

# **ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE**

Wednesday 14 January 2004  
*(Morning)*

Session 2

£5.00

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## ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

### 2<sup>nd</sup> Meeting 2004, Session 2

#### CONVENER

\*Sarah Boyack (Edinburgh Central) (Lab)

#### DEPUTY CONVENER

\*Eleanor Scott (Highlands and Islands) (Green)

#### COMMITTEE MEMBERS

\*Roseanna Cunningham (Perth) (SNP)  
\*Rob Gibson (Highlands and Islands) (SNP)  
Karen Gillon (Clydesdale) (Lab)  
\*Alex Johnstone (North East Scotland) (Con)  
\*Maureen Macmillan (Highlands and Islands) (Lab)  
\*Mr Alasdair Morrison (Western Isles) (Lab)  
\*Nora Radcliffe (Gordon) (LD)

#### COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)  
Janis Hughes (Glasgow Rutherglen) (Lab)  
Jim Mather (Highlands and Islands) (SNP)  
Jeremy Purvis (Tweeddale, Etrick and Lauderdale) (LD)  
Mr Mark Ruskell (Mid Scotland and Fife) (Green)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Mr Ted Brocklebank (Mid Scotland and Fife) (Con)  
Richard Lochhead (North East Scotland) (SNP)

#### THE FOLLOWING GAVE EVIDENCE:

Ross Finnie (Minister for Environment and Rural Development)  
Ken Pugh (Scottish Environment Protection Agency)  
Richard Robertson (Scottish Executive Environment and Rural Affairs Department)  
Charles Stewart Roper (Scottish Executive Environment and Rural Affairs Department)  
Allan Wilson (Deputy Minister for Environment and Rural Development)

#### CLERK TO THE COMMITTEE

Tracey Hawe

#### SENIOR ASSISTANT CLERK

Mark Brough

#### ASSISTANT CLERK

Catherine Johnstone  
Roz Wheeler

#### LOCATION

Committee Room 1



## Scottish Parliament

### Environment and Rural Development Committee

Wednesday 14 January 2004

(Morning)

[THE CONVENER opened the meeting at 11:01]

## Subordinate Legislation

### End-of-Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003 (SSI 2003/593)

**The Convener (Sarah Boyack):** I welcome committee members, witnesses, the press and members of the public to the meeting. I remind everyone to turn off their mobile phones, as I have just done.

We have one instrument to be considered under the negative procedure, the End-of-Life Vehicles (Storage and Treatment) (Scotland) Regulations 2003 (SSI 2003/593). The Subordinate Legislation Committee has considered the regulations and has identified a drafting error, which the Executive has undertaken to correct by an amending instrument. Members will have seen the extract that has been circulated from the Subordinate Legislation Committee's 17<sup>th</sup> report. Do members have any questions? I spoke to you about the regulations yesterday, Maureen. You asked me about implementation in rural areas, but I was not able to answer your question.

**Maureen Macmillan (Highlands and Islands) (Lab):** I am not sure how the various bits and pieces are going to be extracted from cars, given that the current practice in some parts of the Highlands and Islands is for a crusher to go round crushing all the cars. That has seemed a good solution to the problem of the dead cars that litter the islands in particular. What are we going to do now, however? Will it be worth taking the vehicles back to wherever to have their bits extracted? Surely a balance must be struck.

**Rob Gibson (Highlands and Islands) (SNP):** I agree with what Maureen Macmillan has said. I have looked into the current approach to licensing and there is a question about whether people can be licensed in the islands to deal with the problem. Is there enough work for people to bother to obtain licences? I would like that to be clarified. It is essential to those island areas that we do not go backwards with the legislation.

**Maureen Macmillan:** There have been issues in the past about people abandoning cars on their own land. Nothing could be done about that, because the car belonged to the owner or the crofting tenant, who was not terribly willing to do anything about it.

**The Convener:** There are issues about ownership and responsibility and the tracing of information through the Driver and Vehicle Licensing Agency.

**Mr Alasdair Morrison (Western Isles) (Lab):** The clerks might wish to speak to Western Isles Council, which has invested in an excellent mobile crushing machine.

**Maureen Macmillan:** How do people get the bits out of the car once it has been crushed?

**Mr Morrison:** They do not, basically.

**Eleanor Scott (Highlands and Islands) (Green):** I wish to comment on the extract from the *Official Journal of the European Communities* that is appended to the instrument. How can we legislate for producers to take stuff back? How do we legislate for Toyota, for example, to take bits back to Japan? Article 5 of directive 2000/53/EC, which is cited on page L 269/37 of the *Official Journal* of 21 October 2000, states:

"Member States shall take the necessary measures to ensure that producers meet all, or a significant part of, the costs of the implementation of this measure and/or take back end-of-life vehicles under the same conditions as referred to in the first subparagraph."

That would be fine if cars were being built in Scotland, but it is harder to achieve with cars that are built on the other side of the world.

The document also refers to member states increasing consumer awareness and says:

"Member states shall take the necessary measures to ensure that the following targets are attained by economic operators".

There are various targets on the percentage of reuse and recycling to be attained

"no later than 1 January 2006, for all end-of-life vehicles".

The targets are stringent and I am interested to know how we will meet them.

My final point—to show what a sad person I am—is that there is a typo on page 7.

**The Convener:** Page 7 of which part?

**Eleanor Scott:** The main body of the document.

**Nora Radcliffe (Gordon) (LD):** The document says "of" instead of "or".

**Eleanor Scott:** Yes. There are two sad people.

**The Convener:** Will you direct me to the exact paragraph?

**Eleanor Scott:** It is paragraph 3(c) of part 2 of the schedule to the regulations. We think that it should say "the removal or neutralisation".

**The Convener:** Excellent. I am grateful to both members for doing their job of scrutiny properly.

**Alex Johnstone (North East Scotland) (Con):** Why did the Subordinate Legislation Committee not come up with that?

**Eleanor Scott:** Quite.

**The Convener:** Even though our job is only to scrutinise the policy, you found a typo. Very good.

We seek clarification of how the instrument will be implemented. I do not hear anyone saying that they are unhappy with the policy; everyone agrees that it is the right thing to do. However, it is obvious that there are some concerns about its implementation. We must report to the Parliament on the regulations by 19 January. If I read committee members correctly, our concerns are about clarity; we are after feedback from the minister about how the regulations will be implemented. It seems that no one has concerns about their principles. I suggest that we are happy to make no recommendation to the Parliament but that we should write to the minister to say that we have questions about implementation. We should ask him to report back to us on how he envisages taking the matter forward, because the concerns that have been raised are genuine.

