



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 21 November 2012

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**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**26<sup>th</sup> Meeting 2012, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Graeme Dey (Angus South) (SNP)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)  
\*Nigel Don (Angus North and Mearns) (SNP)  
\*Alex Fergusson (Galloway and West Dumfries) (Con)  
\*Jim Hume (South Scotland) (LD)  
\*Richard Lyle (Central Scotland) (SNP)  
\*Angus MacDonald (Falkirk East) (SNP)  
\*Margaret McDougall (West Scotland) (Lab)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Ian Hudghton MEP  
Struan Stevenson MEP

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

Committee Room 1



## Scottish Parliament

### Rural Affairs, Climate Change and Environment Committee

*Wednesday 21 November 2012*

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

### Subordinate Legislation

#### **Crofting Register (Notice of First Registration) (Scotland) Order 2012 (SSI 2012/296)**

#### **Crofting Register (Transfer of Ownership) (Scotland) Regulations 2012 (SSI 2012/297)**

**The Convener (Rob Gibson):** Welcome to the 26th meeting in 2012 of the Rural, Affairs, Climate Change and Environment Committee. Members and the public should turn off their mobile phones and BlackBerrys, as leaving them in flight mode or on silent will affect the broadcasting system. We have received no apologies from members.

Under agenda item 1, the committee will consider the two negative instruments on the crofting register that are listed on the agenda. I refer members to paper RACCE/S4/12/26/1. No motions to annul have been received. Does the committee agree to note the instruments?

**Members** *indicated agreement.*

## Common Fisheries Policy

10:01

**The Convener:** Agenda item 2 is evidence from members of the European Parliament on the reform of the CFP. We last heard from MEPs Struan Stevenson and Ian Hudghton via videoconference in September 2011. I hope that today's videoconference session will work just as smoothly. The committee has been heavily engaged in the reforms and received a response from the European commissioner in January to our main conclusions following evidence sessions last year. This session has been arranged because the committee has agreed to continue its engagement with the process.

I remind members that, due to the technical aspects of the videolink, a delay may occur between members finishing their questions and the witnesses hearing and responding to them. Equally, there may be a delay the other way round. Because we are using a videolink, it is important that no one tries to speak over anyone else. Therefore, members should speak only if I call them to do so and should not try to interrupt a colleague or witness, as that would affect our ability to hear what is being said. We have allocated roughly an hour for the videolink session.

I welcome Struan Stevenson MEP and Ian Hudghton MEP to our committee meeting. Good morning, gentlemen.

**Struan Stevenson MEP:** Good morning.

**Ian Hudghton MEP:** Good morning.

**The Convener:** I will introduce the committee members so that you will know who you are hearing questions from. On my far left, we have Richard Lyle, then Claudia Beamish and Margaret McDougall. On my right, we have Graeme Dey, Angus MacDonald, Jim Hume, Alex Fergusson and Nigel Don. Given that we have only a short time, I invite members to fire away with questions. I will start.

Do you think that, at the end of the process, we will have a better common fisheries policy? At the start of the process, there was agreement that radical change was required. Do you feel that the reform is going to deliver radical change?

**Struan Stevenson:** Good morning to you all, and thank you for this opportunity to have a discussion with you once again on CFP reform. Do we think that things will change radically? If all our aspirations are fulfilled positively, the situation will change radically.

One of the core objectives of the reform package is meaningful regionalisation. There have

been challenges even in the college of commissioners about whether the process is, in effect, trying to re-nationalise or repatriate control of the common fisheries policy. Of course, there is great resistance to any concept of repatriation of a common policy, and that is not the objective. We respect the fact that the Commission would continue to build the framework of the CFP, but it would then devolve the day-to-day management to the member states. In the case of the United Kingdom, that would mean devolution of the day-to-day management from the UK to Holyrood. I also envisage that, under that process, Holyrood would closely involve the producer organisations in implementing the day-to-day management and control of the CFP. I wrote that into my report on the common organisation of the market on fisheries and aquaculture products, which was voted through the Parliament at first reading.

There is still some antipathy towards the concept of meaningful regionalisation. We are looking at 2,500 amendments to the basic regulation on CFP reform. A lot of the amendments deal with regionalisation, and the rapporteur, Ulrike Rodust, is now focusing on beefing up the regional advisory councils. I accept that as a necessary part of the process, but it is surely not what we mean by regionalisation, as it would destroy the whole concept of devolving day-to-day management powers to the member states. Under regionalisation, enforcement would still be the responsibility of the member states. Only if they failed in the proper enforcement of the CFP rules and regulations would the Commission be able to claw back control to Brussels—that would be the ultimate penalty if a member state failed.

**Ian Hudghton:** It does not seem as long ago as September 2011 that we last addressed the committee, and I welcome the opportunity to do so again.

Do I think that a new CFP will be an improvement? I am afraid that it is too early to say. We still have the opportunity to make significant improvements, but there are some worrying aspects about how the process is shaping up here through the drafting of compromise amendments to make sense of the 2,600 amendments that have been tabled at the committee stage. A number of those compromise amendments—if we have time later, I would be happy to detail them—seek to go in the opposite direction from decentralisation. At the moment, however, they are only draft amendments that have been put together by representatives of each of the political groupings—I have been at most of those meetings—and we will have to gauge the opinion of the wider Parliament through consultation.

The idea is that there will be another meeting of the shadow rapporteurs within the political groups

next Monday to assess whether any or all of the draft compromise amendments are likely to achieve a majority vote in committee. We have not even had a vote here yet on the substance of the main regulation, which is the fundamental structure of the common fisheries policy. That vote is scheduled for 18 December, but there is considerable scope for it to be postponed not least because we have in front of us 83 fairly lengthy and, in some cases, highly technical compromise amendments that have been drafted only in English. I imagine that some members will want to see the amendments in their own language before they are comfortable about agreeing to them. That is one technical issue that may get in the way of our timetable.

