



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 9 November 2011

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
10th Meeting 2011, Session 4

CONVENER

*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

DEPUTY CONVENER

*Annabelle Ewing (Mid Scotland and Fife) (SNP)

COMMITTEE MEMBERS

*Graeme Dey (Angus South) (SNP)
*Alex Fergusson (Galloway and West Dumfries) (Con)
*Jim Hume (South Scotland) (LD)
*Richard Lyle (Central Scotland) (SNP)
*Jenny Marra (North East Scotland) (Lab)
*Aileen McLeod (South Scotland) (SNP)
*Elaine Murray (Dumfriesshire) (Lab)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Richard Benyon MP (Minister for Natural Environment and Fisheries)
Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment)
Mike Palmer (Marine Scotland)
John Robbs (Department for Environment, Food and Rural Affairs)
Linda Rosborough (Marine Scotland)
Stewart Stevenson (Minister for Environment and Climate Change)

CLERK TO THE COMMITTEE

Lynn Tullis
Simon Watkins

LOCATION

Committee Room 2

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 9 November 2011

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Rob Gibson): Good morning and welcome to the 10th meeting in 2011 of the Rural Affairs, Climate Change and Environment Committee. Members and the public should turn off mobile phones and BlackBerrys, because leaving them in flight mode or silent mode will affect the broadcasting system. We have received no apologies.

Agenda item 1 is to seek the committee's agreement to take in private agenda item 6. The committee has already agreed to take agenda item 7 in private. Are we agreed?

Members *indicated agreement.*

Subordinate Legislation

Aquatic Animal Health (Miscellaneous Modifications) (Scotland) Regulations 2011 [Draft]

10:00

The Convener: The committee will take evidence from the minister on the draft Aquatic Animal Health (Miscellaneous Modifications) (Scotland) Regulations 2011. The instrument has been laid under the affirmative procedure, which means that the Parliament must approve it before its provisions come into force. Following this evidence session, the committee will be invited to consider the motion to approve the instrument, under agenda item 3. I welcome the minister, Stewart Stevenson, and his accompanying civil servant, Daniel Pendrey, who is the head of the aquaculture health and welfare division of the Scottish Government. I invite the minister to make a brief introductory statement.

The Minister for Environment and Climate Change (Stewart Stevenson): Thank you, convener. I am here to speak to the committee about the draft Aquatic Animal Health (Miscellaneous Modifications) (Scotland) Regulations 2011. I hope that what I say will inform the subsequent debate.

The aquaculture industry in Scotland is an important one. Aquaculture involves the farming of fin fish and shellfish and produces Scotland's most valuable food export. Fish farming and shellfish farming activities worth some £450 million a year at the farm gate are regulated by the Aquatic Animal Health (Scotland) Regulations 2009, which transposed European obligations under European Council directive 2006/88/EC on animal health requirements for aquaculture. The draft 2011 regulations represent important elements in the regulation and monitoring of the aquaculture industry and will help to ensure the healthy status of farmed fish and shellfish in Scotland.

If approved, the draft regulations will do a number of things. Under the 2009 regulations, operators of fish farms and shellfish farms require to be authorised. Regulation 3 of the draft 2011 regulations will amend the Aquaculture and Fisheries (Scotland) Act 2007 to update the definitions of "fish farming" and "shellfish farming" to reflect the new language of the directive. New fish health certification requirements in the 2009 regulations mean that it is no longer necessary to prohibit imports of fish from third countries except under licence. Accordingly, regulation 4 of the draft 2011 regulations will repeal the Shellfish and Specified Fish (Third Country Imports) Order 1992 to prevent any duplication in regulation.

Regulation 2(2) of the draft 2011 regulations addresses comments that were made by the Subordinate Legislation Committee when it considered the 2009 regulations in March 2009 in relation to the definition of “processing establishment”. Regulations 2(4) and 2(5) of the draft 2011 regulations clarify the extent to which, and the circumstances in which, ministers can revoke Scotland-wide movement restrictions when notifiable disease is no longer present or suspected. The regulations also formalise the requirement to notify the Scottish Government of fish-farm escapes and record-keeping requirements.

Although the industry has, in practice, been reporting and maintaining records, it is recognised that the legislation requires to be amended to make that a legal requirement. Records have been maintained by the industry and have been inspected by fish health inspectors, and the reporting of escape incidents has been undertaken. The aquaculture industry is already providing the information that is sought under the draft 2011 regulations; therefore, I do not expect the industry to react negatively to the draft regulations, nor do I expect there to be any additional monitoring or cost burden for authorised operators.

I am happy to answer the committee's questions.

The Convener: Thank you, minister. I invite members to ask questions.

Alex Fergusson (Galloway and West Dumfries) (Con): I want to clarify the final point that the minister made. I had concluded—and I think he confirmed it—that the instrument will not require the industry to undertake any activity that it is not already undertaking; it will simply make it a legal requirement.

Stewart Stevenson: That is correct. The instrument will not change the activities that are undertaken by the industry. In new provisions after regulation 31 in the 2009 regulations, which are introduced by regulation 2(6) of the regulations that are before us, what is described as the information that requires to be provided is information that is currently being provided.

Alex Fergusson: Thank you.

Richard Lyle (Central Scotland) (SNP): Paragraph 8 of the Executive note states that the regulations

“insert a new Part 4A, and associated Schedules 1A-1D, into the 2009 Regulations to reinstate reporting and record keeping obligations for fish and shellfish farms which were repealed by the 2009 Regulations.”

Can you remind me why they were repealed?

Stewart Stevenson: There was quite a long list of repeals and there was an inadvertent inclusion of those obligations. However, the good news is that the industry continued to report as if the repeal had not taken place. We are now correcting that repeal. I commend you for your meticulous reading of the briefing material. I had hoped that that was a question that I might not be asked.

Richard Lyle: I am sorry. I always try to ask the wrong questions.

Elaine Murray (Dumfriesshire) (Lab): I want to ask about regulations 2(4) and 2(5), which refer to notifiable disease and what that means in practice. Am I correct that if there was an outbreak of a notifiable disease in part of Scotland now, you would not have to impose a whole-Scotland ban on movements?

Stewart Stevenson: The minister, on behalf of the Government, has the powers to do that, but clearly one would look at the circumstances of the outbreak. The most recent outbreak in fish farming that I can recall was in Orkney. *[Interruption.]* I beg your pardon—I am told that it was in Shetland. Geographically, it was disconnected from any other fish farms and therefore a Scotland-wide ban on movements was not required. The circumstances of each case will inform the action that the minister will have to take.

Elaine Murray: Under the current regulations there is some ambiguity as to whether, in the case of an outbreak in a discrete fish farm, any ban on movements would apply to the whole of Scotland. That has now been clarified.

Stewart Stevenson: If, in the future, there were an outbreak that was clearly geographically circumscribed, we would wish to make sure that we did not impose meaningless burdens on other parts of the industry that were geographically remote from it and with which there was no connection through movement of fish—which is an important part of the regulations. The regulations cover reporting of movements as well.

Jim Hume (South Scotland) (LD): You said that you foresee no cost burdens and that there was a consultation, which I am glad to hear. Was there good involvement of fishing interests in the consultation?

Stewart Stevenson: Fishing interests recognise that the legislation provides for good-quality regulation and for a well-regulated industry, which is already conforming to the standards that are required. We have that backdrop as part of the marketing of the good-quality products that we produce in Scotland. The industry is supportive.

Alex Fergusson: I want to follow up on Elaine Murray's point. I understand and appreciate that the competent authority for a disease to be notified

to is the Scottish Government. What agency of the Scottish Government is involved? Is it the Scottish Agricultural College or Marine Scotland? What is the chain of command?

Stewart Stevenson: The relevant agency in cases of disease is Marine Scotland science, but the Scottish Environment Protection Agency is associated with the licensing regime, so you are right that different agencies have a role.

Annabelle Ewing (Mid Scotland and Fife) (SNP): Good morning, minister. I have a question about regulation 4, which I note revokes an order of 1992 that prohibited the import from third countries of shellfish and specified fish, except under licence. The Executive note says:

“Part 3 of the 2009 Regulations replaces this licensing regime with general health and certification requirements, and as such the 1992 Order is no longer required.”

I want to take the opportunity of having you with us to ask how the replacement regime—the system of general health and certification—is deemed to be working in practice.

Stewart Stevenson: It is worth saying that the import of fish is a relatively uncommon occurrence—the movement of fish is mostly in the other direction—so, in practice, this is not a big issue one way or the other.

However, it is, of course, necessary to protect the integrity of our fish stocks, be they fin fish or shellfish. In essence, we are simply tidying up and restating, in a slightly different form, existing practice and regulation.

Elaine Murray: You said that we do not import much fish but, as a matter of interest, do we import eggs?

Stewart Stevenson: We import some eggs from time to time, but fish farmers have an interest in maintaining the genetic strains that we have.

The Convener: I would like to ask about reporting by fish farms—we are glad that they continued with that voluntarily, despite the glitch in the legislation. Is the detail satisfactory to meet the needs of the tighter regulation that might come in with the forthcoming aquaculture bill, or will the way in which reporting is done be revisited?

Stewart Stevenson: You will see in schedule 1C on page 8 of the regulations the form that is to be used, so the regulations complement other legislation and ensure that there is significant reporting. Reports are made; it may be of interest to the committee to know that in 2009, 15 escape incidents were reported, and that in 2010, 10 were reported. The industry has a commercial interest in minimising the number of escapes so, in general, we have seen a decline in reporting because there has been a decline in the number

of such incidents. The form is designed in such a way as to prevent us from having to come back repeatedly for more information.

The Convener: That is very helpful. I suppose that we may return to the subject in due course.

As there are no further questions, we move on to agenda item 3, which is consideration of motion S4M-01205. The committee is called on to recommend approval of the affirmative draft Scottish statutory instrument on which we have just taken evidence. The motion will be moved and there will be the opportunity to hold a formal debate on the instrument, which, procedurally, can last for up to 90 minutes. However, as most of the issues have, I believe, been covered in the evidence session with the minister, the debate should not last long. It should be noted that Scottish Government officials cannot take part in the formal debate.

I invite the minister to speak to and move the motion.

Stewart Stevenson: I will simply move the motion.

I move,

That the Rural Affairs, Climate Change and Environment Committee recommends that the Aquatic Animal Health (Miscellaneous Modifications) (Scotland) Regulations 2011 [draft] be approved.—[*Stewart Stevenson.*]

Motion agreed to.

The Convener: Thank you very much. We will record that. I thank the minister for his presence.

Given that we are awaiting the arrival of our next witness, I suspend the meeting.

10:14

Meeting suspended.

10:27

On resuming—

Common Fisheries Policy

The Convener: Agenda item 4 is the common fisheries policy. Today we complete our evidence taking on reform of the CFP by hearing from the United Kingdom minister and then from the Cabinet Secretary for Rural Affairs and the Environment. This is the third evidence session on the CFP. We have previously heard from members of the European Parliament and, in a round-table format last week, from a range of stakeholders.