**Nora Radcliffe:** An issue that concerns me, but which has not yet been raised, is how one identifies who is responsible for a vehicle, particularly if it has been abandoned.

**The Convener:** Maureen Macmillan raised that issue in passing. We should ask questions about the DVLA, to clarify the ownership issue. I am not going to bring the minister in, although he could probably answer the question.

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** I am champing at the bit.

**The Convener:** There are important issues about implementation. It is not that we are unhappy about the regulations, but we have to get on and get things done properly. I ask the committee to agree that we write to the minister and ask him to respond to us in due course.

**Mr Morrison:** If the minister has a response now, that would save a sheet of paper, would it not?

**The Convener:** It would do so only if he can answer all the questions to our satisfaction and I do not want to put him in that position.

**Allan Wilson:** Is the issue not on the agenda to be discussed later?

**The Convener:** No. We are dealing with it now. We have to report to the Parliament by 19 January and I do not suggest that we should invite you back next week.

If we get answers from the minister, we will post them on our web page. Presumably, discussions are taking place between the minister and local authorities. Are members content with the regulations and happy to make no recommendation to Parliament?

**Members indicated agreement.**

**The Convener:** We will get feedback from the minister in due course.

### **Solvent Emissions (Scotland) Regulations 2004 (Draft)**

**The Convener:** The second instrument that we will consider is the draft Solvent Emissions (Scotland) Regulations 2004. For this item, I welcome the Deputy Minister for Environment and Rural Development, Allan Wilson, and his officials. As the regulations are to be considered under the affirmative procedure, Parliament must approve them before their provisions may come into force. Motion S2M-751, in the name of Ross Finnie, invites the committee to recommend that the instrument be approved.

Before debating the motion, we will have a session to clarify any details or technical matters while the officials are at the table with the minister, as the officials cannot participate in a debate on the motion. The Subordinate Legislation Committee has considered the regulations and has nothing to report. I invite the Deputy Minister for Environment and Rural Development to introduce his officials and to make some opening remarks on the background to the regulations.

**Allan Wilson:** On my right is Richard Robertson, the Executive official who has been involved in drawing up the draft Solvent Emissions (Scotland) Regulations 2004. The regulations complete the transposition in Scotland of European Council directive 1999/13 EC on the

"limitation of emissions of volatile organic compounds due to the use of organic solvents in certain activities and installations".

The title is somewhat lengthy, but it is commonly abbreviated to the more manageable solvent emissions directive.

The directive and the new regulations aim to control emissions of volatile organic compounds by setting limits on the use of solvents in a wide range of industrial activities. Volatile organic compounds are precursors of ground-level ozone. As members know, ozone can have a detrimental effect on human health and can damage vegetation and buildings. The directive is therefore

designed to reduce pollution and to protect public health.

The substances covered by the proposed new regulations include organic solvents that are commonly used in paints, inks and adhesives. Their function is to facilitate the application of a film of paint, ink or adhesive on to a surface. They are also used extensively in several other applications, such as cleaning surfaces prior to coating, removing grease, extracting vegetable oil and impregnating wood with preservative.

The solvent emissions directive has already been partly transposed in Scotland through directions issued to the Scottish Environment Protection Agency. Those directions required SEPA to control solvent emissions from a range of activities already regulated under existing pollution prevention and control regimes. The new regulations implement the remaining parts of the directive for all those activities. They also introduce controls for activities falling within the scope of the directive that are not covered by any of the existing environmental regimes, such as dry-cleaning.

There have been substantial delays to the transposition of the directive; it was due to have been transposed by 1 April 2001. The delay is, of course, regrettable. However, it is not significant for most solvent activities. The directive provides for its requirements to have full effect on existing activities only from 2007. The new regulations will therefore provide the necessary framework for the regulation of all existing and proposed solvent activities in accordance with the requirements of the directive.

The directive is being implemented in two parts. The first stage involved issuing directions to SEPA in March 2002, under the Environmental Protection Act 1990 and the Pollution Prevention and Control (Scotland) Regulations 2000, dealing with solvent activities that are already regulated under existing environmental regimes. The second stage of implementation is through the regulations that we are considering today. Following a detailed option appraisal and extensive consultation with industry, we have decided to implement the directive through the Pollution Prevention and Control (Scotland) Regulations 2000. The new regulations will therefore amend the existing PPC regulations to extend their scope to include all activities within the solvent emissions directive. That will allow SEPA to impose conditions in permits for those activities that comply with the directive.

Implementation through the PPC regulations has the advantage that it builds on an existing pollution control regime rather than creating a new one. That will therefore create a consistent regulatory regime and avoid the possibility of the same

installation being regulated under two separate regimes. The proposed regulations, together with guidance that we will give to SEPA, will ensure that permits include only the conditions that are necessary to meet the requirements of the directive. That approach will ensure that the appropriate balance is achieved between cost to the operator and benefits to the environment and human health.

The new regulations will bring a number of industrial processes into pollution control regulation for the first time. Those will include activities in the following sectors: vehicle refinishing and coating activities; stand-alone surface cleaning; formulation of pharmaceuticals; extraction and purification of vegetable and animal matter; timber treatment; and dry-cleaning.

11:15

The key features of the regulations are that all installations that fall within the scope of the solvent emissions directive will have to be permitted by SEPA and new installations will have to comply with the regulations immediately, or within four months if put into operation after 1 April 2001 and before the regulations come into force. Existing installations must comply by 31 October 2007. Comprehensive transitional arrangements will be introduced to deal with installations that are either wholly or partly regulated under the existing PPC regulations or the Environmental Protection Act 1990.

As with any new environmental initiative, it is likely that there will be additional costs to industry. Those include the cost of compliance to meet the requirements of the new regulations, which might include the fitting of abatement equipment to reduce emissions, and the regulatory charges that are set by SEPA.

We have worked closely with the industries that are affected by the directive and with other Government departments to ensure that the regulations are proportionate and that they achieve a level playing field throughout the United Kingdom. The new regulations will achieve that balance between cost and benefits—we have set out the cost and benefit analysis for the proposals in a regulatory impact assessment, which has been passed to members.

In implementing the requirements of the directive, we have tried to apply a light regulatory touch and to avoid imposing unnecessary burdens on operators and SEPA. However, we want to enable Scotland to meet its important obligations under the solvent emissions directive. The transposition of the directive through the regulations will provide a valuable addition to our armoury to tackle air pollution and to protect

human health and the environment by reducing prevailing levels of ground ozone. I commend the regulations to the committee.

**The Convener:** That was a good introduction, which gives us a sense of the key priorities. Given that we have Mr Robertson with us, do members wish to ask technical questions?