I will pause for the moment, but I am only too happy to itemise some serious concerns that I have about the compromise amendments.

Following on from what Struan Stevenson just said about the opportunity for decentralisation or regionalisation—whatever we end up calling it—I favour decentralisation max, so to speak. One of the compromise amendments states that member states “may” be empowered to work with each other on a regional basis. I have tabled amendments that seek to change the wording from “may” to “shall”, so that member states “shall” be empowered to work on a regional basis. There is a significant difference between those two little words. If the ultimate outcome was that member states “may” be empowered, that would leave the onus 100 per cent on the European Commission to decide whether any such proposal would, in fact, empower the member states and we know that there is a certain amount of resistance to that approach. Just that one little word has potentially huge legal and political implications.

We have the opportunity to make a half-decent job of this, but only if MEPs can unite around decentralisation max.

**Struan Stevenson:** I want to add to what Ian Hudghton said about the timetable. If we fail to vote on the compromise amendments on 18 December and push back the vote to January or February, the plenary vote in Strasbourg will probably not take place until April or May 2013, which means that we will have only a limited number of months left to achieve second reading before the end of 2013. The next European Parliament elections will be held in June 2014 and a new Commission will be appointed, so if we slip into 2014, we will have no legal basis for rolling over the European maritime fisheries fund. As of 1 January 2014, we would need emergency measures to roll over the current European fisheries fund, with all the implications therein. The timetabling is critical, and I must tell you that there are some member states that would rather like to

derail the whole timetable because they would prefer no CFP reform—they would prefer the status quo, with all that that would entail.

**The Convener:** I thank the witnesses for covering those points in their introductory remarks; we will come back to regionalisation in a minute or two. Graeme Dey has a supplementary question on the principal objectives.

**Graeme Dey (Angus South) (SNP):** Good morning, gentlemen. My question is for Struan Stevenson. Do you share Ian Hudghton's concerns about the difference between the words "may" and "shall"? Do you support what he is pushing for?

**Struan Stevenson:** That is a crucial point. The words "may" and "shall" appear again and again in amendments and because of their legal implications, we must be careful that we get the right implication, whether that means that we use "may" or "shall". The words appear often in the 2,600 amendments.

**The Convener:** Thank you for that interesting answer.

**Claudia Beamish (South Scotland) (Lab):** Good morning to you both. How will the reforms help to deliver wider sustainable development targets and, in particular, how will they deliver climate change and biodiversity targets? As you will of course know, the marine strategy framework directive aims to bring EU waters into good environmental status by 2020, which will be quite a challenge in some places. Will the reforms help to deliver that aim? If so, in what ways?

**Ian Hudghton:** That depends very much on what the reforms look like. My answer is connected to the general principle about how the CFP is structured and how decisions are made. We know, and even the Commission accepts, that, up to now, the common fisheries policy has failed in its objectives: it has not conserved fish stocks or improved biodiversity in Europe's seas. Conversely, we have evidence that the North Sea initiatives that have been taken by Scotland and others through real-time closures and so on have made a significant contribution to progress towards the elimination of discards, which is what we all want. To return to the emerging compromise amendments, if we are successful in achieving a fisheries management system that eliminates discards, that will make a massive contribution to the improvement of the health of our seas and, indeed, of our fishing communities, which is the other part of the equation that should not be forgotten.

We need to agree on exploitation rates and the specific measurement of maximum sustainable yield. There is a bit of a grey area: are we talking about biomass MSY, which many people around

here want to use as the definition, or are we talking about fishing MSY—the exploitation rate—which I favour as the most realistic definition?

I think that there is still potential and opportunity, and I firmly believe that achieving the maximum amount of decentralised decision making is most likely to bring about the results that all of us—including, from the sound of her question, Claudia Beamish—want to see. With maximum devolved decision making and the return of real decision making to Europe's fishing nations, there will be the greatest incentive to make conservation of our resources work, because those nations would reap the long-term benefit in every way from that. That is an important principle that applies not only to this question but to all the little technicalities that we have to consider.

10:15

**Struan Stevenson:** I endorse what Ian Hudghton has just said. On maximum sustainable yield, the Council agreed at its June meeting that the aim should be to achieve MSY—it just said blank MSY—by 2020. It now appears that the Council meant that we should aim to achieve fishing MSY, rather than biomass MSY, by 2020. On most of the quota stocks, I think that we should aim to achieve fishing MSY by 2015 and, where possible, look to achieve above biomass MSY at least by 2020. That might not be possible for cod, but I think that the clear objectives of the CFP need to be mapped out in the initial reform package so that we send a clear message that those are the objectives that we are trying to achieve.

To achieve the ecosystem approach to fisheries management, I think that we have to incentivise and reward those fishermen who are having the least impact and taking the most sustainable approach to fisheries. Given that the local inshore under-10m fleet embraces about 80 per cent of vessels in EU waters and tens of thousands of fishermen and sustains hundreds, if not thousands, of small fishing communities—including many in Scotland—those people have to be given a fair deal under the CFP reform. I do not think that they have been given a fair deal in the past, because they were ignored in the allocation of quota and in relation to the degradation and overexploitation of fish stocks. The low-impact fishers who fish sustainably need to be recognised in the reform package.

**Claudia Beamish:** Thank you for those helpful answers. Can both of you also focus on my question about climate change targets? Is any specific work being done on that in relation to the reform of the common fisheries policy?