Following today's evidence, we will consider all that we have heard and then write to the Scottish Government, relevant committees at Westminster, the European Commission and the European Parliament to inform them of our views.

I have great pleasure in welcoming Richard Benyon MP, the United Kingdom Minister for Natural Environment and Fisheries. He is accompanied by John Robbs, who is director of marine programme and natural environment in the Department of the Environment, Food and Rural Affairs.

Let us kick off straight away with some questions on governance.

Aileen McLeod (South Scotland) (SNP): Good morning, minister. I have a number of questions on regionalisation, which has been identified as one of the key aims of the Commission's proposals. We have heard from a number of people who have given evidence to the committee that if we are to move away from one of the major failings of the common fisheries policy—the top-down micromanagement of fisheries policy at European Union level—we need greater decentralisation of decision making, with the real management decisions being left to our fishing nations working regionally, with greater flexibility and with the EU setting only broad principles.

As the Commission's proposals stand, there is a general perception that although they are at least a start in the right direction, they remain too modest in scope and do not go far enough. To be fair to Commissioner Damanaki, she at least recognises that and wishes to go further. However, a key difficulty is the legal basis as defined by article 3 in part 1 of the Treaty on the Functioning of the European Union, which sets out the exclusive competence of the EU regarding conservation of marine biological resources. A further difficulty is that it is predominantly the Commission that initiates legislation. What are your views on the legal basis of the proposals for greater regionalisation?

10:30

The Minister for Natural Environment and Fisheries (Richard Benyon MP): I thank the committee for inviting me. It is great pleasure to be here. It is important that we have this kind of discussion at such a crucial stage in the process.

Ms McLeod is absolutely right. Regionalisation is a fundamentally important part of the agenda for countries that aspire to radical reform of the common fisheries policy, which is broken in many ways, and no more so than in how it has sought to micromanage the industry from the centre. Regionalisation is an absolutely determined goal that we have set ourselves. It would be interesting to discuss with you the conflicting forces that are pulling on the EU in our efforts to achieve that.

You are right, too, that Commissioner Damanaki is keen to deliver regionalisation, but she has been thwarted to some extent by legal opinions that she has received from the Commission about the degree to which it is possible.

We have a framework that we can build on, which is to manage fisheries on an interested-parties basis—in other words, to take a sea basin approach, which means that all the countries that fish in a sea basin would do the detailed work about how that fishery is managed and the EU would set the overarching policy, because that is an EU competence. That is conceivably the way forward.

The problem is that in a perverse way that could result in the Commission having more control over our fisheries if the countries around a sea basin fail to agree. Over the next few months we have to work through that to ensure that it really is decentralisation. I apologise for the long reply to your question but this is a really important issue. If all but one of the countries that fish the North Sea were to agree on a direction, so that we could not get a unanimous opinion, we would face the prospect of decisions being made over our heads by the Commission, which would effectively be a reverse move in terms of decentralisation.

However, there are ways around that. We think that we can develop protocols that would lead to fisheries being managed on a sea basin basis. We have the experience of the regional advisory councils, which we think is a good level at which to set our goals. We want to ensure that we get genuine decentralisation. Richard Lochhead and I have agreed right from the start that it would be a massive disappointment and an absolute failure of the reforms if we were unable to deliver decentralisation.

Aileen McLeod: You mentioned the regional advisory councils. How far could or should the RACs go beyond their advisory function?

Richard Benyon: I use the RACs as an example of the level at which we believe that the detail of fisheries management year by year could be delivered. We have a framework on which we can build. The RACs will emerge from this process as different organisations, but the ways in which their functions will change will depend on negotiations over the next few months. John Robbs could give you more details. We have to set clear parameters for what is required in the delivery of policy, and we will have to give the RACs capacity. There will have to be agreement among member states that are fishing a basin and are members of a RAC. If one country is perhaps not playing its part, there will have to be a mechanism for making decisions at that level. At the moment, everything goes up to the Commission, and that is a problem.

Elaine Murray: I am interested in what you say about how regionalisation will work in practice, and about how nations that are interested in fishing the sea, and not only the nations that happen to have a coastline, are part of the decision-making process. Later, we will discuss transferable quotas, but what will happen if the balances change as new member states with an interest in fishing come in?

Richard Benyon: I do not want to see a change to relative stability. The mechanisms have been hard won, and weakening them would be moving in the wrong direction. A clear red line for us is to maintain relative stability.

I am always talking about the North Sea although, of course, there are other fishing areas too. However, I do not think that any new countries coming in are likely to have much interest in the North Sea—with one possible exception—so I am not sure I understand the concern.

Elaine Murray: If negotiations lead to agreement, do you think that the structures will be stable and will not change as different interests come into play? Will all partners know whom they are dealing with?

Richard Benyon: Yes. We have a clear view of who fishes in which seas and of how that fits into relative stability.

Elaine Murray: And you think that that is the basis on which things will be organised, without making projections about the future.

Richard Benyon: Yes.

Elaine Murray: Scottish interest in the North Sea is strong, as about 80 per cent of UK landings are landed by Scottish fishermen. How do you work with the Scottish Government, and how do you represent the Scottish interest when you are negotiating?

Richard Benyon: I take my position as UK fisheries minister very seriously, and I am determined to get the best deal for the UK. I acknowledge that Scotland has a large interest, and I want to ensure that I work closely with every part of the UK.

We are new to coalition government in the UK. When people ask me what it is like, I say that I am a Conservative minister in a Conservative-Liberal Democrat coalition, that I sit around the UK delegation table with a Scottish National Party minister, a Labour minister and a Sinn Féin minister, and that I make it my business that we get on and work closely together. This industry is much more important than politics or our own political agendas. It is important for our food security and our environmental policies, and—I do not think that the words are too strong—it is in a level of crisis. That requires politicians to be big, to be bold, and to co-operate effectively in order to get the best results. I am very pleased with the relationship that I have with the other ministers in the UK. They have their own mandates and agendas, which I respect, and I think that they respect mine. I try to achieve an open relationship in which, when we disagree, we talk about it in an open and grown-up way, being reminded that we are all working for the benefit of the fishing industry and marine environment and that, when there are conflicts, we will sort them out.

I am sorry that I keep giving you long answers, but the question is again a very important one. How people perceive Britain negotiating in Brussels is important; they like to understand the dynamic. Decisions about what might happen in the future are irrelevant and way above my pay grade. I am determined that a clear voice should come from the United Kingdom, that it is a united voice, and that we work closely to achieve that.

Elaine Murray: You believe that the appropriate person to lead for Britain is you or another UK minister rather than the Scottish cabinet secretary.

Richard Benyon: Whether people like it or not, I am the UK minister. It would confuse fellow member states and the Commission if we were to dilute that in too many ways. It is important to recognise that the fact that we have 29 votes in the negotiations makes us a big player. I want to ensure that we use that position in the EU to get the best deal for all our waters.

Elaine Murray: Who are our allies? We have 29 votes but, obviously, other countries have votes, too. Which countries want to achieve the same sort of changes to the common fisheries policy?

Richard Benyon: There is an ever-moving landscape. Traditionally, we have had allies from around the North Sea. The countries wanting radical reform of the common fisheries policy

certainly include Denmark—it has recently had a change of Government, but its policy remains the same and we work closely with it—and Sweden. We have a good relationship with Poland, which currently holds the presidency. The other big players are Germany, France and Spain. They have different agendas for CFP reform, and there are difficulties with some other countries, but they are not all insurmountable.

There is an interesting point on the catch quotas. In 2008 or 2009, when I was in opposition and shadowing the role that I now do, I went up to Peterhead and found huge hostility towards the concept of closed-circuit television cameras on vessels and catch quotas. There is now generally a positive view about that. When I came into the job, I experienced negativity among our colleagues in France and other countries, but I recently signed a declaration with the French, German and Danish ministers to say that catch quotas are the way forward. Such ideas, led in Scotland, are now being asked for in other parts of the EU, and we are starting to see a change of view and culture. We are successful in leading the debate, and the success of that idea and others that it has taken forward is to the credit of the Scottish fishing industry.

Elaine Murray: Do you agree with me that our voice is stronger as the UK than it would be as Scotland on its own.

Richard Benyon: All I will say to you is that I deal with the here and now and what I am faced with and that I want to get the best deal for the United Kingdom. You know where I am from politically. All that I can vouch to this committee is that I will get on with and work constructively with whoever is in the position that is currently occupied by Richard Lochhead to get the best deal for Britain. I understand where you are coming from, and I know the sensitivities here, but I want to get the best deal.

The Convener: I do not want to prolong the conversation on that point, because we have many other issues and other members want to speak. However, we should recognise that Scottish ministers have been in delegations with UK ministers. For example, Stewart Stevenson was with Chris Huhne at Cancún. Also, Länder leaders have led for Germany on issues in debates in which decisions are made. In the right framework, you could ask Richard Lochhead to speak on an aspect in the negotiations.

10:45

Richard Benyon: In nearly every bilateral discussion that I have had with the Commission or another country, I have had Richard Lochhead with me or I have invited him. Occasionally, he

might be somewhere else when I have such a meeting, but I always make a point of telling him what I am doing and inviting him to join me. On one occasion, he led the discussion in the Council of Ministers. A protocol has been developed through the joint ministerial committee process, to which we adhere.

The Convener: That answer is helpful.

Graeme Dey (Angus South) (SNP): You said that you and Richard Lochhead agreed on your ambition of securing proper regionalisation. Are you entirely on the same page on the range of CFP reforms? If you disagree on matters, will you say briefly what they are?

Richard Benyon: My discussions with Richard Lochhead last week centred on transferable fishing concessions, on which he has voiced concerns. As for whether we disagree on that, I have quite a lot of concerns about such concessions from English and UK perspectives, so we are not a million miles apart.

I start from the position that I have seen TFCs or variations on them work elsewhere in the world. I recognise the mechanism of a longer-term right that has a value, works well for conservation of stocks and incentivises fishermen to increase the biomass of those stocks. Richard Lochhead feels that that approach is wrong.

I think that we can get a much better arrangement for transferable fishing concessions than is proposed. The period of 15 years is too long and I would like it to be considerably less. I want clearly laid-out views and cast-iron security on keeping the transferable element within member states. We in the UK have a system of devolving the allocation of quota and I strongly believe that we should be able to devolve the TFC system.

The common fisheries policy's failing is to try to develop a one-size-fits-all process from the north of the North Sea to the south of the Mediterranean. That does not work. I do not want us to replace one top-down, one-size-fits-all system with another such system. Member states should be allowed to develop such policies with nuances so that they fit those states' fisheries profiles. We in the United Kingdom have a good model for doing that. Richard Lochhead and I are nearer than we might seem on the issue. I cannot think of other major disagreements.

The Convener: I am sure that we will find out in further questioning whether other disagreements exist.

Richard Lyle: Good morning, minister. Thank you for coming.