**Maureen Macmillan:** Will the operations be carried out inside a factory or are we talking about operations that might be carried out in people's houses? I am thinking of treatment for woodworm or industrial cleaning in a hotel or on another site. If timber treatment and surface cleaning happen outside, how will you control the emissions?

**Richard Robertson (Scottish Executive Environment and Rural Affairs Department):** My understanding is that the directive and therefore the regulations apply to commercial and industrial premises only. They do not apply to domestic premises.

**Maureen Macmillan:** What about a hotel?

**Richard Robertson:** The regulations would apply, because hotels are commercial premises.

**Maureen Macmillan:** So if I get someone in to treat my woodworm, the regulations would not apply, but if I were a hotel owner, they might apply, depending on how extensive the infestation was.

**Richard Robertson:** That is my understanding. The interpretation of the regulations will be down to SEPA in the first place, but I understand that they apply to commercial premises and that hotels are likely to fall within their scope.

**Alex Johnstone:** What about circumstances where commercial or industrial practices, such as woodworm protection, are going on in what are normally domestic circumstances? Would the operator responsible for that service be covered by the regulations?

**Richard Robertson:** The key point is that industrial activities are covered. If something was being done within premises for domestic reasons, it is likely that it would fall outwith the scope of the regulations. If the activity was a key part of the organisation's purpose, it would fall within the regulations.

**Alex Johnstone:** So the company providing the woodworm protection would be covered by the regulations if it was working on my house.

**Richard Robertson:** If a company was engaged in an activity that fell outwith the scope of the regulations but discovered a problem within the premises that solvents were required to treat, that alone would not be sufficient to bring the activity within the scope of the regulations.

**Alex Johnstone:** Thank you.

**Nora Radcliffe:** I do not know whether this is the right time to ask about this, but I am concerned about the fact that dry-cleaners are now being brought within the scope of the regulations. A lot of dry-cleaners are small businesses run by people who do not have English as their first language. What has been done to inform people that their business might come under the scope of the regulations and has anything been done to provide leaflets, guidance or information in languages other than English?

**Allan Wilson:** There was widespread consultation with industry, which extended to small businesses more generally and to dry-cleaners in particular. The charging regime, which we propose to introduce in conjunction with the extension of the regulatory framework, discriminates specifically in favour of dry-cleaners by imposing smaller charges than those that would be appropriate for other businesses.

**Nora Radcliffe:** What about people understanding the guidance? Has anything been done to provide information in languages other than English?

**Richard Robertson:** SEPA is considering that. It is well aware that the dry-cleaning sector has been unregulated hitherto under environmental protection legislation; it is also aware that a large number of dry-cleaners are one-person organisations and that those people might not have English as their first language. SEPA knows that it needs to engage actively with the individual organisations and the trade associations that cover the sector. It will consider different means of doing that, including making available guidance in different languages.

**Rob Gibson:** It has been suggested that, when similar regulations were implemented in Germany, there was a reduction by a third in the number of companies providing dry-cleaning. Do you think that the regulations might militate against small companies in remote areas or islands, where alternative opportunities for cleaning might not exist? Did your survey include companies that are not based on the mainland?

**Richard Robertson:** Yes, that scenario has been identified as a possibility. In drafting the regulations, we have taken specific measures to alleviate the regulatory burden on the dry-cleaning sector in particular, as the minister said. SEPA proposes to impose much-reduced charges on dry-cleaners. In addition, the regulatory burden on the dry-cleaning sector will be reduced in terms of the requirements that it has to meet to comply with the regulations. Moreover, the application process for the sector will be simplified substantially. Taken



together, those factors will keep the regulatory burden on the sector to an absolute minimum.

**Rob Gibson:** Make no mistake, I am not suggesting that there should be no regulation—the sector clearly needs to be regulated. I am just concerned that we might be dealing with businesses that are small and cannot be replaced. I hope that the minister will be able to assure us that there will be a review of the regulations within a short period of their implementation, although I know that that is several years ahead.

**Allan Wilson:** Yes. SEPA will seek to use the period between now and when the regulations come into force for existing dry-cleaning premises to discuss with businesses whether they will have difficulties in implementing the regulations. As has been said, the new regulations have been simplified considerably, specifically for dry-cleaning businesses. There is, however, a problem for dry-cleaning in that the regulations quantify VOC emissions from that source and seek to reduce them by a factor of 2.7, which is a significant reduction in emissions over the piece. As you say, we have an obligation to introduce the regulations throughout the sector, but we want to balance that with a light regulatory touch to ensure that small businesses such as dry-cleaning businesses, which are being regulated for the first time, can cope with the new regulations and remain in business to provide a service that is necessary on the islands and in other remote and rural locations. We will keep an eye on that over the piece.

**The Convener:** I have a few questions that are probably more technical than policy oriented. The regulatory impact assessment is very good. In the past, the committee has complained about some of the RIAs that it has seen, but this one is good in letting us get to grips with what the cost and the benefits of the regulations are. On page 2, the RIA talks about risk assessment. Most of our questions are about the impact of the regulations on industry, but I want to ask about safe levels of ozone. Paragraph (iii) on page 2 of the RIA draws on research that has been carried out over the past decade, and a couple of things stand out. The first is that it is estimated that

“in the summer of 1995 in Great Britain the deaths of between 700 and 12,500 vulnerable people may have been brought forward”

because of ozone and that

“between 500 and 9,900 hospital admissions may have been associated with exposure to ozone.”

In the summer months, the nightly weather forecast now shows ozone concentrations. It is something that we are more conscious of. However, the statistics that the RIA uses are from 1995. Do we have any more up-to-date statistics?

There is clearly quite a big public health issue, and there is not much that a member of the public can do about it. You state:

“Many, but not all, of these studies show no indication of a threshold.”

I am an amateur in such things. Does that mean that we have got to tackle ozone because we do not see a safe level? If concentrations are identified, is the best public health advice just not to go outside? Is that a correct interpretation of the RIA? I know that these regulations come from Europe and that we have to implement them, so we just do it and debate what impact they will have. However, this seems to be quite a big issue of public health. For that reason, although I welcome the regulations, I would like a wee bit more background about the public health benefits that seem to leap out at me from the page.

**Allan Wilson:** You raise an interesting point. My colleague can take up some of the technical issues about thresholds and such like. The power of the individual to make a difference is obviously limited, which is why the power of Governments to impose regulation becomes important. It is especially important in this instance that we have a Europe-wide solution. We are talking about regulating the industrial output of volatile organic compounds in Scotland to reduce their impact, but the problem of increased ground ozone exists throughout the European Community and is arguably a greater problem in other parts of the EC—reference was made to Germany—than it is in Scotland. The fact that a Europe-wide directive is being transposed into new regulations across national boundaries is important for bringing down levels of ground ozone throughout the EC and dealing with chronic problems that arise because of higher levels. That is a good example of how effective Europe-wide action also produces individual benefits in Scotland.