**Struan Stevenson:** Work is being done on that in other committees such as our Temporary Committee on Climate Change and our environment committee, which are doing detailed work on climate change. In the Committee on Fisheries, we are looking at the restoration of healthy seas through the ecosystem approach, where we are engaged in some interesting work. For instance, in Scotland we are talking about having lots of offshore wind farms as a future renewable energy source—which, incidentally, I do not necessarily agree with—and there should be a lot more integration between the aquaculture sector and the offshore renewables sector. A lot of interesting work is being done on the potential for development of rich aquaculture sources among offshore wind arrays, but I do not see any signs of the Scottish Government encouraging good integration there. Frankly, I think that it is missing a trick.

**Ian Hudghton:** There has been work on certain measures relating directly to climate change, such as minimising fishing vessels' fuel consumption and improving fuel efficiency. Many of our vessels and their engines are elderly and not particularly efficient. We should also look at management arrangements, including the potential effect of some of the amendments that we have in front of us. For example, mandatory closed areas might force vessels to steam considerably further to an area where they are allowed to fish. Fisheries management issues could be looked at closely from a climate change point of view as well as from an economic and practical point of view.

**The Convener:** We can be sure that the Marine Scotland management plans for our offshore areas will develop in a way that allows for more integration in the areas that Struan Stevenson has just mentioned.

Returning to the issue of fishing, do you agree with the Scottish Government's position that 2020 would be a better date for implementing MSY for some stocks? What position do you think that the European Parliament is likely to take on the issue?

**Struan Stevenson:** I have just touched on this. First of all, we need to be clear about the considerable difference between fishing MSY—exploitation rates—and biomass MSY.

I think that what you suggest is achievable. In that respect, I cite the very clear and recent example of the Barents Sea cod stocks. That fishery, which is Norway's main source of cod, is clean, not mixed. Ten years ago, however, the biomass was estimated to have fallen to 250,000 tonnes at a time when the International Council for the Exploration of the Sea claimed that 500,000 tonnes was the safe biomass level; the biomass has now risen to 2 million tonnes because above-MSY levels were achieved in the exploitation of

cod in the Barents Sea. As a result, ICES has increased this year's total allowable catch to 500,000 tonnes and fishermen are making a considerable killing from selling cod.

However, although such aims are achievable, I am worried that, if we set hard-and-fast rules for above-MSY levels on all quota stocks in a mixed fishery such as that found in the North Sea, cod will end up as a choke species. We might well achieve MSY for all the other species by 2020 but I cannot see it happening with cod. As a result, because people might be catching the occasional cod, we will have to apply very severe restrictions on the fishing of haddock, whiting and plaice. We do not want to get into such a situation and we need to find some way of finessing the wording in the reform package to avoid cod becoming a choke species.

**Ian Hudghton:** Going back to Struan Stevenson's earlier response, I want to stress the magic words "where possible". We need to set targets that we mean to achieve, but we have to accept that the phrase "where possible" must be included in any wording. As far as I am concerned, we should be talking about FMSY, because biomass can be and is affected by a whole host of circumstances other than fishing. Given that all that a fisheries management regime can do is control fishing, I believe that FMSY is the most necessary and practical measure for targets in a reformed CFP. After all, this legislation can control only fishing activities.

**The Convener:** Before we move back to regionalisation, Angus MacDonald will ask about the closure of fishing areas.

**Angus MacDonald (Falkirk East) (SNP):** Good morning. As we know, Ulrike Rodust has proposed an additional measure that was not included in the Commission's proposal. Although a number of the amendments are deeply concerning, I am most concerned by amendment 15, which seeks to require member states to close 10 to 20 per cent of their territorial waters to all fishing activities for at least five years.

The amendment seems quite ambiguous. It could mean closing down waters out to the 200-mile limit. The closure of coastal waters without any regard to evidence would have a devastating effect on Scottish coastal communities and small boat crews in particular.

I am curious to know your views on the proposal. Do you think that it is likely to be included in the European Parliament's final opinion? Do you agree that, for the sake of our coastal communities, it is imperative that the amendment is rejected?

**Struan Stevenson:** Yes. This is a terrifying proposal. It seems that it came from an Italian



socialist—Guido Milana, who is a vice-chairman of the Committee on Fisheries—and a Greek socialist, Kriton Arsenis. The two of them persuaded Ulrike Rodust, who is also in their political family, to put forward the amendment, and they have been lobbying hard on it. Among most of the committee members whom I have met, their pleas have fallen on deaf ears. There is a general horror at the concept.

The proponents of the amendment argue that, as the marine protected areas that already exist in many members states' waters would be taken into account, most member states would find that they have already achieved the closure of about 10 per cent of their waters, but it is a completely ludicrous and arbitrary figure. In any case, I think that MPAs should always involve a bottom-up approach rather than a top-down approach. We should not apply a 10 per cent figure and say, "Close all these waters." If we are looking at MPAs, we should consult the fishermen and the stakeholders and get the best possible consensus before we decide to close any waters. I think that the amendment will be heavily opposed and voted out in committee.

**Ian Hudghton:** I am glad to hear that Struan Stevenson and I are on the same page on that. I certainly agree with all that he said.

That said, we are still in the position in which there is a compromise amendment that proposes that between 10 and 20 per cent of territorial waters "shall" be closed. The process between the political groups has not resulted in that being chucked out of the list of compromises. We have a job to do to ensure that it is indeed thrown out. If the only option is to vote against a compromise, I most certainly hope that the political groups will rally round to ensure that that happens.