Last week, we took evidence from various people about quotas, which you can talk about for

as long as you want. My concern is that several countries are buying up quotas in the boxes in the North Sea. I say this with no disrespect, but it might be possible for a Spanish or French boat to buy up quota and then not land its catch in Britain—in either Scotland or England—but instead take it back to Spain or France. Last week, Ian Gatt talked about a company that went on

“what we might call a pre-Christmas shopping spree and bought out the whole Boulogne offshore demersal fleet and a Spanish company that has access to Barents Sea cod.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 2 November 2011; c 308.]

Will Clark was also very concerned about that, and he used the interesting phrase “quota trader”. What is a quota trader?

Richard Benyon: I am not sure that I have ever met a quota trader. I do not know whether such a mortal exists. However, you are right that it is currently possible for someone outside the United Kingdom to purchase a vessel or business and the fishing opportunity with it. When we talk about transferable fishing concessions, we are not talking about a completely new world; we have a problem today. It is a contentious issue, and people believe that the CFP has allowed other nations to plunder our seas—to use a frequently used phrase—although the entitlement is transferred from a willing seller to a willing buyer. The purchaser is required to agree to maintain an economic link, which can be either to land the catch in the UK or to ensure that, say, 50 per cent of the crew are British nationals. That was agreed through a court case some years ago. Nevertheless, I cannot disagree with you. You are right that that is happening, and it has been happening for a great many years.

Richard Lyle: You are working hard for the UK and Richard Lochhead is working hard for Scotland, but companies and possibly countries could undermine all the good work that you and he are doing by going in silently—I am assured that it is not reported anywhere. If someone buys a stock at the stock exchange, it is registered. Is it registered by the common market that country X or company Y has bought so many quotas from the British market?

Richard Benyon: I usually preface everything that I say about the common fisheries policy by saying, “I wouldn’t start from here,” and this is another such occasion. I would not have believed that we could get to this position in which it is not known who owns quota. I am always told—at the moment, I believe it to be an urban myth—about celebrities, football clubs and other organisations that own quota through investing in devious financial vehicles. As far as I am concerned, our fish are a national resource and our quota system is the allocation of that national resource. The

Department for Environment, Food and Rural Affairs is trying to get a handle on where that interest lies. Most of it is allocated through producer organisations, and we are getting a much clearer view of that. Through the reform of the CFP, we want to have absolute clarity and transparency. We want to see the safeguards that I mentioned of trying to keep interests within member states, where possible, and ending the arrangement whereby people who have no interest in fishing might own quota.

There is another dimension to that. I want people to be able to swap, and I want to develop the idea of real-time swaps, as that would be a fantastic way of reducing discards. Somebody on a vessel could say, “I’ve caught a whole lot of this species, but I haven’t got quota for it,” and instantly, through Marine Scotland or the Marine Management Organisation, a swap could be identified. We must be quite clever about how we change the system. If we try to define an active fisherman, we could prevent the kind of real-time swaps that we want to take place. However, my focus must be on ensuring that fishing opportunity—our national resource—is in the hands of fishermen.

The Convener: Thank you. Alex Fergusson will continue on other aspects of relative stability and TFCs.

Alex Fergusson: Welcome, minister. I apologise for being slightly late. I had rather less distance to travel than you did, so I have no excuse whatever.

You have touched on some of the points that I wanted to raise. What are the biggest differences between transferable fishing concessions and the current quota regime? What are their disadvantages and advantages?

Richard Benyon: If we get it right—that is a big caveat—it will give fishermen something of value over a longer term, so they will be able to talk to their bank manager as those of us who have been in business do every week. We tell our bank manager where we think our business is going—where our business opportunity is—and we can have a grown-up conversation about it. Fishermen sometimes cannot have that conversation because the fishery could be closed within a year or they could hit their days-at-sea ceiling. That kind of short-term approach is no way in which to run a business.

I have looked at catch share schemes in the United States, which have many similarities but also some differences—I state that clearly. Those schemes have had a dramatic effect on the fisheries businesses there and the stocks that they exploit, as the fishermen are able to take a much longer-term view and can be incentivised in the

right way, just as we have worked successfully with the industry here through camera schemes, catch quotas and other things that we have discussed. By working with the industry in that way, we can get a much more effective solution than we do with the annual race to fish, in which too many countries operate in a way that guards their sectoral interests but does not have a wider sustainability interest. I believe that a right to fish is a market solution that will address the issue of overcapacity in certain areas and create something of value for those businesses.

I have talked about the advantages, but you asked about the disadvantages as well. The disadvantage at the moment is the Commission's proposal that the scheme will last for 15 years, which is too long. There are also one or two legal points that need to be ironed out, and we must be able to give a clear assurance about trying to keep concessions within member states.

Alex Fergusson: In evidence, we have received slightly mixed views from stakeholders on the benefits and otherwise of TFCs. You have touched on an issue that I am interested in. Some evidence has suggested that there is, frankly, not a hope of keeping TFCs within a member state and that they will end up being transferred between member states. Some stakeholders have suggested that that could be an opportunity for Scottish fishermen to go out and obtain quota; others have suggested that the Spanish will basically Hoover it all up, to our disadvantage. One thing in particular struck a chord with me. A number of stakeholders have suggested that, if TFCs become tradeable between member states, that will have an enormous impact on relative stability, which has been the underpinning principle of the common fisheries policy. Could you give us your thoughts on that?

Richard Benyon: I will ask John Robbs to comment. My principal view is that we should not go down any route that would mess with relative stability, which offers a very clear view as to where we stand in the long term. As I said earlier, relative stability has been hard won in previous negotiations. It does precisely what it says it does—it gives stability to our planning. If we were to introduce a system that broke up that agreement, even over the course of time, that would be a shame. That is a fundamental point.

11:00

John Robbs (Department for Environment, Food and Rural Affairs): Mr Lyle made the point a moment ago that, under the present system, there are issues with tradeability of quota. One is the ability of companies to buy up businesses, which happens. One very significant part of the Scottish fishing industry—not the wild-caught

sector—is largely foreign owned. Equally, Scottish businesses can buy up others.

The second issue is the annual trading of fishing opportunities that goes on within producer organisations, between producer organisations and between member states—we do swaps quite deliberately to try to balance out opportunities. That exists already.

The TFCs are a European Commission idea and, as far as I understand it, the driver is based on liberal economics and on the belief that the more fluid and transparent a market, the greater the likelihood of achieving efficiency and benefits in that market. In this instance, efficiency means the size of the fleet being reduced and overcapacity being driven out as the most efficient survive, which will ultimately lead to the stocks surviving. That is an economist's model, and the Commission has gone for it in a pretty big way in its proposals.

The concern is that, although that might be a good argument among economists, member states—the UK is far from alone in this—have wider ambitions about what they want to achieve in terms of the management of fisheries. There are concerns among a number of member states about the idea that the right to quota is conferred for as many as 15 years. There are concerns about imposing the same model of who it applies to—above 12m, below 12m, trawling and so on. There is a general desire to have flex at a member state level and within member states to determine the priorities around the management of the quota.

The issue is difficult, and there are differing views in the UK, but there is a shared concern—it is shared also by others in the EU—not to have a single model imposed on us. Within that, there is an issue to do with tradeability between countries, and who owns the quota. That is a current issue as well.

One of the challenges that we have, as we enter into this negotiation, which will run for a little while yet, is to see whether we can seize the opportunity of having this slightly mind-boggling chance to improve the controls that we have with regard to achieving genuine economic links and the allocation of quota and use it to bolster relative stability.

Annabelle Ewing: I listened carefully to what has been said on relative stability and the TFCs. On the one hand, the minister has said that relative stability will be a UK red-line issue. On the other hand, the minister and his officials have said that they are not convinced that the TFC condition, as drafted, poses a significant threat to relative stability. I would have to differ there, because it is quite clear that the balance of the evidence that the committee has received is to the effect that the

provision in its current form, which allows trading between member states, is of direct significance to the continuation of relative stability.

At what point in the weeks to come, in your negotiations and discussions with other member states, will you take a view on whether you will listen to the balance of opinion in Scotland that the provision will be detrimental to the continuation of relative stability and perhaps adopt a different view, given that, as you have said, you are a single voice representing not only interests south of the border but interests in Scotland, where 70 per cent or so of UK fisheries lie?

Richard Benyon: I assure you that I will pay great attention to the committee's findings and that I am well aware of the breadth of evidence that it has taken. I speak to the same people who have come before the committee. I regularly speak to the Scottish Fishermen's Federation and people such as Ian Gatt, who has been mentioned. I have regularly seen such people over the past week or two and in previous months. As we go through to the December round, we will spend many late nights under the same roof and I will have frequent discussions with them.

I assure members that I am not going into the process in an ideological, cast-iron way, either as a free market economic liberal or with a dirigiste, command-and-control view. I want the best deal for our fishermen throughout the United Kingdom. That requires a degree of flexibility, and it may require shifting positions. We started the current phase of the detailed negotiations in September, and we have a year and a bit to get to where we want to get to. I assure Ms Ewing that we will stay flexible and continue to talk to our colleagues in devolved Governments at every stage.

Annabelle Ewing: It is encouraging to hear that you will continue to listen to the views that are expressed in Scotland.

I want to continue on the same theme. Your official, John Robbs, helpfully indicated what issues are coming up with respect to the detail of the proposal that has been made, should it go forward in any form. I am thinking about the carve-out for small-scale fisheries in particular. Where have discussions reached on that? You will be aware, of course, that an arbitrary carve-out per size of boat would not reflect the actual situation on the ground in Scotland as far as fishing boats and their importance to local fishing communities is concerned.

Richard Benyon: Is that about the concordat?

Annabelle Ewing: It is about carving out the position for smaller-scale fisheries from the TFC regime.

John Robbs: The current discussions in the EU are all at official level. Matters have not yet got out to the Council of Ministers, beyond the initial round of reactions to the proposals when they were tabled. Officials are meeting in Brussels week in, week out to grind through the Commission proposal article by article.

We know from discussions in Brussels and bilateral discussions with other member states that all aspects of the TFC part are quite contentious. I do not think that I would say that consensus is emerging yet. North Sea fisheries officials will meet on Tuesday next week, and we will talk about that issue with them to begin to shape our views. The member states that they represent are among our most like-minded member states. However, as the minister said, our starting position is that we do not believe that such detailed rules should be prescribed at the EU level in any event. We think that we should sort out such things ourselves rather than in Brussels.

Annabelle Ewing: Is it the case that, south of the border, you are already focusing on a 10m threshold for vessel sizes? I understand that that is the case, but I may have been incorrectly informed.

Richard Benyon: An arbitrary line has been created that is supposed to define what is an inshore vessel and what is not. Again, it is a matter of saying, "I wouldn't start from here." Some vessels under 10m are high powered and can compete with some competitive vessels that are over 10m, and some vessels under 10m are open-topped and artisanal.

When people talk to me about the fishing industry, I say that they are talking about an industry that goes from a £5 million pelagic trawler in Lerwick down to a beach-launched open vessel in Hastings, and everything in between.

