it to a supermarket, they can afford to sell it cheaper because there will be a bigger turnover. The cost of delivering small quantities of petrol to rural filling stations must be absorbed by the station and the people who buy their petrol there.

The report has produced a few suggestions, some of which I agree with and some of which I do not. Overall, the process was useful.

Fergus Ewing: I was on the Enterprise and Lifelong Learning Committee until 23 November 2001 and that committee began its inquiry in January 2000. The remit was to inquire into the pricing of vehicle fuel in remote rural areas, in particular to establish the basis for the higher prices that are charged by fuel stations in remoter areas and to determine whether that practice was reasonable.

I am the committee's reporter on the issue and I understood that, in accordance with committee rules, I was not permitted to attend private meetings of the Enterprise and Lifelong Learning Committee. That might be a gap or a mistake in the rules, which the Procedures Committee might consider. It is difficult for me to report fully without having had access to the private meetings, which included meetings with the oil companies, some of which displayed some candour in giving out commercial information.

The Enterprise and Lifelong Learning Committee's report is very full and presents a number of solutions. The second sentence in paragraph 27 is interesting:

"Brian Wilson ... stated in a speech in January 2000 that the Government considers it is not solely, or even mainly, responsible for finding solutions to price differentials."

I find that comment from Mr Wilson surprising, given his affinity for the Highlands and Islands of Scotland. In contrast, and perhaps more happily, I understand that, in response to this committee's "Report on the Impact of Changing Employment

Patterns in Rural Scotland", the Minister for Environment and Rural Development said:

"The distribution and retail of fuel in Highlands and Islands is inherently high cost. The Scottish Executive is not persuaded that bulk buying can significantly affect this. We are, however, open to innovative thinking and practical evidence that such schemes can offer worthwhile price cuts."

That is relevant. I hope that we all wish to find a solution to the problem, which has afflicted the Highlands and Islands of Scotland, and other parts of rural Scotland, for decades—I remember quoting on 31 January an editorial that appeared in *The Press and Journal* in 1976. It is a complicated problem and one to which successive Governments have provided no answers. Brian Wilson does not believe that the Government has the responsibility for finding the answer, but I hope that the committee will take a different view.

The way forward could be to invite the Minister for Environment and Rural Development to address the committee to tell us what steps, if any, the Executive plans to take to find a solution to the problem, difficult thought it is. In particular, it would be useful to hear the Executive's response to the recommendations in part E, paragraphs 45 to 47, of the Enterprise and Lifelong Learning Committee's report. The solution that I feel might allow us to move forward is this: the Scottish Executive should examine, with the Petrol Retailers Association and the Scottish Motor Trade Association Ltd, what scope there might be for developing a rationalised network of supported stations. If we can support sub-post offices, why cannot we support sub-petrol stations? They, too, would provide an essential community service. That solution would involve a mixture of some Government subsidy, price controls and transparency so that, for every gallon or litre of fuel that was purchased, it would be clear what was going to the oil company, what was going to the distributor and retailer—who would be a sub-petrol station provider—and what was going to the Government. Currently, between 75 and 80 per cent goes to the Government.

Given the importance of the matter, I hope that the committee can invite the minister to address us on the Executive's plans, if there are any, to deal with this serious problem that affects rural Scotland—especially the Highlands and Islands.

The Convener: I emphasise to members that the Executive will, as a matter of course, respond to the report. It is a matter of courtesy that we should allow that response to be made to the Enterprise and Lifelong Learning Committee and that that committee should, in the first instance, deal with that response. However, as I am well aware, there are a number of specifically rural issues that we will want to follow up.

George Lyon: I was one of the members of the small group that was nominated from the Enterprise and Lifelong Learning Committee to carry out the face-to-face discussions with the oil companies on the breakdown of prices, and to try to get to the bottom of why there is such a huge differential, especially between prices within the Highlands and Islands. In my constituency, a litre of petrol in Mull and Islay is about 12p to 14p dearer than it is at a major petrol station in Oban.

It was quite clear that, although transport played a part in the extra cost, it was by no means the single most important factor. Evidence from the oil companies and the Independent Retailers Association suggests that the main problem was the lack of throughput in many small rural petrol stations. For example, whereas one-man-operated petrol stations in the central belt sold more than 10 million litres a year, a similar one-man outfit in Mull sells 200,000 to 300,000 litres, but has the same wage costs and fixed costs. Because that is the root cause of the problem, small independent retailers in rural Scotland—particularly in the Highlands and Islands—have no choice but to put a bigger margin on the fuel price.