What is proposed is a ludicrous idea from the point of view of regionalisation. Everyone is talking about the desirability of decentralisation and regionalisation, and yet the compromise—not the original amendment—states that member states "shall" close between 10 and 20 per cent of their waters. I got as far as reading the word "shall" before realising that the proposal should be utterly opposed from the point of view of decentralisation; that is before we even get to the pros and cons of having closed areas from time to time.

No one is saying that we will never need to have closed areas—I am certainly not saying that. Scotland has been pioneering real-time closures, which is the proper way to deal with such matters. Fishing nations should be able to decide for themselves when an area needs to be closed, for how long, and when it can be reopened. The compromise amendment includes text from the original amendment that says that the closed areas may not be revisited for five years and that,

if there is a proposal to reopen a part of a closed area, an equivalent part must be closed instead. That is completely ridiculous from the point of view of regionalisation—it is a step in completely the opposite direction.

I am more than a little concerned that, after eight weeks or so of negotiations between the political groups, the proposal is still on the table and is billed as a compromise, with the groups being invited to agree to it. I hope that the groups will throw it out next Monday or make it clear that it will be thrown out when we get to the vote in committee.

10:30

**The Convener:** Alex Fergusson would like to start the questions on regionalisation.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Good morning, gentlemen. It is nice to have you back giving evidence to this committee.

Unlike the proposal to have closed areas, the regionalisation proposals were part of the European Commission's original proposals, and they have been broadly supported as the process has continued, particularly by the rapporteur and in a report that the European Parliament agreed last September. I understand that it also broadly accepted the principle of regionalisation.

The picture that you have given us so far suggests that we are looking at a considerable degree of compromise, particularly given the time pressures to which Struan Stevenson alluded. None of it suggests to me that we will get the fairly radical outcome that we all hoped would be produced when we originally spoke about the matter a year ago.

Struan Stevenson has already prophesied what the outcome might be on the Committee on Fisheries as far as closed areas are concerned. Will you prophesy again and say where you think the committee will come to on regionalisation and whether it is likely to deliver a radical solution, or whether we are likely to get wrapped up in so much compromise that the result will be almost meaningless?

**Struan Stevenson:** The antagonism towards regionalisation from some member states in the Council of Ministers and some commissioners in the college of commissioners results from their having the concept that, if one starts to give back to member states sovereignty and powers over common policies such as the common fisheries policy that have been taken to the centre, the next thing that they will ask for is power over the common agricultural policy.

As members know, the proposed European maritime and fisheries fund budget amounts to €900 million per year for seven years. If we compare that with the €52 billion per year for the CAP, we will begin to see the imbalance between the two and why some commissioners and member states are petrified that member states would suddenly demand meaningful regionalisation and to try to claw back all power over farming. France immediately jumps to mind as one of the key member states that has that core concern. There is a lot of opposition.

Britain is fighting very hard. Richard Benyon and Richard Lochhead are fighting together in the Council, but they sometimes have very few allies. Because there is mounting pressure, proposals are now afoot to derail the timetable. Ian Hudghton mentioned at the beginning some shadow rapporteurs demanding that the 2,500 amendments to the basic regulation be translated into all the 23 working languages. That would delay the whole process by another two months at least. I think that that is part of a deliberate ploy to slow down the whole process and knock it off timetable so that the status quo can be maintained.

If we end up with a new Commission and a new Parliament and we have not implemented a reformed CFP by 2014, we will basically be back to square one. We have a once-in-a-generation chance. We get the chance to have meaningful reform once in every 10 years. I do not think that Scotland's fishing communities would forgive us if we failed to deliver.

**Ian Hudghton:** I would like to think that we still have a chance of delivering something that is significantly improved, but compromise is inevitable. The nature of the decision-making process underlines the fundamental flaw of the common fisheries policy—that it is very difficult to get a compromise among the widely differing interests of nations that have direct sea-fishing interests, let alone allowing for the input of landlocked states that do not have any such interests and whose votes are, in effect, up for auction in the European Parliament through co-decision, as well as in the Council.

Thanks substantially to Richard Lochhead and Scotland's experience, the Council has made some progress in its general approach, which offers the possibility of a mechanism by which member states could work together voluntarily on a regional basis. That is a substantial and worthwhile step forward. However, although everyone in the European Parliament still claims to be in favour of decentralisation, we have a huge range of opinions, for all kinds of complicated reasons, on which parts should be decentralised, at what point and how far. There are also some

fundamental misunderstandings of where we seek to go on the CFP.

I want to ensure that, as I said earlier, member states should and “shall” be empowered to work together in logical sea basins because such bodies are most likely to make a decent job of the conservation of the resource. That is what we should try to do. I hope that we will all try to bring about change towards a system that might work rather than artificially protect a system just because some people do not want to upset the centralised, treaty-based way of doing things in the European Parliament.

Over the years, the CFP has evolved. Originally, it was in the CAP. When it was started, the reason for having a CFP was to regulate the food market and provide for the use of the resource. Somehow, it has been allowed to evolve into something that manages the harvesting rights, which is not what the CAP does. We should return to a position in which the fishing nations manage the harvesting of the sea fish resource. A CFP could still contribute valuably to market issues, for example, and broad overriding objectives. However, looking again at some of the compromises that are in front of us, I fear that we will not get as far in the reform as I would like.

**Alex Fergusson:** I think that you, Ian, mentioned in your introductory remarks that some people are talking about beefing up RACs—regional advisory committees—as part of the discussion. When we spoke a year ago, you two had slightly differing views about the efficacy of RACs. Are you now more in agreement about their usefulness or otherwise? Are you in broad agreement about the way forward on regionalisation?