We are where we are, and we have a problem in England with the under-10m sector. I am not totally absorbed by inshore fisheries; I recognise that the over-10m sector has severe problems. I believe that there are things that we can do for the inshore fleet. Like all of you, I feel that fisheries management has an economic and environmental role, but there is also a social aspect to it. I want to keep our small ports and coastal towns viable. The fishing industry in those communities is much more important than the value of the stock that it lands and the land-based jobs that it supports. It is about the sense of place and worth of those communities. It is on that basis that I am trying to do more. We do not need the CFP to do that as we can do it ourselves, but I am trying to do it with the agreement of devolved colleagues as well.

That said, in looking forward to CFP reform, I note that there is one aspect of transferable

fisheries concessions that allows Government—I strongly believe that it should be a devolved Government decision as well—to allocate elements to particular sectors that it wants to support. It could be a particular stock that is targeted by a particular group of fishermen or it could be those who use particular types of gear, or there might be a delineation between an inshore vessel and a larger vessel. The 5 per cent threshold that is being talked about offers us the ability to make one-way valves for fisheries managers in Scotland or any other part of the UK to say that they want a particular sector to be helped in a particular way.

Graeme Dey: If we accept that member states can trade TFCs, that could pose a major threat to onshore jobs in Scotland. The representative from Seafood Scotland who was before the committee last week described the processing sector as already being in dire straits. Do you agree that such a threat would exist, and do you agree with that description of the state of the processing sector in the UK? If so, what action do you propose to take to protect and support the domestic processing industry?

Richard Benyon: The processing industry is tremendously important to the UK—to England as well as Scotland. It is fundamental to look at the whole supply chain, not just the catching sector, and recognise that policies at one end of the chain can have a huge impact throughout it. That is why we talk not just to processors but to end-users such as supermarkets, and we try to influence consumers through DEFRA projects. I know that Scotland has been doing the same and that Seafish has been of great value.

Let us start by saying that we do not want TFCs to be transferred out of member states. We have agreement on that with the European Commission and we have to make it stack up. We have a long way to go to get the required level of assurances. We can start from that position, but if we cannot make an absolute guarantee, what can we do to make sure that we continue to support our processing sector? The economic link is important, as is making sure that we continue to land large quantities of fish on these shores. We will continue to push that.

The Convener: Before we move on to talk about the scientific basis for TFCs, can you help us with the idea that quota traders should be made more transparent? Should there not be some kind of register so that we know who the slipper skippers are and who the large players are throughout Europe?

If we do not have that information so that people can see who owns what, it makes it difficult for us to recognise a common fisheries policy.

11:15

Richard Benyon: I completely agree. I ask John Robbs to outline what we are trying to do in DEFRA in order to make things clearer.

John Robbs: The minister referred a moment ago to the work that has been done on how we manage the domestic fleet, particularly the inshore fleet. The conclusions of a consultation on that were announced a few days ago. One thing that came up strongly—it is an issue that we are well aware of and equally concerned about—is the lack of a single, clear, complete register of fixed quota allocations under the current system for managing quotas. One commitment that was made following the consultation was to develop a register of all the quota that is administered in England, and to do that in co-ordination with the devolved Administrations. The Government is committed to tackling the issue.

Jim Hume: Good morning, minister. Moving on to the scientific basis, I note that the Commission's proposals include an aim to achieve maximum sustainable yield—I am sure you are familiar with that term—by 2015. Do you share that aim? Do you think that it is achievable? If so, what instruments should be put in place to make it happen?

Richard Benyon: We are committed where possible—I do not want that to sound like an awful get-out—to achieving MSY by 2015. That will create some great challenges as we go through the quota allocations for the next three years.

The Commission pushed for a date of 2013, but we thought that that was wrong because it would create socially unacceptable impacts on fishing communities. Linked to that, the Commission proposed—and is still proposing, in one case—mandatory cuts to quotas of 25 or 15 per cent for stocks where there is a deficiency of data. In the Baltic negotiations, we managed to get an acceptance that that was not a good way forward and, on that principle, we hope that the Commission will not pursue that through the December round.

The fact remains that we are committed to achieving maximum sustainable yield. I sometimes wonder whether people really understand what the term means. Some people talk about it as a sort of bandwidth, but some people see it as an absolute line. I look at it as a maximum level at which one can exploit the stock in a way that is sustainable. It means that we will have to take some difficult hits from time to time, but matched with that, there is some quite good news on stocks. Advice from the International Council for the Exploration of the Sea shows that certain management activities have started to work and we are seeing uplifts in a number of different areas. I am hopeful that we

can manage our way through this and achieve what we are setting out to achieve and what we are committed to by the Johannesburg agreement.

Another measure that we are committed to achieving is good environmental status by 2018, which will bring in a whole lot more. It will allow us to get to where we want to be in how we view the management of fisheries. There has always been thinking in silos about fisheries and fish stocks. We want a much more integrated approach to the marine environment. We can think about it in terms of conservation and the wider aspects of marine planning that we are starting to roll out in England and which I know that you are thinking about in Scotland as well.

Jim Hume: I agree with your definition of MSY as the maximum amount that can be fished to keep the stock sustainable. However, as you said, there is a deficiency in data. When we took evidence last week, the processors were convinced that MSY targets are being met on a particular stock, whereas the environmentalists stated that we are miles away from that. What is DEFRA doing to address the deficiencies in the data?

Richard Benyon: There is a multitude of reasons why we might not have information about a particular stock. Sometimes, we have scientific data but not in the precise form that the Commission likes to receive, so we have to argue on that basis. The collection of data on stocks is incredibly complex. One of my great aims is to remove the distrust that exists between fishermen and scientists, fishermen and Government and, occasionally, fishermen and fishermen. One problem that we face is that fishermen do not believe what the scientists tell them. I am frequently told that one could walk across certain seas on the backs of cod and other species and that the fishermen have never seen so many. The scientists say that that is because the fish shoal at certain times in certain areas but that, across the whole sea and ecosystem, we still have a problem.

I am not a scientist. I am trying to be the middle man and to manage the situation, which is difficult. We protected our science budget in the fire storm of the comprehensive spending review of a year ago. We are improving the data that we produce and we are focusing absolutely on the areas that we need to, so that we can get information to the Commission when there is a good reason to allow an increase or at least a rollover of fishing opportunity. I am sure that John Robbs could go into more detail about specific examples if that would help, although that might be a hospital pass.

The clear desire is to try constantly to improve. We work closely with Marine Scotland on the issue. You have talented people here who provide

information that we need. It is a trite thing to say but, as we all know, fish do not recognise borders. We are talking about ecosystems, and it is important that we keep a focus on fisheries management at that level.

Jim Hume: Thank you—that was useful.

The Convener: We have a tight schedule to help the minister's travel arrangements, so I ask members to keep their questions as short as possible.

Elaine Murray: The minister touched on ecosystems. One of the problems in the North Sea is that it is a mixed fishery, which means that an approach that is based on individual species is not really applicable and does not necessarily reflect what is happening. Do you have any views on how a better model could be developed?

Richard Benyon: That is where the failings of the CFP are perhaps most manifest. The one-size-fits-all approach does not reflect the fact that the majority of our fisheries are mixed. That is one reason why the system has resulted in obscene levels of discards. I do not use that word in a pejorative sense about the fishermen—it is as obscene for them as it is for those of us who are consumers. That is why we should work towards long-term management plans. Politicians in parts of Europe do not want that because they like the annual round of talks. It gives them a sense of patronage and they feel that they are talking to groups and fighting their corner. However, long-term management plans are the way forward. They are science based. They are not always right, however, and we know that we have problems with the cod recovery plan. I would have thought that we would have had that reviewed by now and I am deeply disappointed that we have not; I know that that is causing real strains for parts of the Scottish industry.

One example of where we have a mixed fishery problem is off the west of Scotland, where there has been a tremendous improvement in the stocks of haddock. On ICES advice, you could see an uplift of more than 400 per cent but that would result in massive bycatch problems. We are negotiating a position that I hope will see a considerable uplift. That brings Elaine Murray's point to the fore: we need policies that recognise that fish swim in the same part of the sea and will be caught, even though they are not targeted. That is why I want to see more and smarter technology-based solutions, such as real-time swaps, and the development of that kind of operation, which works well in other parts of the EU and in countries that are not in the EU. I do not see why it should not work better here.

The Convener: Can we have a question on discard bans?

Jenny Marra (North East Scotland) (Lab):

Minister, the aim of the discard ban is to phase in a species-by-species approach and the North Sea mixed fisheries have some of the highest discard rates in Europe. Do you think that the species-by-species discard ban will be effective?

Richard Benyon: Let us start from the position that if most of the 700,000 people who signed the fish fight petition saw the headline "Discard ban", they would think, "Job done. Great. Well done, politicians." How disappointed they would be and what an affront it would be if all we were doing was transferring a problem at sea to a landfill problem. We are absolutely determined to ensure that whatever we decide and whatever the Commission comes up with is practical and reflects the difficulties of managing fish room in a vessel on a stormy sea. It is right that we should consider this stock by stock, fishery by fishery.

I am starting from the position that we have done pretty well in Scotland and in the United Kingdom in coming up with solutions that bring the fishing industry with us. The catch quota scheme is, of course, the prime example and will see most vessels having zero discards of cod because of the change in fishing techniques. I want that principle to be hard-wired into our proposals. You will ask me about absolute details and individual stocks, and I cannot say at the moment, but take what I say at face value: by keeping to practical solutions on a stock-by-stock basis, we can achieve this.

We must remember that 54 per cent of discards in UK waters are nothing to do with quotas but involve species for which there is no market. The fish fight campaign has built on good work done in Scotland and England by projects such as project 50 per cent. We are running a scheme in North Shields through the Centre for Environment, Fisheries and Aquaculture Science in which we are landing everything and following it through the food chain to ensure that there is a market and that it does not end up in landfill. Through such working, we will reach a solution that will be sustainable, not just in the environmental sense but because it will work. It will work in the long term, too.

The Convener: Thank you for that. We would like to write to you about certain questions to do with funding, because we do not have much time left. However, I just want to ask a question about aquaculture. It has not been mentioned so far but has been brought into the discussion before and it receives EU support. What are your views on the integration of aquaculture into the CFP?

11:30

Richard Benyon: I do not think that it has anything to do with the CFP; it is a matter for member states and devolved member states. We do not need an aquaculture regional advisory council. I get irritated when I have to sit for many hours at Council of Ministers meetings, listening to landlocked countries go on about aquaculture. They should just get on with it and not involve the CFP. Scotland has a very thriving industry and I certainly want more aquaculture activity around the coast; indeed, there are huge possibilities for the shellfish sector in particular. We should be able to get on and do this—alongside, of course, our other marine policies, including the marine strategy framework directive, which talks about healthy seas. I do not want to sound too peppery about this, but I simply do not feel that it has anything to do with the CFP.

The Convener: We welcome your views, minister. I realise that your time is very tight but Annabelle Ewing has a final question.