16:30

Other Enterprise and Lifelong Learning Committee colleagues and I feel that the way forward is to reduce vehicle excise duty for motorists in the Highlands and Islands and rural Scotland to compensate them for the extra cost of buying fuel in those areas. Cost consultants have already examined the specific Highlands and Islands situation and have worked out that the cost—which is the average mileage for motorists multiplied by the higher petrol price—could be offset if the Treasury reduced VED to zero for motorists in some remote communities in which the price of fuel is acknowledged to be very high. It would cost the Exchequer a total of £5 million to implement that scheme and to solve once and for all this desperate, lifelong problem of high fuel prices in the Highlands and Islands, as compared with prices in the central belt. Such a scheme already operates for hauliers in the islands. Indeed, on Bute, hauliers pay about £400, whereas hauliers on the mainland pay about £4,000 for their licence. As a result, the existing scheme will need only to be extended.

The Convener: If there are no other comments, are members content to welcome the report and to await the Executive's response to it? We will be able to discuss it immediately after the Enterprise and Lifelong Learning Committee has done so.

Rhoda Grant: When I was the reporter on the issue, the Enterprise and Lifelong Learning Committee allowed me to attend private meetings with oil companies—even though some of its

members did not. We should note that such an unprecedented move was very helpful to the committee.

Foot-and-mouth Disease

The Convener: The fifth item on the agenda is foot-and-mouth disease. Although we will not address any major specific activity concerning the disease today, an Executive paper has been circulated, which gives up-to-date information on the outbreak. An earlier copy of the paper was circulated, but an updated version that contains a limited number of changes was included with documents that went out this morning.

Elaine Smith: As a new committee member, I am not sure how the process works. Are you seeking comments on the paper, and will they then be forwarded to the Executive?

The Convener: Yes.

Elaine Smith: My first question is about the means of disposing of carcasses. The paper says that the preferred option is burial. I might be wrong, but I thought that we heard evidence a fortnight ago at this committee that the preferred option was burning.

It concerns me greatly that, although other issues related to burning carcasses are mentioned, there is no mention in the report of air pollution. However, Michael Meacher, the Westminster Minister for the Environment, has been talking about the issue. Perhaps we could ask why air pollution is not mentioned in the update.

Following on from reports at the weekend, I must point out that the report does not mention whether wild deer can be infected with the disease. I should like to know whether there is any indication that they have been infected and whether there are any contingency plans for a situation in which they became infected.

The Convener: I should point out that the Executive has said that it will endeavour to produce two updates a week—on Mondays and Thursday afternoons—to ensure that members are kept up to date with the crisis. The Executive also said that issues of the sort that Elaine Smith has raised should be raised with the department through correspondence and will be addressed in those bi-weekly updates.

Elaine Smith: I wanted to know whether we should wait for the Executive to give us information or request that information be given to us.

The Convener: It would be sensible for us to ask the Executive for answers to questions that we might have.

Dr Murray: The report contains almost up-to-date figures on the number of cases of foot-and-mouth disease. I have been trying for some time to

get a list of the premises that have been involved in the pre-emptive cull. That information does not seem to be publicly available, but it would be of interest to a number of people, not least to the vets who are expected to go out to assess whether animals on a farm should be culled, as there are a number of cases in which a vet has gone to a farm on which the animals have already been culled. Will the Executive make available all the statistics relating to the crisis, including those to do with the number of animals that have been slaughtered in the pre-emptive cull?

As Elaine Smith says, there seems to have been some conflicting evidence about the disposal of carcasses. Originally, we were told that it was impossible to dispose of carcasses by burial in many areas, particularly in Dumfries and Galloway, because the water table was too high and the soil was not sufficiently deep. There appears to have been a change of emphasis since we were told that, and the report should make some reference to the public health aspects of burial and burning. The report contains a table of where the burning sites are. I thought that there was a burning site at Twynholm, but it is not in the table. Perhaps it has been discontinued.

Alex Fergusson: It has.

Dr Murray: I wondered why it had not been included.