11:30

**Richard Robertson:** The solvent emissions directive is just one of a range of measures that are designed to reduce VOCs, which are precursors to ground-level ozone. One of the main sources of VOCs is traffic emissions. The Executive and other Government departments in the UK are specifically addressing that, so the new regulations must be seen in context. They will make a valuable contribution to the overall reduction of VOCs, but they are just part of the jigsaw whose objective is to reduce VOCs.

**Eleanor Scott:** I have just a quick question, which I ask out of curiosity and not to get at anybody. I notice that the directive was supposed to have been put into effect in April 2001. What caused the hold-up?

**Allan Wilson:** The hold-up was caused partly by the complex nature of the legislation under consideration. It was also to do with the impact on small and large business and the need to strike a balance between the impact on business and the impact on public health and the environment. All that led to delay, which is undoubtedly regrettable. However, given the time scale within which we propose to make the changes, the delay has not led to any adverse impact.

**The Convener:** I return to my questions on the research that has been carried out—1995 research is quoted in the regulatory impact assessment—and the issue of thresholds. If my questions cannot be easily answered now, I would be happy with a written answer. However, a couple of aspects struck me about giving people up-to-date information. I recognise the necessity for the regulations, but I am interested in what has happened to views on ozone and public health in the past decade.

**Richard Robertson:** We can certainly ascertain what information is available post-1995. I am happy to write to you about that.

**Nora Radcliffe:** I want to add to those questions. Who measures ground-level ozone, how often and where? There must be some sort of mechanism for measuring air quality. I would like an overview of that.

**The Convener:** Is such measurement part of the local air quality strategy or is it a national matter?

**Allan Wilson:** I believe that the measurement of ground-level ozone is not currently part of the air quality strategy but that it is proposed to add it to the strategy. However, we will certainly check whether that is the case and reply to you formally.

**The Convener:** It would make sense for measurement to be part of the air quality strategy. There are several areas in my constituency, for example, that fail to reach air quality targets because of traffic emissions. It would be useful to see how measurement fitted in with the overall approach.

There are no other technical questions—I am sorry; it seems that Nora Radcliffe has one.

**Nora Radcliffe:** It is not a technical question. I want to return to my point about providing information in languages other than English. If SEPA is reducing its charges to the business sector but at the same time will have a more expensive relationship with businesses, who will fund the provision of information in other languages? For example, does the Executive have an equal opportunities fund that would enable SEPA to do a good job of communicating with people whose first language is not English?

**Allan Wilson:** Those are obviously operational matters for SEPA. We provide it with sufficient funding to enable it to charge appropriately to ensure that the polluter-pays principle has precedence. However, SEPA has scope to vary charges. Indeed, it has proposed to do so in this instance following an extensive consultation that concluded only last week. There should be no reason why small-scale operators are unaware of the proposals. The proposed charging regime contains specific provisions to make its implementation simpler and to make it appropriate to such operators' circumstances. From what I can see, there is no requirement to supplement SEPA's budget beyond what is required for the charging regime.

**The Convener:** I thank Nora Radcliffe for that question, which sparks the thought in me that, although we are good at considering the equal opportunities implications of primary legislation, we tend not to think about them with secondary legislation. We should hold the issue in our minds as statutory instruments come before us.

As our technical questions are finished, we now move to the formal debate. I invite the minister to move motion S2M-751, in the name of Ross Finnie, which invites the committee to recommend that the draft regulations be approved, and to make any further opening remarks, after which I will invite contributions from members.

**Allan Wilson:** A couple of interesting points have been raised, particularly the point about equal opportunities in secondary legislation, which you and others may wish to consider further. I assure the committee that, in our regular discussions with SEPA, we will impress on the regulator the importance of taking equal opportunities issues into account.

The regulations will fulfil a number of our aims. They will complete the transposition of the directive, which members accept is important. Clearly, we have no option but to do so, or we risk a European Union penalty. The regulations will also introduce valuable new tools to allow SEPA to regulate solvent emissions. We have dealt with some of the harm that such emissions cause.

A balance must be struck. We have taken a light-touch regulatory approach, particularly for new and small businesses, such as dry-cleaning businesses. However, it is important that the charges that are associated with the regime are recovered from polluters. That is the important principle that we have applied in this case, albeit with a concession to the dry-cleaning industry, given its circumstances.

With the proviso that we will return to the committee on the issues of research and air

quality measurement, I commend the draft regulations to the committee.

I move,

That the Environment and Rural Development Committee recommends that the draft Solvent Emissions (Scotland) Regulations 2004 be approved.

**The Convener:** I now open the floor to other members.

**Eleanor Scott:** The regulatory impact assessment lists five options but, as far as I can see—although I read it on the train and made notes on it that I now cannot read—the Executive chose option 4 over option 5. Why was that choice made? The difference seems to be that option 5 involved more stringent regulations that might have a greater cost implication for industry. I seek assurances that we will not fall foul of subsequent directives or regulations and have to return to the issue and beef up to option 5.

**The Convener:** The minister can pick up that question at the end of the debate.

I am glad that the draft regulations have been produced. They are late, but the fact that the Executive has carried out a lot of consultation of industry, and of smaller industries in particular, is vital. To tackle pollution, we want the directive to be enforced, but we also want to make it possible for industry to live with the regulations. Anything that the Executive can do to provide clarity and guidance to assist industry in meeting the new requirements is to the good.

I welcome the potential public health benefits of the regulations. I am conscious that ozone is frequently reported on in summer weather reports. As the minister said, the regulations will make a contribution to tackling the ozone problem, although they will not tackle it completely. We are left with a focus on traffic emissions, which we must not forget about. I support the regulations and I look forward to the minister reporting back in years to come as the regulations are implemented and lessons are learned.

As no other member wishes to speak, I ask the minister to wind up and answer the questions that have been raised.

**Allan Wilson:** Two important points were made by the convener and deputy convener, which go to the heart of why initially there was a delay and why we sought this balanced approach. The environmental case, which you outlined, convener, is substantial. Some parts of the country experienced their highest concentration of ground-level ozone for 10 years, so there is clearly a problem that we have to address on a pan-European basis.

That said, I concede that the regulations will mean higher compliance costs for the affected industries. A balance has to be struck. The directive is complex, which in part is the reason for the delay, but we did not want to over-implement the directive. That demanded careful consideration and took time. That delay was regrettable. The regulations meet only the basic requirements of the directive, and apply the light regulatory touch to which I referred. We do not envisage a requirement to return to the regulations because we have failed to implement any aspect of them, which was Eleanor Scott's point.