**Struan Stevenson:** It was me who said that Ulrike Rodust is talking about beefing up RACs, but she seems to consider that to be an alternative to regionalisation. I do not consider it to be an alternative; I consider it to be an adjunct. It is important to beef up RACs. They have been useful and have given valuable advice. Indeed, we are talking about the introduction of new, additional RACs. For instance, there will be a RAC for aquaculture.

I think that, when I gave evidence to the committee last year, I said that we should jump at the opportunity to say that the RAC for aquaculture should have a headquarters and staff—which the Commission envisages—and should be based in Scotland. We are one of the leading fish farming nations in Europe and we should seize control of that RAC, not allow it to end up in Greece or Spain, which would have power over the dictation of future rules and the control of the fish farming sector.

**Ian Hudghton:** I do not think that we are far apart on the general point about advisory councils, as they will be known if the new proposals are adopted—the word “regional” is to be dropped and the RACs are to be renamed advisory councils.

The RACs that apply to, for example, the North Sea have proved their worth. It must be said that, when they were first set up 10 years ago as part of the previous alleged reform of the CFP, they were a bit of a sop to offset the failure to go for meaningful regionalised or zonal management, which was what Scotland argued for at the time. Nevertheless, the advisory councils have proved their worth and, as long as they are focused on sensible sea areas, there is a logic behind them.

I am not as enthusiastic as Struan Stevenson is about the extension of advisory councils to aquaculture. One or two mentions in the proposed reform—and in some of our compromises—creep towards extending the coverage of the common fisheries policy into aquaculture and inland waterways, both of which I would strongly resist from a management point of view. Of course there may be areas where the European Union can assist member states to develop their aquaculture, but it should certainly not creep into managing and taking decisions about the development of aquaculture.

As far as the advisory council headquarters are concerned, the RACs are not like the European Environment Agency, which has a building with a hundred staff. The North Sea RAC has been headquartered administratively in Aberdeen since it was set up and it is fine if we can service other advisory councils on that basis, but the RACs do not have a massive headquarters. The RACs have a couple of people who provide the secretariat, whereas the office bearers might be based all around Europe. That is not such a big thing, and it is certainly not worth allowing the creep of CFP control over aquaculture while going for it.

**Claudia Beamish:** I want to ask about the detail of the complex issue of regionalisation, of which I am a strong supporter. Do the multi-annual plans feature at all in your discussions? If we go towards regionalisation, will those plans be able to set clear deadlines? That might give some confidence to the coalitions of the willing among member states over the mixed fisheries, which we are all having to work out.

**Struan Stevenson:** You have hit on one of the most controversial aspects of the whole reform package. For the past three years, the Council has blocked multi-annual plans on fisheries agreements. First, Pat the Cope Gallagher from Ireland proposed a multi-annual plan on Atlantic horse mackerel, which was blocked. My multi-annual plan on west of Scotland herring was also blocked at first reading by the Council.

The basis for the logjam is the Council's interpretation of the European Parliament's role in the codecision process under the Lisbon treaty. Basically, the Council does not believe that the Parliament should have any role in multi-annual plans and that they are entirely a matter for the Council. The Commission's legal services and the Parliament's legal services are united in their interpretation that we should have a role and that the treaty is quite clear in giving us the legal basis. Now even the legal services of the Council have agreed with us, but I think that the ministers are largely being led by the nose by the officials in the working groups, who are digging in their heels and saying that Parliament should not be given this role.

Ian Hudghton attended a co-ordinators meeting on this yesterday, so perhaps he could bring the committee up to date.

**Ian Hudghton:** I think that it is just ridiculous that we are having interinstitutional spats about this kind of thing, but the issue arises from the Lisbon treaty, which simply states:

“The Union shall have exclusive competence in ... the conservation of marine biological resources under the common fisheries policy”.

If you ask a number of lawyers, you will get different interpretations about exactly which parts of the process are covered by that. That is why we have this problem, which is based on the Commission's reluctance to give up much of its power. There is a bit of that on the part of the Council, too.

10:45

We are trying to work through that logjam and, frankly, I hope that we can do so without the European Parliament demanding too much of a role under the co-decision process on the detail of multi-annual planning. It is fine that we have input into the overarching concepts and objectives—for as long as we are stuck with this particular treaty obligation, at any rate—but we should certainly not be getting involved in the technical measures and details that go with planning. If we do, every time that a technical measure needs to be adjusted because it is no longer working, we will have to go through another full co-decision process. I just hope that we are not sticking on that point.

We need to get back to some sense here and use the co-decision process to look at overarching objectives. After that, regionalisation will come in. Just to highlight a good example, I think that we must let the fishing nations around the North Sea get on with deciding how exactly to meet a multi-annual plan's objectives. Of course, multi-annual planning is still relatively new under the CFP but it seems obvious to most people that it is a good

idea that means that we do not have to stagger from year to year without knowing what next year's fishing opportunities are going to be.

**Struan Stevenson:** Multi-annual plans are absolutely essential for the success of CFP reform. We can neither allow this logjam to go on nor allow the whole thing to end up in the European courts as it will all play into the agenda of derailing the timetable. I heard that at yesterday's co-ordinators meeting the European People's Party co-ordinator, who just happens to be Spanish, suggested a boycott on all work on the basic regulation for CFP reform as a protest against the Council's logjam on multi-annual plans. Once again, that plays into the timetable-derailing agenda; the issue is being used as a vehicle for that purpose. We should not be duped into allowing this issue to be used for such purposes.

**The Convener:** We are doing well with time. The next subject for discussion is banning of discards.

**Richard Lyle (Central Scotland) (SNP):** As the convener said we turn to the controversial issue of discards. A key feature of the European Commission's proposal is progressively to ban discarding of fish in different fisheries between 2014 and 2016—or even, as has been suggested, 2018. As I am sure you know, Scotland's catch quota scheme, which bans discards for participating vessels, has been trialled for the past three years. What view will the European Parliament take on the suggested timetable for introducing a discards ban?