There is a reference to a new site, but we are not told where the new site is. I would also like to know what sort of communication there is with members of the public. At Eastriggs, for example, people did not know what was going on at the time and a lot of rumours were going around. Some effort should be made to ensure that people in the vicinity of burning and burial sites are made aware of what is going on.

The smell problem at Birkshaw has been getting progressively worse. I know that people in Lockerbie in my constituency have spent an unpleasant few days surrounded by an extremely nasty smell. That smell has been tracked down to effluent from the mass-disposal site. I would like more information on how that is to be dealt with and where the effluent is to be placed. I understand that it is to be disposed of at an approved landfill site, but we need to know more about what that will entail.

The Convener: Those points have been noted and we will make sure that they are noted in the correspondence.

Fergus Ewing: With regard to the movement restrictions, I understand that the Minister for Environment and Rural Development is making a statement on Thursday. I hope that, in the provisionally free area at least and with the approval of the chief veterinary officer, the

relaxation of the movement restrictions—which was due to come into effect on 16 April but which was postponed for reasons that we understand—will come into effect on 1 May.

We are all aware of many farmers' grave concerns and difficulties that have resulted from the movement restrictions, especially with the shortage of silage and feed and the inability to move livestock that are currently grazing on the mainland but are due to go back to the islands. Many local sensitivities exist about that. In the provisionally free area, there should be a swifter relaxation of movement restrictions, especially as they are causing grave hardship and animal welfare problems.

On exports, I understand that the OIE rules clearly provide for export bans to be lifted not only in countries but in zones. Given that the virus does not respect boundaries on a map, that is logical. Scotland is not in a position to apply formally as a country for a lifting of the ban, and I believe that a three-month gap has to be observed. However, would it be possible to lift the export ban on the provisionally free area? Can the Executive provide a clear response to that? There has been a lack of clarity about whether the Executive has taken any steps even to inquire about the conditions on which such a lifting of the ban can be granted by the European Commission, either for Scotland as a whole or for certain zones in Scotland. The provisionally free area has been recognised in accordance with the rules. Those rules embody clear protections in regard to movement restrictions and, subject to the CVO giving clearance, farmers in those areas should be able to get their export markets back.

A farmer in Galloway has expressed a concern to me that there might be a risk of further outbreaks of foot-and-mouth disease in sheep that are outwith areas where there have been clear outbreaks—outwith the hot spots—because it is difficult to detect the signs of the disease in sheep. It is much more difficult to detect those signs in sheep than in cattle—the signs are obvious in cattle. Does the Executive believe that that is a serious problem? If so, what steps is it considering taking? Is it considering using sentinels, for example?

Richard Lochhead: A few days ago, I spoke again to those in the north-east Scotland industry, who are going through very difficult times as the relaxation was postponed to 1 May. The industry is depending on the relaxation on that date, otherwise things will be irretrievably difficult for many farmers. Let us, therefore, hope that the relaxation takes place. We will find out more from the ministerial statement.

I have a couple of points on documents. Many farmers are looking for more information on the

animals culled. They want more detailed breakdowns of those figures and to know which breeds have been affected. That would enable them to understand the national situation in respect of buying and selling stock once the relaxation takes place.

A farmer has given me a consultation document from MAFF, on the proposal to introduce a 20-day standstill period following movements of sheep and cattle. There is much concern about the status of the document in Scotland and the minister's response to it. If the 20-day standstill period following movements of sheep and cattle is introduced in Scotland, it will be damaging to many commercial farms, especially in the north-east of Scotland. There are many mixed farms in the north-east and many different farmers who deal with store cattle and breeding cattle, for example. Restrictions would be devastating.

The Convener: I understand that the consultation period ends on Friday 11 May. I suggest that the committee ask whether it can be provided with information about the consultation so that it can consider it at the earliest possible opportunity after the consultation process closes.

Richard Lochhead: I agree. The great concern in the north-east of Scotland is that MAFF's proposal does not take into account circumstances in places such as the north-east of Scotland and the Highlands and Islands. The proposal could therefore be very damaging. We need to find out what the situation is as soon as possible.

George Lyon: There is no mention of the purchase for destruction scheme. A number of my constituents applied and have not heard anything. When we got through to the helpline, after 24 hours of trying, we discovered that their application had not been registered and they had not been allocated an abattoir. There was no prospect of getting the stock shifted. The scheme appears not to be functioning at all.