The regulations implement the basic requirements of the directive. They do not over-regulate, for the reasons that I have outlined, but they are necessary nonetheless to address the problems of ground ozone caused by volatile organic compounds.

**The Convener:** The question is, that motion S2M-751, in the name of Ross Finnie, be agreed to.

*Motion agreed to,*

That the Environment and Rural Development Committee recommends that the draft Solvent Emissions (Scotland) Regulations 2004 be approved.

**The Convener:** The motion is agreed to, and we will report back to the Parliament, as is our duty.

## Work Programme

11:42

**The Convener:** Item 3 is consideration of the committee's work programme. We have a number of issues to consider in planning our work programme between now and the summer. I circulated a report, which you have all had a chance to explore. I will take you through the recommendations in my report, and ensure that you are all happy with them. It is important that they are approved properly, so that people can see our programme for the coming months.

First, I ask you to note the likely time scales for undertaking our work on Executive legislation, and particularly focus on the fact that we will start stage 2 consideration of the Nature Conservation (Scotland) Bill on 28 January. I estimate that it will take us four to five sessions to complete that work.

Secondly, can we agree to seek an informal briefing from the Scottish Executive and Scottish Water officials before we start formal stage 1 scrutiny of the forthcoming Water Services (Scotland) Bill?

**Members indicated agreement.**

**The Convener:** I ask you to note the likely time commitments that will arise from the referral of other business, such as subordinate legislation. I draw your attention to the clerks' estimate that we will have about 50 pieces of legislation to deal with over the next few weeks. I also ask you to note the time commitments arising from budget scrutiny, the programming of European matters with the minister, and petitions.

I recommend that we receive an oral briefing from the consultants who are in charge of our sustainable development research, once their interim report is available, so that we can see how work is progressing.

**Members indicated agreement.**

**The Convener:** We now know that the UK Energy Bill, which will come to the Parliament under a Sewel motion, will be considered by the Enterprise and Culture Committee. I suggest that we appoint a reporter to that committee to report to us. Evidence will be taken on 27 January, so we should have a verbal report on 28 January. I suggest that we circulate a briefing paper from the Scottish Parliament information centre and invite members to give me questions, which I will pass on to our reporter. The reporter could take up issues with the Enterprise and Culture Committee and come back to us the next day. We want to ensure that we scrutinise the bill, particularly any issues relating to our environmental responsibilities, SEPA, Dounreay and nuclear

power stations. I propose Rob Gibson as our reporter. We will ensure that members feed questions to me and I will pass them on to him. Do members agree to that proposal?

11:45

**Roseanna Cunningham (Perth) (SNP):** I do not challenge it, unless Rob Gibson has a heart attack. However, the proposal would not preclude any of the rest of us from attending the meeting.

**The Convener:** Absolutely not. I might go along myself, but we need somebody to have the job of articulating our questions and providing a formal report to the committee the next day.

**Rob Gibson:** Is the meeting in the morning?

**The Convener:** The Enterprise and Culture Committee meeting is in the afternoon. I hasten to add that I expect the next day's report to be an oral report—I would be most surprised if you provided a written report. The key issue is that you should report back 24 hours later—that would be helpful. The committee can then progress matters. Do members agree to that proposal?

**Members indicated agreement.**

**The Convener:** Do members agree that we should invite the minister to give evidence to the committee on the implementation of common agricultural policy reforms in Scotland? Our time scale is such that we could do so after the minister has announced his proposals. We would then want to give parliamentary scrutiny to those proposals and determine how we want to progress matters.

**Members indicated agreement.**

**The Convener:** Finally, I recommend that we seek evidence from officials and then the minister on the implementation of the Water Environment and Water Services (Scotland) Act 2003. The Parliament passed the act last year and the committee should receive an update on the implementation of the act and environmental and rural development issues that are involved. Do members agree to that recommendation?

**Members indicated agreement.**

**Nora Radcliffe:** You mentioned the Scottish Executive. Will we also invite Scottish Water to give evidence for our consideration of the Water Environment and Water Services (Scotland) Act 2003?

**The Convener:** I am happy to add Scottish Water to the list, if members want me to do so.

**Nora Radcliffe:** That might be useful.

**The Convener:** That would give us evidence from Scottish Executive officials, Scottish Water

and the minister on progress on the act. If members are happy with that proposal, we will attempt to programme the evidence.

**Roseanna Cunningham:** The Enterprise and Culture Committee is doing an inquiry on renewable energy, which is pretty relevant to the work of this committee. I wonder whether we can be involved in that inquiry in any way. I think that that committee is into the second week of taking evidence for the inquiry, which appeared somewhat out of the blue straight after the new year. Perhaps individuals could be involved. Renewable energy is of key importance in the work of this committee.

**The Convener:** We return to the UK Energy Bill in a couple of weeks for our next report. It would be useful if we could have an update on the Enterprise and Culture Committee's work so that we can make a submission. There are different ways of doing things. There could be a written submission or a reporter or the committee could discuss matters. You are absolutely right—we do not want to miss targets, as there are significant issues relating to renewables, energy efficiency and the grid, which Nora Radcliffe mentioned earlier. Perhaps we could return to that matter in a couple of weeks. Thank you for that helpful suggestion.

If there are no other comments on the paper, I will suspend the meeting until 12 o'clock, as the minister will not return until then. For members' information and to gear them up for the next session, I point out that they have a paper—I say this particularly for Richard Lochhead, as he has just joined us and will not have heard what I am about to say. I intend to deal with chemicals issues first, as Allan Wilson will be here for that part of the discussion. We will then move on to Ross Finnie for the rest of the discussion. I intend to take the issues in order. The private paper that has been provided gives a number of recommendations on issues on which we must scrutinise the minister. The agriculture and fisheries council will be our substantive issue, but we will deal with it last.

I suspend the meeting for 10 minutes. We will reconvene at 12 o'clock.

11:50

*Meeting suspended.*

12:04

*On resuming—*

## European Issues

**The Convener:** I welcome the ministers and their officials. Members will be aware that the committee has in place an agreed method of scrutinising European matters. In December, we had an update on a number of European Union legislative developments that were relevant to our remit. We highlighted a number of them at that time and flagged them up with the minister. Today, we will be able to hear the Minister for Environment and Rural Development talk about those issues as well as the outcome of the December agriculture and fisheries council. The Deputy Minister for Environment and Rural Development is here specifically to answer questions on the European Commission's proposal on the regulation of chemicals.