**Ian Hudghton:** Again, we are a little bit away from having clarity on how the majority will go on that. There are a number of options, from sticking with the Commission's original draft—which I think is the least likely outcome—to the suggestion that in 2015 a ban be introduced where possible. In any case, we must be clear about what we are talking about, and about the need to introduce practicality. It would be very easy to vote to bring in a ban by a particular date and say, "That's it", but anyone who understands these matters knows that achievement of the end result will be a little bit more complicated than that. The process has to be managed in an orderly way and, in particular, on a fishery-by-fishery basis. After all, it is much easier to deal with a stock that is not in a mixed fishery than it is to deal with anything else, and we must allow for the circumstances that apply in each fishery.

Of course, that brings us back to regionalisation. Instead of trying to specify every single species from a fishery and saying that something must be done in a particular way by a particular date, we should, broadly speaking, be saying that we must eliminate discards by 2015, by 2020 or whenever.

Although I think that everyone will be able to sign up to that principle, I hope that we can do this without exacerbating the fishing mortality problem. Without adjustments such as quota uplift in some areas to allow for landing and use of fish that will not be discarded, we could simply end up with fish being discarded onshore rather than at sea. It is one thing to say that we must land everything, but what will happen to it?

The other part of the equation is that massive additional effort must be put into incentivising use of selective gear, because catch avoidance must play a big part in the build-up to elimination of discards. Again, we have a good story to tell about that in Scotland. We have achieved a substantial reduction in discards through a combination of use of selective gear, real-time closures and so on. In return, we are allowed a bit of extra time at sea. We hope to build into the new framework the possibility of quota uplift and sensible rules on catch composition for mixed catches and so on.

I remember speeches that I made in the run-up to the 2002 CFP reform in which I raged against discards—it is not a new controversy—from the point of view that, in many cases, it is the rules of the CFP that cause the discarding. Until we have a combination of sensible rules and achievable targets for elimination of discards, we will not achieve what we all want.

**Struan Stevenson:** I agree with most of that. On timetabling, in a clean fishery—the pelagic fishery for mackerel, say—we could introduce a ban pretty much overnight. It was ludicrous of the Commission to recommend year-by-year and stock-by-stock bans in a mixed fishery such as we have in the North Sea. That was like saying to a fisherman that he was banned from discarding cod this year but could go on discarding haddock until next year. That is just not sensible at all.

As Ian Hudghton said, we must first aim for bycatch avoidance and ensure that there is adequate funding in the EMFF to help with technical measures to aid bycatch avoidance. We must also have sensible derogations. With the very limited days at sea and effort controls that we have now, if a vessel that is fishing off Rockall hauls in 20 tonnes of boarfish, is the skipper supposed to sail all the way back to Fraserburgh or Peterhead to land those 20 tonnes of boarfish under a discard ban? By the time he got back he would have used up all his days at sea and the fish would be a stinking mess fit only for landfill—not even fit for fishmeal or fish oil. There is no incentive for skippers to do that.

We need fully documented fisheries in which skippers must, if they are dumping fish like that, log it. Skippers should be given a derogation to go on dumping the fish, but it should be fully documented in the e-log, there should be closed-

circuit television cameras on board all our over-12m vessels and we should aim for bycatch avoidance. If we introduce proper management systems that try to avoid bycatch, we will have a more sensible approach.

**Margaret McDougall (West Scotland) (Lab):** Good morning, gentlemen. What will happen if a discard ban is introduced for shared stocks and the EU partners such as Norway continue to refuse to allow an increase in quota, as they did in the case of North Sea cod last year?

**Ian Hudghton:** Each year, before the EU council in December can finalise its decisions about fishing opportunities that will be allocated to EU member states, there must be an agreement between the EU and Norway. To be frank, that means that Norway has to date had more influence than Scotland on European fisheries management. Norway, of course, has a negotiating hand for its entire area of sea. We have some mutual interests and we have had the opportunity over the years to agree with Norway on exchanges, access to waters and so on.

Obviously, the outcome of the talks is crucial to Scotland and EU member states. If we have difficulties with particular stocks, we would not want Scotland to be artificially penalised. One thing that we need to guarantee is the principle of relative stability in any European fisheries policy, so that whatever fishing opportunities are available, the guaranteed share that comes to the UK, then Scotland, remains. That is one controversial area that we have not had raised too much this time around, but there are still people who would wish to upset that particular situation.

**Struan Stevenson:** I have just had a long email from a skipper, complaining about the unfair swaps that are done with Norway every year that leave our Scottish offshore vessels at a disadvantage. I just got the two-page email this morning, sent straight from his boat, complaining bitterly about the current situation.

We need to revisit our annual negotiations with Norway and ensure that we have a level playing field. I do not think that the situation is working to our benefit right now.

**Margaret McDougall:** Is there a timetable for the discussions with Norway? Do they just happen as and when?

**Struan Stevenson:** There is an annual negotiation with Norway on shared stocks. However, it is not part of the CFP reform; it is an on-going issue with all coastal states that surround the EU.

**Margaret McDougall:** When are the talks with Norway due? You said that they take place annually.

**Struan Stevenson:** I think that the talks are under way right now.

**Ian Hudghton:** I think that they will be under way now. I think they start about October each year, and are almost always finished in time for the fisheries council in December. Sometimes they are finished only just in time for it, depending on the areas of controversy.