I know that the Intervention Board is responsible for the scheme. What controls do we have over trying to make it work in Scotland? Does SERAD have any input into decisions that are taken on prioritisation? Which abattoirs will be used, or is it all being done by the Intervention Board south of the border?

16:45

The scenario in Scotland is different from that of England in that, as I understand it, the pre-emptive cull is now complete in Scotland; therefore that should—at least in theory—free up rendering capacity in some abattoirs to deal with the purchase for destruction scheme. Could we have some information on the scheme's status, what the prioritisation is and where the responsibility for

the scheme lies in Scotland? Is it with the Scottish minister or with MAFF and the Intervention Board south of the border?

The Convener: That is a major issue. I have tried to enter into correspondence on a case, although I do not know whether it can be called correspondence, given that I keep faxing and sending things and never get a reply.

George Lyon: Secondly, as I understand it, it has been requested that the beef and dairy herds in infected areas that are due to go out to grass be kept indoors for a further couple of weeks to prevent infection from contaminated ground. Have we any idea how many herds it is being attempted to keep indoors? How are farmers getting on trying to source fodder? What I understand, from merchants I spoke to last night, is that the merchants are desperately scouring the country, looking for feedstuffs to try to keep the herds indoors. There has been little publicity about that requirement—I am sure that there are farmers around who have some winter fodder left over, although they are probably few and far between. Should there be publicity to encourage farmers who have supplies to come forward, or are farmers managing to procure feedstuffs locally in Dumfries and Galloway and the Borders?

Prices are apparently going through the roof—I have heard £100 a tonne being quoted, for silage to be hauled down the road to Dumfries and Galloway. I do not know whether that is true, but it is certainly the chat in the trade. If the intention is to keep the herds in for another two to three weeks, it would be useful if a message went out to ask farmers who have leftover fodder to make it available or at least to volunteer it in some sort of database, so that we can work out where the best places are to haul it from.

Alex Fergusson: I can only agree with every point that has been made around the table. It is true that no fodder is left locally.

George Lyon: Is that the case?

Alex Fergusson: Yes, as far as I know. The prices for fodder are astronomical and it has run out locally.

George Lyon: Given that silage is a very acidic product, are farmers allowed to use fodder from infected farms, or is it banned?

Alex Fergusson: It cannot be used, as nothing can be moved from an infected farm for, I think, 30 days.

I have a number of points to add to what has correctly been said already. During the recess, the situation changed a lot, especially in west Dumfries and Galloway. The disease has been getting ever closer to Cathy Jamieson's constituency. One of the main differences over the

past fortnight has been that the outbreaks now tend to be isolated ones outwith the main area, although most of the outbreaks in Dumfriesshire are still largely in the main hot spot area. Case 161, Moorhead of Glenturk, which was discovered on 20 April on a clinical diagnosis in three sheep, has led to an enormous cull in the 3km radius. Like all the outbreaks outwith the main hot spots, the case appears on the website, but it affects nearly 40 farms and a massive amount of stock in an area that was otherwise clear—Elaine Murray's point about more information on the contiguous cull and the total amount of livestock that may be taken out is relevant.

The situation has been different in the past 10 days, because the criteria that allow vets to confirm a case of foot-and-mouth disease clinically have changed—or that is how the situation appears to me. That has made it much easier for a vet to confirm foot-and-mouth disease clinically, instead of saying, "I suspect that this is foot-and-mouth disease and we will slaughter on suspicion." The difference is that clinical confirmation automatically triggers the 3km cull, whereas slaughter on suspicion does not. Clinical confirmation has increased hugely. Blood samples from the infected farm are sent away and the cull takes place. The cull has become extremely efficient and now happens quickly.

However, of seven clinically confirmed cases in Wigtownshire, five blood tests have been returned clear. This morning, a senior vet told me that less than 20 per cent of all blood tests that are being sent away are proving positive. There may be scientific reasons for that. The disease may have been caught so recently that it has not yet appeared in the bloodstream. I do not know. However, during all our question sessions, the committee has never been told that a stage exists at which the disease may not show up in the blood test. The worry is that people whose herds have been slaughtered as part of a contiguous cull from a case that has returned negative are coming close to making the first organised resistance to a cull. I have informed the department vets of that, because I believe that we are in a dangerous situation.