Annabelle Ewing: We have had a brief discussion about the legal basis of and the Commission's current anxieties about regional management. When we took evidence on the issue at last week's meeting, I wondered whether there was indeed precedent in EU law for the Commission to delegate management responsibility and whether it might be worth looking into that area in order to inform a very important debate. Has the UK Government commissioned legal opinion on the matter? Is it being considered by the legal service of either the Council of Ministers or the European Parliament? After all, it is not sufficient simply to rely on one legal opinion; it is always important to have the balance of the legal evidence.

Richard Benyon: John Robbs will be able to say more about this, but I absolutely assure you that we have been seeking the best legal opinion on this since the Commission identified a legal problem with regard to where competence starts and finishes. Without wishing to unpick treaties, I want to make things absolutely clear—and, indeed, to assist the commissioner with the direction of travel in which I feel she wants to go—and get the legal opinion to back all this up. To that end, we have been consulting not only DEFRA's legal advisers but Treasury solicitors to ensure that we are getting the right advice.

John Robbs: Under the treaty, power can be devolved to three places, two of which are the Council, now acting jointly with the Parliament, and the Commission. All that is perfectly clear; however, in certain limited circumstances, power can be devolved to individual member states. For example, the power to fix the total allowable catch of the Clyde herring fishery has been devolved to

the UK and, subsequently, to Scotland, subject only to oversight by the European Commission. The difficulty lies in finding a means of doing the same collectively for member states in a particular region. That is the novel proposition that is giving rise to all these challenges and we are racking our brains for a way to make it work.

Richard Benyon: One difference with this decadal reform is that there is now co-decision in the European Parliament. I want this to be a cross-party and cross-UK endeavour—indeed, in response to an earlier question I demonstrated how I am trying to achieve that—but I also hope that we involve the various MEPs in our parties in our debates on these issues and assist one another in ensuring that MEPs understand our concerns and their power in this process. I work closely with MEPs from all parties and know that I have got more work to do in certain areas, but the co-decision element means that we must ensure that we carry the European Parliament with us. I intend to fulfil my role in that regard and any assistance that you can give me will, of course, be extremely welcome.

The Convener: With that promise of help, I thank the minister and John Robbs for their evidence, which I am sure will add to the Scottish perspective that we are trying to build.

I suspend the meeting very briefly for a changeover of witnesses.

11:35

Meeting suspended.

11:37

On resuming—

The Convener: I welcome our witnesses—Richard Lochhead and his team. I invite the cabinet secretary to introduce his team and then we will go straight to questions.

Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment): Thank you, convener. It is a pleasure to participate in an important inquiry for the future of our fishing communities. I congratulate the committee on that.

On my left is Linda Rosborough, the acting director of Marine Scotland; on my right is Mike Palmer, head of the sea fisheries division.

The Convener: We will go straight to questions about governance, the first of which is from Aileen McLeod.

Aileen McLeod: When we had the UK fisheries minister here, he talked about how the Scottish Government and UK Government are working together closely on regionalisation. He said that

there would be massive disappointment if there was no radical reform of decision making but that the difficulty is how to achieve that within the current legal constraints. How do we get round the fact that the Lisbon treaty has cemented the EU's exclusive competence over the conservation of marine resources?

The UK minister also talked about the need to develop protocols and to take a sea basin approach to fisheries management. He said that the regional advisory councils would continue to play a central role. One issue that arises with that is what to do if the member states working together in a regional advisory council cannot reach a unanimous opinion.

How can we achieve greater decentralisation of decision making within the legal constraints? The UK minister said that the UK Government is seeking legal opinion on that issue and very much wants to assist the commissioner in implementing greater decentralisation.

Richard Lochhead: Aileen McLeod asks a fundamental question about where we go with the reform process. We should all welcome the fact that the European Commission, the UK Government, the Scottish Government and many other member states at long last appear to be on the same page as far as the future of EU fishing policy is concerned: micromanagement by Brussels across a variety of fisheries in Europe's waters simply does not work, has been highly damaging and must change. That is the good news, and I welcome the Commission's opening statement as part of the process that it wants radical decentralisation of decision-making powers.

That takes us on to the big challenge that Aileen McLeod mentions, which is how we deliver that decentralisation, especially within the legal constraints of the European treaties. To a certain extent, the ball is in the European Commission's court because it is making bold statements that it wants that to happen.

The Scottish Government would welcome as many powers as possible coming back to member state level—within the devolved context, that means coming back to the Scottish Government—so that we can work in partnership with our fishing communities. Therefore, we need to hear from the European Commission how that can be delivered. We requested and have been promised what the European Commission bizarrely labels a non-paper on the options for regionalisation. We await that and look forward to receiving it in the coming weeks.

In the meantime, we, the UK Government and the industry are doing a lot of thinking about what a regional model might look like. There is a lot of

work to be done because, without knowing the legal boundaries, it is difficult to give a definitive illustration of how it might work. However, our view is that, as long as we are stuck in a common fisheries policy, Europe should limit its involvement to high-level objectives for its stocks and waters and that the detailed road map for achieving those objectives should be left to member states acting together within regional bodies. As I and the UK minister have said, within a sea basin context, it would make sense to have one regional body for the North Sea, one for the Irish Sea and one for the west of Scotland or whatever was decided.

Aileen McLeod alluded to the question that then arises: how would that work? The regional model that we propose would involve having the high-level objectives at European level in the CFP; the detail would be worked out and, perhaps, a menu of options would be agreed by the regional bodies; and then each member state would be permitted to choose the options that it felt were suited to its fisheries, industry and waters.

A lot of detail would have to be worked out on how the quotas would be set and on particularly difficult points, such as what to do if the regional member states disagreed, which Aileen McLeod mentioned. That would have to be considered and some solution proposed, but we should be reasonably relaxed about that big question. The way that the European Union works places a lot of emphasis on consensus and negotiations. Member states are full of big boys and girls who know how to negotiate and reach compromises in a rational manner—they are national at times, but not always, especially within the current CFP. I hope that negotiation and the spirit of reaching a consensus would mean that disagreements at regional level would not be as big an obstacle as we might think that they would be.

That is a rough outline of the possible regional model that we envisage. Much more work needs to be done. Our guiding principle is that as many of the decisions as possible should be returned to member state level. The ludicrous situation in which, every December, a few Commission officials go into a dark room somewhere with four or five personal computers and number crunch the TACs for dozens of stocks across lots of different fisheries throughout Europe is unworkable, damaging and bizarre and must be brought to an end.

Richard Lyle: Cabinet secretary, you have talked about transferable fishing concessions. I asked the UK minister about the fact that different countries, companies and consortia are buying up quotas in the North Sea and transferring them. It is becoming a bit like the stock exchange, but unlike the stock exchange—where we know who has the

stocks—we do not know who has the quotas. What can we do to resolve that? All the good work that you and the minister are doing to fix this can be seriously undermined by the fact that a company or a consortium has bought quotas.

11:45

We heard last week that:

“The biggest demersal quota holder in England is probably a Dutch and Icelandic company, which ... went on ... a pre-Christmas shopping spree and bought out the whole Boulogne offshore demersal fleet and a Spanish company that has access to Barents Sea cod.”—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 2 November 2011; c 308.]

What can we do to stop all the good work that you are trying to do being undermined by companies or consortia that go in and buy quotas when we do not even know who they are?

Richard Lochhead: Richard Lyle highlights a very serious issue. The principle to which we want to adhere in Scotland is that the fishing rights in our waters are effectively the birthright of our fishing communities and should be there for future generations. There should not be the easy option for the current holders of fishing entitlements to sell them off and thereby deny future generations the opportunity to fish the stocks in their own waters. That would be an appalling, abhorrent situation.

I agree that, first, we must look at how we can put safeguards in place within the current regime in Scotland, the UK and Europe. Secondly, we must see off the threat that exists under the CFP proposals to not only not put safeguards in place but to relax the current regime, which would lead to private trading of fishing quotas across Europe. That is a real concern, to which I will return in a second.

I agree that there has to be much more transparency around which bodies or individuals hold the quotas and where they reside. It is important that we achieve that. Fixed quota allocations were introduced in 1999, shortly before the establishment of the Scottish Parliament. Over the past 10 or 12 years, that has led to the waters being a bit murkier with regard to who holds the quotas in Scotland. We are confident that about 90 per cent of fish quotas in Scotland are held by the families who should be holding them. We are not at a stage of crisis, but there are some concerns that we have to address.

That is unlike the situation south of the border, where the quota entitlements, particularly for the large vessels, are held by foreign-owned companies. The profits and entitlements leak out of England and they do not benefit to any great

extent the fishing communities there. We should try to avoid that happening in Scotland at all costs.

The second issue was the threat from the common fisheries policy proposals through the introduction of individual transferable quotas—of course, they had a bad name, so Europe has changed them to individual transferable concessions, to try to make people think that they are something different. We have to see off that threat, because I honestly believe that, in 10, 20, 30 or 40 years' time, it could lead to multinationals based outside Scotland owning the quotas that are currently held by families and communities in Scotland. If that were to happen, it would be to the severe detriment of Scotland's economy and, as I have said, future generations of fishermen and fishing communities.

Richard Lyle: Thank you.

Alex Fergusson: I want to continue on that theme, if I may. There seems to be a divergence of opinions about the danger of TFCs on whether they are transferable within a member state or between member states. I will not say that there is confusion, but there are differing opinions. Is there any great difference of opinion on that between you and the UK minister? What are your thoughts on the dangers, particularly to relative stability, that might be brought about by inter-member state trading of TFCs?

Richard Lochhead: I believe that there would be a severe threat to relative stability if the constraints on trading were loosened by the introduction of individual transferable concessions, which in the coming decades could clearly transfer fishing entitlements from one nation to other nations and from fishing communities to private multinational companies based wherever within Europe.

It is quite clear that the UK Government is, to an extent, more relaxed about the issue than we and the fishing industry north of the border are. There are a couple of reasons for that. First, the industry north of the border has a different profile to the industry south of the border. The UK minister will be used to dealing largely with the under-10m sector. Of course, there are a number of bigger vessels around the rest of the UK, but they tend to be owned by foreign interests, so the people who are lobbying the UK Government on future fishing entitlements have a different perspective to those who are lobbying the Scottish Government.

In addition, the European Commission wants to introduce transferable concessions because it believes that they will increase the profits of the bigger units that will arise from purchasing more quota. We in Scotland may take a different view because our having many different fishing businesses based around our coasts, rather than

huge fishing companies being based in one part of the country, is good for the economic and social value of those communities.

Secondly, the argument is being put forward in Europe that transferable concessions are a way of reducing fleet capacity on the cheap. If a fleet is over capacity, the Commission does not want public money to be used for decommissioning schemes, as has happened in the past. It wants fleet capacity to be reduced through market forces, so it wants to allow the big boys with the deepest pockets to swallow up the smaller boys with the shallower pockets. That is free-market economics deciding who gets what.

As we in Scotland have already reduced our fleet capacity, that argument is weaker here. For instance, over the past decade, we have seen our white-fish fleet reduced by about two thirds, so we are much further ahead in matching our fleet capacity to the quotas than are other member states, so we should not have foisted on Scotland what could be, in the eyes of Europe, a solution for other member states that need to reduce their fleet capacity.