Looking at the situation from Scotland's point of view, what we have at the end of the day is the whole might—allegedly—of the European Commission negotiating on behalf of the EU with Norway, but with Norway having the upper hand because it can say "If you don't like it, get out of our waters." Despite the alleged strength of being part of the CFP, we cannot get ideal arrangements, from Scotland's point of view, out of those talks. Neither you nor I, the European Commission or anyone else can tell Norway exactly what it must do within its territorial waters, because it is not part of the CFP.

**Struan Stevenson:** The blue whiting talks are currently under way. The skipper who sent me the email made some points about that in his email. He referred to whiting—although not to blue whiting—in relation to cod and low tonnage. However, he also made a point about blue whiting.

We seem to have got the negotiations wrong, but we have an opportunity when the blue whiting talks reopen with Norway to try to redress the balance. We talked about discards in this context, and the Norwegians have always claimed to have zero discards. However, when talking to Norwegian fishermen, they say that the reason why they will not accept CCTV on board their vessels is that they still have about 16 per cent discards. That has encouraged some people during the CFP negotiations to say that we should build into the CFP reform a percentage of allowable discards.

In one of the compromise amendments, Ulrike Rodust has suggested 5 per cent. It seems to be a bit incredible that we should say to fishermen, "We're banning all discards but you can chuck one or two fish over the side. All the rest you have to land." Either we have zero discards with proper derogations, for instance for fish of high survivability such as nephrops, or we tell fishermen that they can continue to discard. I do not think that we can be half pregnant in this case.

11:00

**Jim Hume (South Scotland) (LD):** Good morning, gentlemen. One of the controversial proposals is on tradeable fishing concessions. Some people see them as an opportunity and some as a threat. I am interested in whether you think that they are a good or a bad thing. What

view do you believe that the European Parliament will come to on them? I believe that Ulrike Rodust has taken a different view from that of the Commission. What are the implications for Scotland of TFCs?

**Ian Hudghton:** TFCs would be disastrous, undesirable and any number of possible adjectives. I am totally opposed to TFCs being mandated on us from here. Where does decentralisation come in when we have a statement that member states “shall” allocate fishing concessions, tradeable or otherwise?

The reason for the transferable fishing concessions proposal in the first place, as stated by the then commissioner, was to allow the market to deal with overcapacity issues, which meant that the term “transferable” was the important part of the proposal. Market forces would result in buyouts and so on and would deal with overcapacity issues.

There is insufficient support for TFCs in the Council. Ulrike Rodust’s proposal loses the T from TFCs, but still attempts to put together a compromise, which says that member states “shall” set up a system of fishing concessions. I am against that, on the ground that it is not decentralisation but standardisation from the centre.

Part of the evidence that the Commission gave for its original proposal was, to an extent, modelled on what has been happening in Denmark, which has adopted a system of TFCs. If, under the present arrangements, member states can set up their own systems of allocation of fishing concessions, rights or licences in the way that they want, why not just leave it like that? That is decentralisation.

I have taken issue with our rapporteur and others here, because I do not think that it is necessary to have a compromise that keeps alive the concept of mandatory concessions systems when transferability is effectively dead in the water. We should just leave it so that, as part of decentralisation, fishing nations can set up or continue their own arrangements for the allocation of whatever fishing opportunities they receive in a year. There is no need to have a mandatory system.

There has been a bit of talk here about whether it would be better if we changed the lifespan of a concession so that it was anything from one to 12 years. However, TFCs are still a centrally dictated system and can only be for the purpose of ultimately building back up to full-blown transferability. As far as I am concerned, TFCs are unnecessary, particularly given the amendments that are on the table. I lodged an amendment seeking to delete the whole paragraph on TFCs

from the Commission’s proposal, and a number of MEPs from other member states have done likewise.

Procedurally speaking, I will be asking colleagues to support the process by which the amendments to delete should take precedence over a compromise, because if we delete the proposal we will not need to compromise. We certainly should not say that, because the Commission has made a proposal, we have to concoct some kind of compromise that would maintain the mandatory nature of the system being dictated from here.

**Struan Stevenson:** I agree entirely. The word that is missing from the compromise amendment is “voluntary”. Fisheries concessions on a voluntary basis under regionalisation should be left up to member states—that is necessary for fishermen. There is a wider implication for the EMFF debate. We are now seeing the blockage of multi-annual plans and antagonism towards fisheries concessions, so I am a bit worried by what Ian Hudghton said about deleting the proposal altogether. Fishermen could end up having neither fisheries concessions nor multi-annual plans, which would mean that they would have no bit of paper to show the bank manager and say, “Here is what gives you confidence to lend me money to modernise my vessel or buy a new vessel, so that I can continue fishing.”

In the absence of those bits of paper that give at least a 10-year fishery concession on a voluntary basis under the terms of the member state, or of a multi-annual plan, there will be demands from some member states—which are already evident—for the reintroduction of subsidised building of new vessels. The EMFF could end up being used for building new fishing vessels or modernising old ones.

The French rapporteur of the EMFF, Alain Cadec, is strongly advocating the reintroduction of subsidised building of new fishing vessels. That would be catastrophic, because most of the EMFF, which is pretty limited in funding, anyway, would disappear into rebuilding the French and Spanish fleet, while we in Britain would be as reluctant as ever to co-finance any access to that. We would then have no money left for better science and technical measures to help bycatch avoidance, given the discards ban and all the other things. For that reason, fisheries concessions on a voluntary basis, left up to member states, are a practical way forward. The current system of annual swaps is working perfectly well and should continue.

**Jim Hume:** You have both made my views on tradeable fishing concessions very clear. Will you look into your crystal ball again and tell us what

you think the European Parliament's view on tradeable fishing concessions will be?