I understand everyone's desire to get ahead of the disease. We have all fully supported that policy. I fully support the policy. When Elaine Murray spoke about the lack of available information, she mentioned the problematic and horrendous lack of information to local farmers and farmers who will be affected by a cull. I refer members to case 166, at Airyhemming, near Glenluce. That has continued for about 10 days. It was cleared on Friday last, and the rumour spread rapidly. No information was forthcoming for some time, but the rumour spread and all the farmers breathed a sigh of relief. On Sunday, the outbreak

was reconfirmed, because there had been another set of blood tests, which the bureaucracy had lost or had not linked with the farm. The second lot of blood tests came back positive, and a 3km cull will now take place.

Those farmers had been on tenterhooks for 10 days; their hopes had been raised but they are now distraught. I have never seen a bunch of people more emotionally involved than them, and there has been a lot of emotion from the start of the situation. They reacted in that way because information is not forthcoming. The science behind the greater ease of clinical confirmations, which lead to a 3km cull, causes worries. I ask the committee to call Leslie Gardner back as soon as possible to answer some of those questions.

I will refer to another item, but I will not take up much more time. The compensation is generous and I have received no complaints about its level from the farming community. Importance is rightly being attached to tourist-related businesses, but no attention is being paid to agriculture-related businesses. A mole catcher who lives in Castle Douglas approached me. He has been a mole catcher all his life and is a frugal man. He is self-employed, pays council tax and receives no business rates rebate. He has managed to save a bit of money over the years and has no access to benefits. Through no fault of his own, his entire living has gone. People from mole catchers to dairy engineers who cannot move on to premises—or out of their premises if they live on an infected farm—are not being considered. A vast section of business in the south-west of Scotland is not being listened to. The committee has a role to play in drawing attention to those people's plight.

Cathy Jamieson: This week, I have lodged some questions for the Executive, because I was concerned to learn that a number of abattoir workers in Ayrshire had been laid off during the past few weeks. I am now hearing of more and more industries where workers are being laid off directly because of foot-and-mouth disease. Alex Fergusson may be pleased to learn that the outbreak has even delayed work on the pylons that are going through my constituency and into his part of the world. Nonetheless, the workers on that project have been laid off and are without the financial, moral and emotional support that workers in other industries are getting. That is of some concern and we should be pressing the Executive to look at the full extent of the impact of the foot-and-mouth outbreak across the country.

The Convener: Do members feel that the committee should be taking the opportunity to solicit information on the broader impact on associated agricultural activities?

Members: Yes.

Richard Lochhead: I would like to follow up on Alex Fergusson's comments. Perhaps, following the ministerial statement, we could reflect on the contents of that statement and the information that is given in response to questions, and then pursue the remaining issues with the minister.

Alex Fergusson: I am keen to get a response on my suggestion that Leslie Gardner should come back to the committee as soon as possible, by which I mean next week.

The Convener: I remind members that our plan for next week is to deal, in private session, with the issues surrounding the Protection of Wild Mammals (Scotland) Bill. That business was deferred for a month and we will have to address it as the main part of next week's agenda.

If there are specific issues that members would like to raise with Leslie Gardner, we should seek to have them addressed as early as possible, either in the ministerial statement or in direct correspondence.

Alex Fergusson: With the greatest respect, all that takes time. Members do not get much time to ask questions following a ministerial statement and correspondence can take an age for a variety of reasons. I hope that I am wrong in suggesting that we are not far away from an organised revolt against the policy, but I do not believe that I am. The issue has to come high up the agenda.

The Convener: What do members think about the time scale for dealing with that?

Fergus Ewing: I agree with Alex Fergusson. The instances that he has cited must give cause for concern. It would not be acceptable to wait a fortnight, because it might well be too late by then. Is there some method by which the minister can respond to the committee and to all the questions that have been raised today? After all, there is an *Official Report*, and I do not see why the Executive should not respond urgently, given that this is a crisis, to all the concerns that members have raised today. I, too, would like to have Mr Gardner back so that we can question him at the earliest possible opportunity, whenever that may be. However, I think that a fortnight from now will be too late.