Members should have before them a letter and attachments from Ross Finnie and a Scottish Parliament information centre paper.

We read all the press reports last week and know that you will be going into hospital quite soon, minister. We therefore thank you for coming today and wish you the best of health over the next few months. We look forward to welcoming you back not as soon as possible but as soon as is appropriate—take an extra couple of weeks if necessary. Do not come back too early. I have no doubt that Allan Wilson is geared up for a lot of overtime in your absence and is delighted at the prospect of steaming ahead on the fishing talks.

Would you like to introduce your officials and make a brief opening statement?

**The Minister for Environment and Rural Development (Ross Finnie):** Thank you for those kind remarks. There is no problem with my being here today. Having been in the department on Monday, I can see that my chances of getting out before next Monday are remote. I am beginning to wonder whether my department, the Parliament and the committees are not regarding my absence as rather akin to my going on holiday. Politicians are active people and we will all be aware of the fact that, when news leaks out that you are about to go on holiday, those with whom you are in close contact say to you, in a quaint, confidential style, "You know that paper that you were going to be producing in March? Is there any chance that we could have it by the end of the week?" Yesterday, the corridor outside my office in Pentland House resembled Princes Street—or Sauchiehall Street, for those who are from the west coast—because it was packed with people waiting to ask, in a

confidential manner, whether I might finish some piece of work or other before I went.

I understand that Allan Wilson, who will be taking over, has expressed a great interest in Easter coming quickly. I do not know quite why, but I doubt that it is for theological reasons.

I am not going to say much by way of introduction as I think that people are aware of the issues. I suspect that the committee would rather spend more time asking me questions.

I welcome the chance to discuss these matters in the Environment and Rural Development committee—I do not say that with any disrespect to Richard Lochhead's European and External Relations Committee. I do not find European issues difficult at all as, for me, they are entirely mainstream. Almost everything that my department does has a European resonance and we do not approach European issues as if they were somehow separate from the rest of our work. The agricultural side of our work is dominated by the provisions of the common agricultural policy, the fisheries side is dominated by the provisions of the common fisheries policy and, in relation to environmental matters, almost 86 per cent of all the legislation and regulations that my department is actively promoting, promulgating or simply driving on emanate from Europe.

We have been asked specifically to address the matters that have arisen in recent months. Allan Wilson will deal exclusively with the EU position on chemicals and associated regulations.

The first two matters to arise at the December council were agricultural; the first concerned the identification of sheep. Following disease outbreaks, such as the foot-and-mouth outbreak in this country, as well as the greater prevalence of zoonosis and other exotic diseases, Commissioner Byrne drew attention to the need for clearer ways of identifying and controlling sheep. As the committee will be aware, we have one of the largest flocks of sheep among European member states. As originally drafted, some of the proposed measures were highly impractical, particularly as we do not have electronic tagging. One of them would have involved flock holders in recording an individual 12-digit code each time a sheep was to be moved on to or outwith their farm. One does not have to be Einstein to work out the probability of making a mistake if such a system were used. Among a number of other measures, double tagging was also called for.

I have no problem—nor does the Scottish Executive—with being clear about the need for us to be able to identify animals for animal control and disease purposes; there was never any dispute about that. We disputed whether the

benefits that would be obtained by opting for such an elaborate system included the improvement of our control of animal movements and therefore of disease. We were clear that that was not the case. I am pleased that the outcome at the December council was a recognition that a more detailed system that was sophisticated enough to deal with individual animal movements could be implemented effectively only if we were to go down the route of electronic tagging. Therefore, the current batch system that has been in operation since the foot-and-mouth outbreak, which has been tested by a number of bodies and has been found to be satisfactory, will remain in place. We are pleased that the Commission has moved in that direction.

The second issue was the vexed question of the movement of animals. Again, the Scottish Executive is clear about its support—on animal health and welfare grounds—for improvements in the regulations on the movement of animals if there is any sense that they are suffering unnecessarily as a result of those regulations. However, we must balance what we can achieve on animal health and welfare grounds against the practicalities of moving livestock—hill livestock, in particular—over the terrain of Scottish agriculture. We have been actively seeking derogations from a number of the relevant provisions, not because we want to lower the animal welfare standard, but because we acknowledge that, if one were to impose certain restrictions on the transit of livestock from the Western Isles or the northern isles, one would make the trade in livestock almost impossible. We also have livestock movements from our ports and harbours.

We are trying to seek a balance on the basis of veterinary advice. On the two measures in question, I assure the committee that we are not glibly taking a political view but are acting closely with our vets on what needs to be done. That is a satisfactory approach, but, unfortunately, we ran into conflict over the technical details of livestock movement, such as how many days count and what counts as a single journey, and no agreement was reached in December. The issue has gone forward to a working group and will be considered further during the Irish presidency. In discussions that we have had with the Irish presidency, it has indicated that it wants to deal with the matter separately.

The fisheries council had to deal with several main elements, the first of which was the long-term plan for cod recovery. The Commission and the council were very anxious to ensure that we got away from doing things on an ad hoc, annual basis and moved towards a longer-term plan to enable us to have more orderly and structured discussions. Because that had not happened previously, we were still faced with negotiating

annual total allowable catches and quotas. We also needed to take on board the issue that the scientific community had been prominent in recommending, which was that any credible alternative to total closure in areas where stocks were threatened had to contain elements of effort control. Otherwise, we would be flying in the face of science.

12:15

As I said, the discussion centred on those main issues, and we managed to remove from the long-term plan one or two detailed measures that would have taken annual powers largely out of the hands of the council and ministers and put them into the hands of the Commission. That would have been entirely contrary to the Executive's position. After all, we want more powers eventually to be devolved down to regional management and a long-term plan that moved power to the Commission would be entirely inconsistent with that stance. We achieved our aim in that respect, which should lead to more bi-annual and multi-annual settlements and should improve the situation.

On the general effort regime, the Commission and scientific advice remained of the view that 2001 should be the baseline for the overall framework for setting effort control. From that baseline, we should seek to calculate an effort reduction of 65 per cent before adjustments, in order to be credible in the eyes of the scientific community. Of course, that community would have preferred to close areas where cod was being fished.

We then had to argue that the figure had to take account of the pre-decommissioning work that had been carried out in this country. After that, we argued for increased quotas on species such as haddock and nephrops where the scientific advice clearly showed that the stock was healthier. However, in all our discussions, it was always made clear that a greater prevalence of haddock and nephrops did not mean that there was no problem with cod and that any increases in that area would come with conditions. As a matter of principle, we sought to prosecute the case for spatial management and the zoning of fisheries in order to achieve such management, and to decouple the historic relationship with haddock and nephrops in which any reduction due to poor stock applied equally to both species. We have successfully achieved that in the out-going scheme's results.