**Struan Stevenson:** The Spanish and French would love to have international tradeable concessions such as TFCs, or even the old ITQs—individual transferable quotas. Two years ago, I spoke to the head of Pescanova in Vigo in Spain, who told me that of course his company would buy up all the quota in Scotland and all the licences that go with it. I said, "But then, once you've taken over our fleet, you will land all your catches from the North Sea back in Vigo." He said, "Well, it's a free market. Aren't you a Conservative? Don't you believe in that?" That is exactly the problem that we have and why we must make sure that we do not end up with ITQs or TFCs.

Looking into the crystal ball, I think that we have a big fight on our hands. We need to gather allies around us. We need to look to our close friends in Ireland, and we need to get a lot more allies so that we have a majority in the council.

**Ian Hudghton:** I agree with that last point. The method of getting there is not to establish anything centrally that says, "There shall be a system of fishing concessions." I leave aside tradeability—I do not know whether that will get through Parliament, to be frank. It has not got through the process of devising compromises, as the concept of transferability has been deleted in the compromise. Establishing centrally a requirement that there shall be a system of fishing concessions would be unnecessary. If it was agreed, it would provide only a foundation to build on in future years.

Under the present CFP, member states can set up systems in virtually any way that they want, as Denmark has done. The problem can be resolved through a couple of amendments that I have tabled to the Rodust report. In place of referring to

"Establishment of systems of **transferable** fishing **concessions**",

the wording would refer to

"Establishment of **Member State** systems **for the allocation** of fishing **opportunities**".

That amendment does not say what the systems should be or that the systems must all be the same; it just says, "Get on with it." A subsequent amendment of mine would require member states only to let the Commission know what their systems are. That is all that we need.

**Graeme Dey:** I have a question for Struan Stevenson, to be absolutely clear. We talked about the difference between "may" and "shall". Compromise amendment 5 says:

"Member States shall grant fishing concessions for a period of at least 1 year and not more than"

seven to 12 years. Is it your position that you cannot support that amendment, but you would support it if it said, "may grant fishing concessions"?

**Struan Stevenson:** I would even add the word "voluntary" to say, "may grant voluntary fishing concessions", to take a belt-and-braces approach and to be absolutely clear. There is no way that I want a mandatory system—I agree entirely with Ian Hudghton on that.

**Jim Hume:** You have both made your views clear on tradeable fishing concessions and I share your views and concerns. Do you agree with those who say that the European fleet is over capacity? If it is, how can that be addressed?

**Struan Stevenson:** The question is pertinent in the wake of what we have just discussed, because the reason why Damanaki introduced the concept of TFCs in the Commission's proposal was to deal with fleet overcapacity. That is the wrong approach to dealing with fleet overcapacity.

We do not even have a clear idea of how fleet overcapacity shapes out. We have always argued that we have reached the exact capacity that is required for exploiting fish stocks in British water. We argue that some fleets are still vastly over capacity. The Spanish say that they have achieved the exact capacity that is necessary, too, and that they have decommissioned and scrapped hundreds of vessels. The French say the same thing.

We have no clarity. The argument is crazy. All vessels bar one could be scrapped and we could have a vessel that was the size of the old Atlantic Dawn, which could Hoover up all the fish in the North Sea.

Where is overcapacity measured? We need to allocate funds in the EMFF to a definitive investigation and audit of fleet capacity in all the member states. That should look at engine sizes, hold sizes and fishing gear. We must have a definitive view on fleet capacity before we try—recklessly—to introduce measures such as TFCs as a ham-fisted way of dealing with so-called overcapacity.

**Ian Hudghton:** For a start, I do not think that we have a European fleet. I encourage colleagues not to think along the lines of the statement that we often hear around here, which is that the European fleet has too many boats that are chasing too many fish.

**Struan Stevenson:** Too few fish.

**Ian Hudghton:** Yes—I meant too few fish. That is the theme, which may or may not be the case.

We have dealt with capacity issues to a large extent in Scotland, but let us look at the rest of the

package. If we have a new management system that eliminates discards and requires that all catches be landed, what will capacity have to do with it? If the rules—whoever sets them—say that Scotland can catch only X in a year, why should it not be for Scotland to decide whether 10 or 20 boat-owning families can benefit from that, as long as they do not catch more than we are allowed to catch?

11:15

To an extent, the argument has run away from the reality, or not kept pace with some of the other developments that we hope will happen on managing catching, eliminating overfishing and reducing unnecessary fishing mortality. I have problems with compromises that seem to imply or accept that overcapacity exists. If we get everything else right, if we have a system that limits the total that the Scots or British can catch or land in a year and if that limit is rigidly adhered to, it should be for us to determine how many vessels are allowed to have catching opportunities within that limit. Of course, economic sustainability would come into that.

Take the pelagic sector as a case in point. The fishery could be operated with fewer vessels that are higher capacity and that fish for only a few weeks each, but many more families and communities benefit from the current situation, and the boats do not catch more than they are entitled to. That is what really matters.

**The Convener:** Can you take a couple of short points?

**Struan Stevenson:** Convener, voting in the plenary session in the European Parliament is about to start in three minutes' time—at 20 past 12, Strasbourg time—so we will have to run, or the whips will be in here chasing us.

**The Convener:** That would be interesting to see. Thank you very much for your evidence. It was excellent and we have covered a lot of ground. You had better get your running shoes on now.

**Struan Stevenson:** Thank you very much indeed.

**The Convener:** We have come to the close of the meeting. We will next meet on 28 November to take evidence on the Aquaculture and Fisheries (Scotland) Bill from the bill team.

*Meeting closed at 11:18.*



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