I guess that I am trying to explain to the committee that there are different circumstances in Scotland, because our fishing industry has a different background and we are in a different position on fleet capacity reduction. That is why we are extremely reluctant to support the introduction of transferable concessions.

Alex Fergusson: Thank you for that. You may have answered this but, if you did, I did not quite pick up what you said. If such concessions are introduced, do you perceive there to be a difference in threat, depending on whether they are transferable between member states or simply within member states?

Richard Lochhead: I think that their being transferable within member states poses threats, too, but I welcome the UK Government's assurance—which I think the UK minister gave the committee as well—that, under devolution, if transferable concessions were to be introduced at member state level, the Scottish Administration would have the opportunity not to implement them in Scotland. The rest of the UK could do as it wished. If transferable concessions are introduced—I do not want to reach that position—we will at least have that safeguard in place. I do not believe that it would see off the longer-term threats to Scotland, but it would at least give us a degree of comfort.

There are issues to do with transferability within member states, but once the genie is out of the bottle across Europe, I am not sure how we will be able to put it back in, so there will be a threat from transferability between member states, with

industries transferring from one member state to another member state. For instance, we know that the Spanish would love the idea of buying up Scottish companies and Scottish quota. It might be necessary to tick a few boxes to show that there was some sort of link with Scotland or the UK but, essentially, the companies would be owned outside Scotland, the profits would flow out of Scotland, the holding companies would be outside Scotland and the decisions on how to use the quotas would be taken outside Scotland, which would be to the detriment of Scotland.

Alex Fergusson: I felt that some of the evidence that we got from stakeholders on the subject last week was a little bit mixed. I think that it was Ian Gatt who said that he feels that transferable concessions could present as much of an opportunity as a threat for the Scottish fleet. At the other end of the scale, WWF Scotland described them as a blunt instrument for reducing the European fleet. What do you perceive to be the view of the Scottish fishing industry on the issue, if it is possible to give such a generalised view?

Richard Lochhead: The industry representatives to whom I have spoken generally share the Scottish Government's concerns. Many organisations are of the strong view that transferable concessions pose a danger to Scotland.

Europe believes that we can simply divide fleets into artisanal fisheries and the bigger boats. In Scotland, we have a different profile. Europe says that there are two categories and that we should protect the artisanal vessels because they are important socially and economically to small fishing communities, but in Scotland the bigger boats are also important in the social and economic contexts. For instance, Whalsay in Shetland is a small fishing community, but there may be just one or two big pelagic boats based there. They are important to the economic future of that community, but they are bigger boats and not a small artisanal fleet. There are similar situations elsewhere in Scotland.

The crude approach that Europe is taking to justify introducing individual transferable concessions for bigger boats while protecting artisanal boats does not apply in Scotland. If the bigger boats—the over-10m fleet—are allowed to trade, the social and economic impacts on many of the smaller fishing communities in Scotland will be just as great as it would if artisanal vessels were involved.

Alex Fergusson: Thank you for that.

Annabelle Ewing: I want to remain on the same issue, which, as has been said, we discussed with the UK minister. Although he said

that relative stability would be a UK red-line issue, he nonetheless seemed to say, together with his official Mr Robbs, that there may be some difference in view about the potential impact of the TFCs on relative stability. In other words, he said that relative stability is an important principle but that he is not necessarily convinced that the proposed system will have the hugely detrimental effect that is being described in some circles. As you have just said, cabinet secretary, the balance of evidence in Scotland clearly suggests that there is a deep-rooted concern—based on years of experience in the industry and years of experience of watching previous CFP reforms roll out—that the provision, in so far as it governs trades between member states, will be a big problem for relative stability.

The UK minister said helpfully that he would listen to what is said and that he had flexibility, and he seemed to suggest that his view is not set in stone. What work could be done to convince the UK minister that the two issues are interrelated and that, if TFCs go ahead, there will be a huge negative impact on our fishing industry and communities? What work could we do as a committee to help to inform the debate further at UK level?

Richard Lochhead: The committee is doing a good job by taking evidence on this important subject, and you will clearly have the opportunity of your report and recommendations, which the UK minister has said he will listen to carefully and which, as Scottish minister, I will listen to carefully.

I assure the committee that we have had many discussions with the UK Government on the issue, and that the European Commission and other member states are aware of Scotland's position. Indeed, the UK Government has acknowledged publicly that Scotland's position is not exactly the same as its own. We take comfort from the fact that the UK Government has not reached a final view, and we will clearly do our best to reach the proper final view.

There is a slight contradiction in the UK Government's position. On one hand, we are at one that relative stability is a red-line issue, but on the other hand the minister suggested that market forces can play a good role in fishing entitlements. That clearly undermines relative stability, so there is a slight contradiction. We believe that the biggest safeguard that we have to put in place is to protect relative stability in Scotland's historic fishing rights.

The second slight contradiction is perhaps in the fact that the UK Government is making the case that we can put in place a range of safeguards. That prompts the question: if we are going to put in place a range of strong safeguards, what is the point of having the new system in the first place?

Perhaps we should join what appears to be a majority of other EU member states that have grave reservations about individual transferable concessions. As we take the negotiations forward, it may be sensible for the UK to be with the majority opinion in Europe, which is that transferable concessions are not the road to go down.

12:00

Annabelle Ewing: It is helpful to know that there might be allies out there in other member states who will help to make the case to our Government in London in the EU negotiations.

That brings me to my second issue. Mr Robbs said that the detail of the provision is being looked at at official level but not yet at ministerial level, and that no consensus has emerged so far. To what extent are Scottish Government officials involved in those detailed discussions at member state official level to ensure that our position is reflected in all aspects of the discussions?

Richard Lochhead: I will happily bring in my officials because they attend the working group meetings. They can give you a bit of insight into how the meetings work.

We are represented at the majority of working group meetings at official level. We are not necessarily represented at them all, but we make sure that we attend many of them. Quite often, given that 70 per cent of UK fisheries are in Scotland, we can lend expertise to the negotiations. It is therefore important that we attend as part of the UK representation. Mike Palmer is one of our senior officials who often attends the meetings with colleagues.

Mike Palmer (Marine Scotland): I can confirm that last week there were working group discussions about TFCs in Brussels. A Scottish Government official was present to represent Scotland's interests. We also work closely with the UK Government's officials in DEFRA and with officials from UK representation in Brussels, who represent UK interests from the foreign affairs perspective.

During the working group discussion, a number of markers were put down from the joint position that was reached between the Scottish official, the DEFRA official and the representative from UKREP. They made it clear that we find many aspects of TFCs challenging, that we want to scrutinise the proposals, and that we are raising concerns about a number of aspects of them.

Elaine Murray: You have said in the past that your ambition is the repatriation of fishing policy to Scotland. The sea basin approach will involve a lot of partners, who have fishing interests in the seas,

working together. Will that fulfil your ambition? Is the sort of repatriation of fishing policy that you want really achievable within the common fisheries policy?

Richard Lochhead: The decentralisation of the existing common fisheries policy is unlikely to go as far as we would like. However, time will tell. Who knows what will happen during the negotiations? You might have to ask me that question at their conclusion. We will fight throughout the process and make sure that Scotland's voice is heard so that we can get as many powers as possible back to member state level.

As a Government, we have always said that although we believe that it is far better to take decision-making away from Brussels and to give it back to the member states, it would be necessary for member states to work together in obvious areas where there are joint stocks or where we want to share best practice and work together on long-term management plans for stocks. That makes sense. Bringing powers back to member states will give them a lot more influence on how that happens, and a lot more say about some of the specific measures that will be put in place. Also, the negotiations will take place on member states' own terms; they will not have to go through several channels before trying to influence the outcome. More powers being brought back to member state level, even to a regional body, will mean a big step forward from where we are today.

Elaine Murray: Which powers that are not being proposed for devolution at the moment would you like to see brought back?

Richard Lochhead: At the moment, the European Commission is saying that the treaties will not allow powers to be directly devolved to regional bodies. It is trying to find a third way, via the Commission, to allow some kind of decision-making to be done at regional level. As I said earlier, we are waiting for more detail about the legalities of that, but there are major obstacles to overcome if we are to have genuine regionalisation of decision making.

It looks like, no matter what the outcome is, there will be a specific role for the European Commission. Clearly, we want that role to be minimised, but we do not know to what extent the EC will play a role. There are hints that there may be a scenario whereby the EC can intervene at the drop of a hat, which is not a million miles away from where we are at the moment, so it would not be a radical change.

Elaine Murray: What decisions would you like to be taken at member state level that this reform does not propose? I get the feeling from you that you would like to go further than is proposed.

Richard Lochhead: I believe that fisheries managers in Scotland, working in partnership with the industry, should be able to design and implement the fisheries management measures that will be put in place in Scottish waters for Scottish stocks that apply to Scottish vessels and other vessels that fish in Scottish waters. That would be helpful not only for fisheries management purposes but for the whole-ecosystem approach. We would like the option of applying our environmental legislation to other European fleets that fish in our waters in order to, for instance, protect the marine environment. It would be helpful to have the kind of powers that could deal not just with fishing but with the wider environmental debate. At the moment, we are very far from that in what the EC has proposed. Again, though, we have to see what comes out of the negotiations and what comes from the Commission in terms of what is and is not legally possible.

What I am trying to convey is that all the decisions on design of fisheries management for our waters, which are very complex and unique, should take place in Scotland. Of course, we should work with others who share our stocks. However, that would be a situation in which equal partners were coming together. Just as Norway negotiates with the EU, we believe that Scotland is quite capable of negotiating with other countries that fish our waters or share the stocks.

Elaine Murray: The UK minister painted a picture in which he represents a team that involves you, the Welsh cabinet secretary, Northern Irish interests and so on—I feel that he sees himself as negotiating on behalf of that team and working with you. In your view, how well is that relationship working?

Richard Lochhead: We have a good working relationship with the UK Government. The test of UK Government commitment—from David Cameron, the Prime Minister, downwards—to radical reform of the common fisheries policy will be at the negotiations, when we will learn to what extent it wants to devote political capital to getting the outcome that we want in Scotland. At that point, we will learn how serious the UK Government is about radically reforming the common fisheries policy. Clearly, we are not in a position to know that at the moment, and we would much rather be there with our own negotiating capital as a member state in our own right. Time will tell.

I believe that the UK Government genuinely shares some of our concerns about the CFP and genuinely wants some radical changes to it. However, the crunch on all these issues at European level is when it gets to the dark rooms in the early hours of the morning at the negotiations,

before the ink is put on the agreement for the new CFP.

Alex Fergusson: How could co-decision making alter that process of decisions being made in dark, smoke-filled rooms and the potential outcomes of that?

Richard Lochhead: Co-decision making does alter the process. Over the next 12 months, we will have to work closely with Scotland's MEPs. This committee is already doing a good job in taking evidence from MEPs and speaking to them on a regular basis. However, the Council of Ministers will sign on the dotted line in the future, so we have to influence the European Parliament to ensure that the document shapes as much as possible what Scotland wants to see. However, member states will still have a significant degree of influence.