George Lyon: If there has been a change in the criteria that are used for deciding a case—whether it is a clinical case or otherwise—the question that Alex Fergusson has raised is fundamental. A letter directly to the minister or to Leslie Gardner, as chief veterinary officer, would surely elicit an answer pretty quickly—certainly in time for next week's meeting. Surely that could be done, as the question is fundamental and needs clarification. I suggest that we get a letter off as soon as possible, either to Leslie Gardner or to the minister, whoever you think is more appropriate.

Alex Fergusson: What I said was not local hearsay; the information was given to me by a fairly high authority. I concede that a letter, especially if it came from the committee, would elicit a response. I certainly want to know about the science behind those negative tests, as the problem is serious. If we can address those points in a letter, I hope that we will get a substantial answer fairly quickly.

The Convener: It would be my intention to ensure that any correspondence with the minister is carried out in the shortest possible time scale, so that he has warning of the issues before he makes a statement later in the week. That will enable him to address specific issues. We would also seek answers to a number of questions that have been raised. As for questions to Leslie Gardner, we would want to enter into correspondence on the specific issues in order to get a response this week, if possible. We could then address them further during a subsequent meeting.

The impact on the trades associated with agriculture has been mentioned. Hard work would be involved for committee staff were we to put out a general call for information from affected parties. Despite that, do members think that that is the sort of move that we should be making at this point?

17:00

Dr Murray: Many people are already looking into some of the issues that have been raised. It might be a question of bringing together the evidence that other organisations are collecting on who is being laid off, for example.

George Lyon: Is Scottish Enterprise Dumfries and Galloway not carrying out an economic impact assessment anyway? Surely that is the information that we are looking for.

Dr Murray: That would cover only Dumfries and Galloway.

George Lyon: We could extrapolate the information to other areas.

The Convener: We will contact Scottish Enterprise Dumfries and Galloway to get a summary of the information that is available. It might be appropriate for us to contact one or two of the organisations whose representatives we have already spoken to, asking them for updates. That would include the Road Haulage Association, the Institute of Auctioneers and Appraisers in Scotland and other organisations that members may wish to nominate.

Alex Fergusson: I suggest the Federation of Small Businesses.

The Convener: Yes—okay.

Cathy Jamieson: I suggest that we include the appropriate trade unions. It was they who brought some of the issues to my attention.

The Convener: If there are no further comments on the foot-and-mouth crisis at this time, we will move on to the next agenda item.

Subordinate Legislation

The Convener: Item 6 is on subordinate legislation. There are two instruments before us. The first is the Sea Fishing (Enforcement of Community Quota and Third Country Fishing Measures) (Scotland) Order 2001 (SSI 2001/117). If members do not have any comments on the order, is the committee content to make no recommendation in its report to Parliament?

Members *indicated agreement.*

The Convener: The second instrument is the Import and Export Restrictions (Foot-and-Mouth Disease) (Scotland) Amendment (No 2) Regulations 2001 (SSI 2001/127). If members have no comments on the regulations, are we content to make no recommendation in our report to Parliament?

Members *indicated agreement.*

Committee Business

The Convener: We agreed to take item 7, on the consultation by the conveners group on timetabling committee meetings at the same time as meetings of the Parliament, in public. A paper in my name has been distributed to members. It was put together on the basis of committee discussions on previous papers and takes on board the idea that, in certain circumstances, committee meetings should be able to take place while meetings of the Parliament are in progress. However, it takes a fairly conservative—if I may use that word—view on the matter. Do members have any comments on the paper?

Richard Lochhead: I know that, in this fledgling democracy of ours, there is a big gap between theory and practice. However, given that Parliament is supposed to conduct informed debate, through which MSPs take decisions on the laws that are to be implemented, I have to go on record as saying that, as a matter of principle, I do not think that there should be committee meetings during meetings of the Parliament. That does not mean to say that there should not be committee meetings—at lunch times or in the evening—on days on which Parliament is meeting.

The Convener: That is more or less what I was saying, although I was trying to be a wee bit broadminded on the subject.

Dr Murray: A definite distinction can be drawn between meetings that coincide with meetings of the Parliament and meetings that might coincide with members' business debates. As votes are not taken on members' business debates, a lot of members do not attend those debates. The potential exists therefore, where necessary, for meetings to coincide with members' business debates, but that should not be done in anything other than exceptional circumstances. I would be reluctant to agree to regular meeting slots on Wednesday evenings or on Thursday lunch times. The Scottish Parliament does not give a lot of time for cross-party groups to meet or for lobbying organisations to meet MSPs.