Finally, I want to touch on the waste electrical and electronic equipment directive and the forthcoming batteries directive. As the WEEE directive is intended to place responsibility on the manufacturer, we have made it clear in our

discussions at a UK level that distributors and manufacturers have to get their act together. I should point out that, because many of the electrical goods in Scotland are supplied by manufacturers in England and many distributors are controlled by UK bodies, our discussions with both sectors have taken place at a Scottish level and at a UK level. I am satisfied that everyone is working hard to be ready for the implementation date in 2005.

Some of the detail on the batteries directive is far from being fully agreed. However, one point is clear. A number of people are pressing us to encourage people to try to embark on the system early, but the problem is—again—that that is a matter for manufacturers and distributors. We are slightly nervous about trying to have an early launch of the system, which might simply backfire if the people who are ultimately responsible for implementing the system are not ready.

Executive officials are working very hard in collaboration with local manufacturers and suppliers in Scotland. Officials are also liaising with their opposite numbers in the Department for Environment, Food and Rural Affairs and attending meetings at the UK level to ensure that we will be ready and able to implement both directives by the due date.

**The Convener:** Thank you, minister. You have covered quite a lot of ground. I suspect that members want to ask questions about all those issues.

As the deputy minister has been here for some time, we will kick off with a question to him about the proposed registration, evaluation and authorisation of chemicals—REACH—system.

**Eleanor Scott:** I understand that DEFRA is leading on the matter, as the proposed system will be UK-wide. What input will the Executive have? What can Scotland expect to get out of the new system? Will there be measurable targets for the reduction of pollution by chemicals?

**Allan Wilson:** Those are good questions. The discussion is opportune, because 2004 will be an important year for discussion about chemicals in the EU. We want to ensure that the Scottish Executive and the Scottish Parliament are geared up to feed into DEFRA—and the UK more generally—our response to the European Commission's proposals.

We share three main objectives with the Westminster Government. First, we want to develop a fast, efficient and workable process to test and screen chemicals and to tackle the ones that cause the most concern to the public. Secondly, we want to minimise animal testing, which is an important consideration. Thirdly—and equally important—we want to maintain the

competitiveness of our chemicals industry and industries that are downstream users of chemicals. The life sciences sector is important to Scotland's economy and is growing at a faster rate in Scotland than anywhere else in the UK. Indeed, the sector in Scotland is growing comparatively fast in relation to the rest of Europe. We must maintain the industry's competitiveness and that of the small and medium-sized businesses that contribute to it.

Much of the information about the proposed new regulations is complex and technical, so I asked Ken Pugh from SEPA in Aberdeen to attend the meeting. He is leading on the proposals and he advises us on a number of the very technical issues that arise. Perhaps he will add something.

**Ken Pugh (Scottish Environment Protection Agency):** I do not want to add anything just now. Members might want to open up the discussion a little.

**Eleanor Scott:** What research is going on into the levels of substances in the environment and the Scottish population that are—I always have to look this up—carcinogenic, mutagenic or toxic to reproduction? Are targets for the reduction of such substances being considered? Will there be serial measurements over time to ascertain how we are doing?

**Allan Wilson:** There are different levels to the approach to those substances, which are subject to a process of pre-registration, registration and authorisation. We feed into and consult a wide stakeholder forum and we also consult on the details of that forum.

We expect the results of a recent study to shed light on the prevalence of CMRs in the community. Activity is under way at different UK levels and we hope to feed that into the process. Ken Pugh may wish to be more specific.

**Ken Pugh:** I will not go into a lot more detail, but national programmes are under way. In Scotland, we in SEPA are aware of what is going in the Environment Agency. Many of the programmes are on-going UK national research programmes. Members might be interested to know that one of the features of the REACH proposals is that the onus of testing, providing information and doing any follow-up work moves away from the public authorities and bodies to the industrialists—the manufacturers of the materials. As a result of the proposals, it may be that more information will be forthcoming from the industrial side. We can at least hope for that.

**The Convener:** It is good that responsibility for the impact of chemicals on human health over time is being placed on those who actually produce them, but issues also arise over chemicals that have been around for decades and

that are still in our bloodstreams. I am thinking of chemicals that were banned perhaps 20 years ago. If we were tested, we might be surprised to find that we still have them in our bloodstreams.

There are two issues: the monitoring and testing of new chemicals as they are developed; and research into how chemicals interact with one another in the long term. Rather than look at each chemical individually, we have to bear in mind that it will interact with other chemicals and with human health. How can we deal with those issues? Chemicals do not just go away after being produced and used. They will be in the environment for years.

**Allan Wilson:** Ken Pugh can give a more technical answer, but an advantage of what is being proposed is that it addresses shortcomings in the existing regulatory regime, whereby there is an artificial division between new and existing chemicals. An attempt is being made to streamline the regulatory approach to cover the admission of new chemicals, substitute chemicals and innovation in chemical production. That is being done so that some of the more dangerous, toxic and hazardous chemicals can be phased out and replaced by their substitutes. We very much favour the thrust of what is being sought in Europe—a reduction in the level of hazardous and toxic chemicals in our industrial processes and, more generally, in our environment. That is a very important objective of the proposals.

You were asking some fairly technical questions about intermediates.

**Ken Pugh:** I do not think that they were about intermediates, but we have to consider what happens to materials that are already in the environment.

**The Convener:** Yes, my question was about what happens to chemicals that are already in the environment and about how new chemicals might interact with them.

**Ken Pugh:** My understanding is that the REACH proposals will not address banned materials that are already in the environment. Continuing research will be required in order to understand the effect of those chemicals.

You ask about the interaction of new chemicals with existing chemicals. Under the REACH system, all the uses and potential impacts and effects of new chemicals will have to be assessed through the registration, evaluation and authorisation process to ensure that they can be used. Appropriate risk management procedures will be put in place on the basis of risk assessments of those chemicals and their proposed uses. There is an opportunity there for the interaction that you are looking for and for that to be assessed. However, the effects that you are



talking about are often subtle or difficult to find. That is why they keep popping up out of the environment from time to time, to catch us unawares.

**The Convener:** That is also why having better overall research would give us a better handle on these issues.

12:30

**Maureen Macmillan:** I was concerned to read in my briefing notes that the downstream user would have the right not to identify the use to which the chemical is being put—I presume that that is for reasons of commercial confidentiality or some such thing—and that he would be able to perform his own safety assessment. Does that undermine the robustness of the directive? How often will the authorities not be told to what use the chemical will be put? What checks will be made?