Graeme Dey: If TFCs were tradeable between member states, there would inevitably be a threat to onshore jobs in Scotland. Will Clark of Seafood Scotland told us last week that our processing sector is already in dire straits. What is your view of the scale of the threat? Given Mr Clark's description of the health of the processing sector, can you give us an outline of what the Scottish Government feels it can do to protect and support the domestic processing industry?

Richard Lochhead: Fishing is so important to Scotland not just because we hold more than two thirds of the UK's quota entitlements but, as you highlight, because of the crucial onshore jobs related to the industry.

Scotland has a great food industry. The majority of our food exports are seafood products. It is an important sector, which is worth hundreds of millions of pounds to Scotland's economy. We have to protect the onshore sector and not become too obsessed with the offshore sector. Fishing is an industry that applies to the whole country.

I understand therefore why the fish processors are concerned about the implications of individual transferable concessions. If our boats are foreign owned and the safeguards are not put in place to enable them to land 100 per cent of what they catch in Scottish waters in Scotland, our processors will lose their supply. That would be bad news for our economy and for the businesses concerned. The fish processors have a big interest in the direction of the debate on the future of the CFP.

On direct support for the fish processing sector, we have the European fisheries fund. We have ensured that there is sufficient domestic contribution to that to pull down the European element and ensure that we can fund many of the projects that are coming in from the fish

processing sector. A number of really good applications are still coming in from fish processors that want to expand or modernise, and we are doing our best to support that vote of confidence in our future. Many companies get grants from the Government in that respect.

The immediate issue that is faced by the processing sector is this year's negotiations on the cod recovery plan. Thankfully, some of the quota negotiations look as though they might be quite positive this year. For example, we are hoping for an increase in quota of the vital haddock stock and in other quotas, such as whiting. We hope that there will be good news on continuity of supply for the fish processors.

The real concern for the processors is that the proposed cut in days at sea for the fleet might mean that the fleet cannot catch the quota that is allocated to it. The bizarre cod recovery plan is not helping cod to recover to any great extent and is certainly not good for fishing vessels and the fishing communities. It means that there will be another 15 per cent year-on-year cut in the amount of time our fleet can spend at sea. I expect that the fish processors are extremely concerned by that proposal, and we are taking the issue up with the European Commission.

The Convener: We move on to some science-based issues.

Jim Hume: Good afternoon, cabinet secretary. We hear a lot about maximum sustainable yield and the Commission's proposal that by 2015 we should achieve our MSYs. Do you agree with that? Will we achieve our MSYs?

Richard Lochhead: We agree with the objective of trying to achieve MSY for as many stocks as possible by 2015. The committee may be aware that the international agreement from the world summit on sustainable development, signed in Johannesburg in 2002, says that we should:

"Maintain or restore stocks to levels that can produce the maximum sustainable yield with the aim of achieving these goals for depleted stocks on an urgent basis and where possible not later than 2015".

That flexibility is important because of the uncertainty over the science for some of the stocks. For example, when do you know that you are at MSY for certain stocks? There are gaps in the science, some of which are quite difficult to plug because of the complex mixed fishery that we have in Scottish waters.

We support getting all our stocks to MSY levels as soon as possible but, because of environmental factors and the gap in the scientific knowledge about some stocks, we need a flexible regime. That applies particularly in Scotland, where we have 30 key stocks. Holland is a major fishing nation, but it has only about six stocks to manage

and to apply science to, whereas we have more than 30 in our waters. We have perhaps a top 10 of commercially important stocks to which we devote a lot of energy. In many cases, it will not be possible for countries or industries to achieve MSY status in all circumstances by 2015, which is why we must be flexible. That is the argument that we are putting to the European Commission.

12:15

Jim Hume: You mentioned the uncertainty of the science and the gaps in it, and the UK minister whom we heard from earlier mentioned the same thing. What are Marine Scotland and other bodies doing to fill the gaps and improve the science?

Richard Lochhead: The perennial challenge that all fisheries managers and Administrations in Europe face is that of improving the science and backing up everything that we do with scientific evidence, which is essential. We would like the European Commission to do that with its proposals, but it does not always do so. It is important that we all do that and that we have consistency. In recent years, we have done a lot of work in partnership with our industry to get its input. The industry has helped our scientists to prioritise the issues on which they focus, and fishermen have been directly involved in collecting scientific data. In the past few years, a lot of good work has been done with our industry on high-value species such as megrim and monkfish, and we now have better evidence to justify our arguments for certain quota levels.

We have protected our marine science budget in difficult circumstances, of which the committee is well aware. I welcome the fact that, as the UK minister told the committee, he has protected his marine science budget, which is important. Science is one area in which European co-operation is justified, and we will ask for a lot more emphasis on that. If there is one area in which Europe could intervene and play a much bigger role, it is in relation to having Europe-wide science. In some cases, different fisheries face similar problems with the same stocks, which is where Europe should intervene and help out a lot more. It should take the science more seriously and bring together the member states to tell them that we must do a lot more to understand the state of the stocks and the science. Some member states apply themselves differently to get good science. I believe that, on many issues, we are ahead of the game on that, largely because we have such a big area of sea and so many important stocks. Europe should play a much bigger role in achieving better science.

Jim Hume: I presume that Marine Scotland works closely with DEFRA and uses similar scientists.

Richard Lochhead: Yes, it does. I ask Linda Rosborough to add to that.

Linda Rosborough (Marine Scotland): Marine Scotland has two ocean-going research vessels and a major group of scientists based in Aberdeen. Our scientists are well regarded. Because of their expertise and the high regard in which they are held internationally, they are regularly selected to chair ICES committees and to be on the Scientific, Technical and Economic Committee for Fisheries. They work closely with colleagues in CEFAS and elsewhere in the UK, and internationally. They have a high reputation.

Graeme Dey: It is said that there is insufficient data to enable accurate assessment of safe fishing levels for 63 per cent of the stocks in the EU. To what extent can we trust the data that is available for the 30 stocks in Scottish waters, or even for the top 10 to which the cabinet secretary referred?

Richard Lochhead: We are confident that four or five key stocks are already at MSY status in Scottish waters, including haddock, plaice and herring. However, that still leaves big gaps, so I do not pretend that the issue is easy. More than 50 per cent by volume—and I think also by value—of Scottish stocks are under Marine Stewardship Council status, which is a good sign. Overall, the Government's indicator for the recovery of fish stocks is positive and is going in the right direction, but I cannot give complete confidence in all 30 stocks. That is, as I said before, the perennial problem, in that it is so complex and the science has a great degree of probability built into it, which can go either way. It can be too precautionary or it can contain errors in its recommended quotas. We are confident in some of our stocks, but there is a lot more work to do with others.

Elaine Murray: You have referred to the large number of stocks and in Scotland many fisheries are mixed rather than single species. The UK minister certainly seemed to be of the view that long-term management plans were a better way of approaching the management of those fisheries than the annual round of negotiations over TAC, but he also suggested that some players in Europe rather liked the annual round, which seemed to give them some sort of feeling of power and influence because they could distribute the quota. I presume that you agree with the UK minister on long-term management. What are our chances of being able to influence the CFP to consider that as a better way of managing our fisheries?

Richard Lochhead: I agree with the minister on that point. One of the few positive developments in the EU negotiation process over the past few years has been the increasing number of stocks that are now under long-term management plans.

That is a good trend and we certainly support it. That is the key to avoiding crisis management for the fleet. I was interested to hear the UK minister seem to say, in the clip of his evidence that I watched this morning, that the introduction of individual transferable concessions would be one way of giving certainty to fishermen to help them avoid on-going crisis management.

On-going crisis management is brought about not by fishing entitlements but by the wide variation in quotas from year to year. That is where long-term management plans would help by giving a degree of certainty. They also help the stock, of course, because there is no wide variety of fishing pressure on it. Long-term management plans must also have a degree of flexibility because the science can change, as we have seen with the North Sea herring stock. The science is saying that the quota can be increased by some 140-odd per cent but the long-term management plan says that it can be increased by only 15 per cent. You need long-term management plans, but they must be adaptable if the science changes dramatically. They are certainly the way forward, however.

The Convener: I want to move on to the high-profile topic of the discard ban by 2016.

Jenny Marra: Cabinet secretary, I think Richard Benyon, if I heard him correctly, expressed similar concerns about the outright ban on discards. Have you had any discussions with him on any alternative methods of dealing with the problem and how successful have they been?

Richard Lochhead: Yes, and thank you for highlighting this issue. If the public look for one thing as a result of these negotiations, it will be a road map towards getting rid of discards, which are such an economic and social waste—we should remember that we are talking about food—and we all want to see an end to them.

For many years, I have tried to make reducing discards a priority with the European Commission and different UK Governments. If I had been a chef, I might have made more progress more quickly, but thankfully discards are now a big issue and the European Commission has finally realised that something must be done to reduce them. In Scottish waters, we have introduced innovative measures using the limited flexibility that we have, such as catch quotas to reduce discards. They have now spread out to the rest of the UK and we welcome the fact that the UK Government supports that as a way forward. Catch quotas are essentially about influencing what is taken out of the sea in the first place. You allow the fleet to land more of what they catch—that is, they do not have to discard it—in return for their taking less out of the sea. Once they catch their increased quota, they have to stop fishing. They are not

discarding the other species for which they have no quota. That innovation is working.

There have been technical measures. Also, real-time closures have been introduced in Scottish waters and they were European firsts. We introduced voluntary closures in 2007 for the first time in Europe. If certain amounts of juvenile cod are found, the area must be closed and fishermen must move on—those are real-time closures.

All those measures are having an impact. Over the past few years, there has been a bigger decrease in discards from Scottish vessels in Scottish waters than there has been anywhere else in Europe. We are making substantial progress but, as with everything else, there is still a long way to go.

New measures are being put in place in Scottish waters to reduce discards, and we agree with the European Commission that there must be determination to phase out discards. Unlike the Commission, we think that there must be a plan to do that, not just a ban. It is one thing to have a headline that says that discards will be banned by 2016, but a plan for how to get there is needed.

There are two choices. If we stop all fishing there will be no discards. Alternatively, we can continue to have an active fishing fleet and reduce discards. We would much prefer the latter approach. Because of the complex mixed fisheries in Scottish waters, we need a carefully managed plan to get us to where we want to go.

Jenny Marra: Have your discussions with the UK minister led to any resolutions about putting forward alternatives in discussions and Scotland using alternatives rather than there being an outright ban? Is that completely unrealistic?

Richard Lochhead: We are working with the UK Government on expanding the catch quotas, for instance. The current position is ludicrous. We have been permitted a catch quota scheme that is big enough to allow only 20-odd boats to take part in it. If the whole fleet had the option of joining the scheme, discards would be reduced even more. Vessels that take part in the scheme do not have to be subjected to the effort reductions—that is, the days-at-sea scheme—so they benefit from that as well.