The Convener: That is what I am trying to say in the paper.

Cathy Jamieson: I am concerned about the notion that evening or lunch time meetings might be scheduled as a matter of course. For all MSPs, lunch time tends not to be lunch time; it tends to be other meeting time. For those of us who have care commitments, including child-care commitments, regular evening meetings would not necessarily be appropriate. There is also a danger that meetings will always expand to fill any available time and that if the opportunity exists, it

will become a matter of routine rather than the exception. We should exercise a great deal of caution about meeting at the same time as the Parliament.

Fergus Ewing: I do not agree that committee meetings should be held when the Parliament is meeting, but there might be an argument for having committee meetings in the evening, possibly from 6 pm until 7 pm. I accept Cathy Jamieson's point that that might lead to its becoming a matter of routine. I am not advocating that option, but it would have been useful for us to be able to convene a meeting now, in the midst of the foot-and-mouth crisis, to take evidence from one witness, such as Mr Gardner. Had we had that facility, we might have been able to convene an evening meeting on Wednesdays at fairly short notice.

The Convener: In the paper, I suggested that in exceptional circumstances a 5.30 pm to 6.30 pm time slot was a possibility. Anything beyond that time is unacceptable. That time slot was based on this committee's experience of a year ago when, on a fairly short time scale, we were dealing with the National Parks (Scotland) Bill. We convened one evening meeting but, because of a problem with the sound system in the Parliament and a run over for other reasons, we ended up sitting quietly in this committee room until after 6 pm before our meeting could start.

Fergus Ewing: If we had evening meetings, can I take it that Parliament staff would receive overtime payments? If we do not know the answer to that question, could we have the matter clarified?

Rhoda Grant: I do not think that it is a case simply of staff getting overtime payments, but of staff getting enough notice so that they can make the arrangements they need to make. Staff also have care responsibilities.

The Convener: The paper that I put together essentially results in a suggestion that we might be more flexible, but that we do not make any radical change to the current programme. The suggestion takes into account our experience of the first two years of the Parliament and of where we have experienced pressure to do things and been unable to do them.

Richard Lochhead: I have a question of clarification. Paragraph 3 of the paper suggests that in exceptional circumstances we agree that a committee should be allowed to meet when the Parliament is meeting. The convener has said that that will be from 5.30 pm to 6.30 pm, after members' business debates, but the Parliament would not be meeting at that time unless a members' business debate had been extended to 6.45 pm. Why can we not have a principle that

committees do not meet when Parliament meets?

The Convener: It is for discussion.

Elaine Smith: Like Cathy Jamieson, I do not think that evening meetings should be a matter of course. They are fine in exceptional circumstance and with a good bit of notice, but I am concerned that exceptional circumstances can often become the norm.

We must also remember that the conveners group will come to a final decision on the matter, so whatever the committee decides will be fed into it. It might come to the decision that meetings should be allowed during Parliament meetings. We must think about that now and put something down to say that, if that is to be allowed, it should be in very exceptional circumstances and it should be committee members who decide that it is necessary.

The Convener: Yes, we could probably make that clear.

Richard Lochhead: We should not get too bogged down in this. We should agree that in exceptional circumstances—we are a grown-up committee and can tell when circumstances are exceptional—we can meet in the evenings or lunch times on days when Parliament meets. If we found that we were doing it regularly, we could put a stop to it because it is our decision.

Rhoda Grant: We have been trying to put a stop to weekly meetings for a long time and we are still meeting weekly.

Richard Lochhead: We came close for a while.

As for the clash with cross-party groups, it is far more important that this committee—a committee of the Parliament—meets if there is urgent business than that members attend cross-party groups. That is a fact of parliamentary life.

The Convener: Will I ask Richard [*Laughter.*]—Richard Davies, not Richard Lochhead, who was worried for a moment—to go through the paper to ensure that the views that are expressed in it reflect the views of the committee, especially Richard Lochhead's comment about still disapproving of committees meeting at the same time as the Parliament but having the flexibility, in exceptional circumstances, to meet at lunch time and immediately after Parliament rises?

The final item on the agenda is the draft land reform paper, which we have agreed to take in private.

17:11

Meeting continued in private until 17:15.

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