We have a crazy situation. We have a scheme that reduces discards, eases the fleet's financial pain and increases its profits, and is good for the environment and businesses, but the number of vessels that can be in it is limited by a bizarre set of negotiations. The regime says, "No, no. We want all those vessels to continue discarding over here, and we're allowing only a certain number of vessels to come into a scheme that stops discarding." You could not make it up, but that is the situation that we are in because of complex

negotiations in Europe and between Europe and Norway.

Perhaps that sums up the bizarre situation that we are in and the complexities that are involved. However, we have the UK Government's support to expand the scheme.

The Convener: Niels Wichmann talked last week about an interesting system that is used in Denmark for pooling vessels. He said that when vessels

"are out fishing and they have exhausted their quota for one species they can just go to the pool online and say, 'Is there fish available for this? Then I will not have to discard, I can fish on'."—[*Official Report, Rural Affairs, Climate Change and Environment Committee*, 2 November 2011; c 309.]

Is that a practical application by groups of vessels that can take part in such a scheme?

Richard Lochhead: I am keen on considering such arrangements for the way forward. That is one good way of tackling discards. Rather than the skipper having to dump what he has caught, he can find a legal means to land it. We need that to happen. To be fair, that currently happens to a certain extent. It is clear that the producer organisations that manage quotas for vessels speak to one another every day of the week and international swaps are brought in. When they run out of quota, they have arrangements to try to get more quota into the system through swaps with other producer organisations or countries, but we have the potential to be much more sophisticated and organised. We constantly speak to our producer organisations and the catching sector about how that can be achieved, because it cannot be achieved without their support. We certainly believe that there is potential to be much more sophisticated and organised.

The Convener: I turn to funding issues, the European fisheries fund and the European maritime and fisheries fund. The Commission has closed axis 1 of the current EFF. Is that justified? Should the new European maritime and fisheries fund support the upgrading of fishing vessels?

Richard Lochhead: I believe that the existing European fisheries funds, which are clearly coming to an end shortly, go about things the right way in helping vessels to modernise and become energy efficient. We have a bit of an ageing fleet, and it is only fair that we get all the benefits from having a modern, energy-efficient fleet. I believe that there is a case for public support for that approach to continue. I also believe that, when regulations are put in place that have an impact on fleets, the public purse has a duty to assist those fleets in adapting to the new regulations. The need to adapt is the result of regulation, so assistance is justifiable.

12:30

We should not, however, subsidise fishing fleets to implement the scrap-and-build policies that some countries want. That would be paying to reduce capacity only to pay to increase it again dramatically. Many countries want to take advantage of that, but we do not believe that that is the way forward. We can modernise the fleet and make it more energy efficient, but paying to scrap one vessel in order to replace it with a bigger, more powerful vessel, as some countries want to do, is not a sustainable way forward.

The Convener: It is suggested that some member states have significant problems in complying with the existing arrangements, because the state or the fishermen are not obeying the rules. Will we have any input on that in the forthcoming negotiations?

Richard Lochhead: Any time that we get evidence of that, we will robustly bring that to the attention of the European Commission and the UK Government for their support. A constant feature of the negotiations is the need to ensure that there is a level playing field and that member states are not allowed to ignore rules and regulations to which other member states adhere. That is an important principle.

The Convener: Are there particular things for which we should seek support from the EMFF, apart from the modernisation of vessels, which we have talked about?

Richard Lochhead: I would welcome the committee's support for a new fund to support sustainable fishing through new technical gears and measures to tackle discarding and promote stock sustainability. Those things should be the focus of public support. The EMFF should also support science. I mentioned that Europe has the potential to play a greater role in the promotion of science and in supporting exercises or joint ventures between governments and industries or whatever. There is a role for the new fisheries fund to play in promoting that work.

The Convener: Let us move on to management and funding. Aquaculture also receives EU support. What are your views on its integration into the CFP? The UK minister said that aquaculture should be dealt with locally. What is the way ahead on that—a regional advisory council?

Richard Lochhead: The last thing that we want is for aquaculture to be dragged into the common fisheries policy environment that has been so damaging to wild fisheries. We would rather see a more hands-off approach from Europe towards aquaculture. Of course, there are areas in which we can co-operate with other countries through science and best practice, but it should be very loosely addressed in the new CFP regulation. We

do not want any plans imposed on Scotland or any bureaucracy. We already have an aquaculture strategy in Scotland and we do not want Europe telling us what our strategy should be instead. We have 90 per cent of Europe's salmon industry, so we are a major player. In aquaculture, we are much further ahead of the game and more experienced than many other countries, so we do not need to be told what to do and we do not need unjustified interference.

The Convener: Most aquaculture takes place within 3 miles of the shore, so we have a greater say in it anyway. Will we see the development of aquaculture further out to sea over the next period?

Richard Lochhead: That is certainly an option. It is already happening in Scottish waters and, for reasons of sustainability, it may be a good thing. As we look to the future of marine planning in Scottish waters, we must take that into account. We must not lose sight of the fact that the world's population is growing rapidly and the amount of land that is available for growing food is declining rapidly. We need to feed people, not just in this country but around the world, and aquaculture will play an even greater role in that in the future than it does today. Because of Scotland's reputation for producing top-quality food and top-quality seafood products and because of our booming salmon sector, Scotland has other opportunities, too. When we take policy decisions about how our seas are used, we must pay attention to the need to produce food.

The Convener: On that high point, we should stop. I thank you and your officials for your evidence. I have no doubt that we will report to you fairly soon on our overview.

Scotland Rural Development Programme

12:36

The Convener: Agenda item 5 is an update on the work that has been done on the Scotland rural development programme's effectiveness and consideration of how the committee wishes to proceed. I refer members to paper RACCE/S4/11/10/4, which is before them. Does anyone have comments? The discussions are complex and have been added to by the answers from both ministers in previous evidence sessions.

I will kick off. We know that there are several measures of the SRDP's effectiveness. Members have been concerned about whether its administration is bureaucratic and whether it can be honed. The Government has told us that, following the Cook review, the mid-term review and evidence that is being taken on the SRDP's environmental aspects, we will not have full answers on some matters until 2014.

We want to assess how the committee will keep a handle on the programme. Should we follow the suggestion on page 2 of paper 4 of having a report each year on

"details of expenditure ... the numbers of successful, partially successful, and unsuccessful applications ... details of any known problems in terms of delays in applicants receiving funding and any other inefficiencies; and ... what steps have been taken to reduce any such inefficiency"?

Is that the way ahead?

Jim Hume: Knowing

"the numbers of successful, partially successful, and unsuccessful applications"

is important. However, I know—I suppose that I should declare an interest—of many people who are put off even thinking of applying. I do not know whether we could expand that point to include the number of potential participants who are put off—that information would be difficult to get. *[Interruption.]*

The Convener: We are still in a formal setting, so I will take members in turn.

Jim Hume proposes adding to the suggestion. How would we do that?

Annabelle Ewing: I understand where Jim Hume is coming from. The concern is that people think that applying will be bureaucratic, will take so long and will be difficult. I do not know exactly how we gauge a negative—how we estimate the number of people who have been put off applying.

The aim is perhaps more to ascertain what steps have been taken to communicate how the

process works in particular areas. That would be in conjunction with asking what steps have been taken to improve processes. Something like a communication report on what the Scottish Government is doing to spread out the programme as far as possible across Scotland might be the way forward.

Elaine Murray: I wanted to make the point that Annabelle Ewing just made: it is a bit difficult to work out who might have been put off. Is there some way of collecting that data?

Graeme Dey: Is it possible to find a means of furnishing us with a better understanding of why there are these difficulties? We all know about the difficulties that arise, but from the other side of the fence—the administrative side—why do stakeholders have such terrible problems as they go through the process? I do not know whether the Scottish Parliament information centre could produce a briefing for us. It would be helpful to have something that allows us to see both sides of the argument.

The Convener: I call Alex Fergusson, to be followed by Jenny Marra.

Alex Fergusson: I think—

The Convener: Okay. We have covered your point.

Alex Fergusson: Sorry?

The Convener: Sorry, I thought that you were finished.

Alex Fergusson: No. I had not even started, convener. I obviously was not quick enough.

Jim Hume made an important and relevant point. I suspect that it is almost impossible to identify how many people have been put off applying.

On Graeme Dey's point, the problem is the sheer complexity of the process, particularly for very small farmers. It is those who are not particularly information technology-cognisant who have a real problem. The result is that most people who apply successfully do so by taking on professionals to help them with the application process. That obviously has a cost implication. It is one of the real sticking points in the whole bureaucratic application process.

I am sure that the cabinet secretary has taken this point on board, but regular updates of how the process is being simplified—or whether it can be—would be very useful for the committee's future deliberations.

The Convener: Yes, indeed.

Jenny Marra: I understand the point that Annabelle Ewing and Alex Fergusson made. Might

a solution be to seek information on the number of people who request information about SRDP funding in order to make an application? If the process is web based, perhaps that approach would be less scientific than asking about the number of people who request information on paper. We could ask about the number of people who hit through to the applications sites. That might be one way of trying to ascertain the information that we seek.

Jim Hume: Jenny Marra has suggested one approach. If we make the point, though, it is up to the minister to come back to us to say, "We haven't a clue, but we know that that's an issue," or, "Here are some of the facts and figures that we have about people who have shown an interest but decided not to apply."

Annabelle Ewing: Jenny Marra's point is a fair one, except that people might request the information—even in hard copy—and then decide not to go ahead, without that decision having anything to do with alarm about bureaucracy. It might have nothing to do with action or inaction that the Scottish Government has taken; the individual might just decide for whatever reason that they do not want to make an application.

If there are problems in the process, the key thing is to ensure that we as a committee do what we can to scrutinise the remedying of them and that the Scottish Government communicates the fact that any problems have been remedied so that it is a more attractive option for people to pursue.

The Convener: Thank you. There is a process issue here. It would be useful to have a session with some of the officials in the department who are handling these things. I certainly raised the issue at the end of an evidence session with the cabinet secretary about the difficulties with certain schemes. I can assure you that once you start to hear the officials' point of view, you get a much more balanced understanding of what is going on.

There is also the aspect of how we deal with these matters at the moment. First, we are dealing with the SRDP through the budget. The budget process is an annual one, and it is possible for us to raise these things with ministers during their evidence on the budget. Does the committee want to do more than that in each year to get a handle on the process issues by doing what is outlined in paragraph 13 of our paper? That suggestion was slightly augmented by Jim Hume's suggestion. If the committee agrees to that, we will need to have a lead-up session and some explanation of how the process works before we speak to ministers in the budget process.

The second point is that with the new common agricultural policy, we will be looking at how the

SRDP will be organised in future. It is important that we find ways to include that in our future work programme and our scrutiny of the CAP in the next few weeks and months.

Is that the way forward? Are we fairly clear about that?

Members indicated agreement.

The Convener: Thank you. We will move into private, as agreed under agenda item 1. I thank those in the public gallery for attending. The next meeting will be on 16 November 2011.

12:45

Meeting continued in private until 13:17.

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