**Allan Wilson:** My colleague will attend to some of the detail of that question. There are important considerations around the protection of intellectual property where it is registered with the downstream user. There could also be issues of commercial confidentiality. The proposals seek to strike the appropriate balance between protecting intellectual property or commercial confidentiality and ensuring that the public interest is protected in the end-product.

**Ken Pugh:** There is also the issue of competition between companies that are involved in the same area of activity. The legislation is being drafted with that in mind. Companies or individual users of the materials will still have to provide the information. To some extent, they put themselves at a slight disadvantage in going it alone, because within the proposals there is provision for collaborative activity so that companies with a common interest and common usage can combine and pool their resources. Individual SMEs will still have to go through the process of registration, evaluation and authorisation, depending on the resources that they are using.

**Maureen Macmillan:** What checks will be carried out on those firms or businesses and how will that be done? I presume that you cannot just allow them to self-regulate.

**Ken Pugh:** I am sorry, but I cannot answer that question at the moment, because the regulations have not been drafted and therefore the enforcing agency has not been set up.

**Maureen Macmillan:** If companies are not identifying what they are using the chemicals for and are carrying out their own safety assessments, it strikes me that there is a gap.

**Ken Pugh:** There could be.

**The Convener:** We know that the detail of the proposals is not agreed and that we are at the negotiation stage. We are asking lots of difficult questions—we do not have clear answers yet—from which you can take it that we are expressing concerns. The purpose of our asking questions at this stage is that we might be able to influence the discussions and have an input.

**Allan Wilson:** That is what I saw as the value of our having this meeting. We have an opportunity to feed in to the UK input to the wider European consideration of the regulations.

**Alex Johnstone:** Are the regulations likely to apply in the main to new chemicals or new substances that have been developed, or will they have a substantial impact on the handling and, in some cases, legality of existing substances, which could be reassessed?

**Allan Wilson:** As I attempted to say in response to the question that the convener asked—which was not the question that I understood her to ask—the new regulations do both to a certain extent. First, they reduce the current limits at which the requirement to test and authorise is triggered. Secondly, they determine three different processes for different chemicals, depending on the hazardous effect that they have on public health. Thirdly, they reduce the level at which the different tests kick in as far as registration, pre-registration and authorisation for use are concerned. That should streamline the process and benefit users, manufacturers and importers alike.

**Alex Johnstone:** Are efforts being made to identify any surprises that may be in the regulations, in terms of chemicals that are in common use and are affected to a major extent by the change in regulation?

**Ken Pugh:** Sorry, could you please repeat the question? My mind was still on your previous question.

**Alex Johnstone:** Are efforts being made at every level of Government to identify any surprises that may be in the regulations, in terms of chemicals that are in common use being significantly affected by the change in regulation?

**Ken Pugh:** Yes. There are committees in the UK that are watching the development of this.

Let me partially answer your earlier question and give a little more input to the information. At the moment, any new substances that come on to the market have to go through a procedure for the provision of information, the assessment of that information, the risk assessment and, therefore, the risk management. The new proposal will carry on that work and extend it back the way to pick up all the existing substances. As part and parcel of

the existing substances work, there is a process of prioritisation.

One of the reasons for the development of this proposal in Europe is the fact that the regulations have been quite unwieldy, difficult and costly to follow through. The onus has fallen on the public authorities and it has been a very slow process. We have realised that we are just slipping backwards all the time. The new process is intended to change that. The earlier process contained a prioritisation phase. We in the UK have been looking at the key chemicals that need to be considered. That process is continuing. The processes will run in parallel for a little while, to enable us to pick up some of the key materials that need to be considered.

**Allan Wilson:** The prioritisation that was introduced in the EU proposals was a substantial win for the UK Government's submission. We wanted the proposals to be more risk based in their approach to prioritising, and that has been accepted by the Commission.

I was asked about consultation more widely. We have established a chemicals stakeholders forum. As you can imagine, the membership is quite extensive and covers industry representatives, the British Union for the Abolition of Vivisection and trade unions. The Scottish representative will be known to some members—he is Jim Mowatt, from the Transport and General Workers Union. The forum has a wide spread of membership and it is feeding into the process outside the Government and the regulators. We hope that we can keep surprises to a minimum.

**The Convener:** That was a long but useful set of answers. Thank you.

**Nora Radcliffe:** Those answers have partially answered some of the questions I wanted to ask. What constitutes a chemical? We talk about chemicals, but what do we mean? That is a fundamental question. My second question is on registration. Will the register be EU-wide? I presume that any member state will be able to add to the register, but that once a substance has been registered, that is it. How does that tie in with existing regimes? That question has been partly answered. When the regulation is introduced, will we start with a register of substances that are known about now, or will we have to go through a process of re-registering substances?

**Allan Wilson:** The importance to us of registration is that the measures that are aimed at registering and pre-registering are designed to minimise animal testing through data sharing. We believe that the Commission's proposals need to be strengthened in that regard. On your question about what constitutes a chemical, we believe that a system of one substance, one registration would

simplify the system and lead to a reduction in animal testing, because it would be a Europe-wide system of registration, which was another of your questions.

**Ken Pugh:** Will you lead me back through the individual questions again? The first one was, "What is a chemical?"

**Nora Radcliffe:** Yes. What is a chemical; who decides what comes under the regime?

**Ken Pugh:** Under the regime, a chemical is a substance that is produced in a quantity of more than 1 tonne per annum.

**Nora Radcliffe:** Is that cumulative: is it more than 1 tonne per annum in the EU or per producer?

**Ken Pugh:** It is more than 1 tonne per manufacturer or per importer. We are talking about 30,000 chemicals in total that might have to be considered under the scheme.

The EU register will be an open, newly created register. There is a European chemicals bureau, which holds a lot of information. It will advise the Commission on the formation of the proposed new chemicals agency, which will be the focal point for all the information and assessment work. The intention at the moment is that all the information and assessments will eventually go on a website and be available in the public domain.

You also asked something about existing registers and information that is available at the moment.

**Nora Radcliffe:** Will the central agency produce at the start of the process a register of what it knows about already?

**Ken Pugh:** Yes, because existing information can be used when the agency considers applications for existing and historical materials. That information will go into the assessment process.

**The Convener:** I thank the minister and his officials for their replies. The issue is on-going and we will return to it, but that has been a useful first interrogation on the subject.

I am conscious of time, and we have quite a few other issues to get through, so we can let the deputy minister go now, if he chooses to.

**Allan Wilson:** Before you move on, may I point out that there will be an opportunity for the committee to be consulted on a number of the issues, and we would be pleased if the committee took up that opportunity to feed into the process.

**The Convener:** We will do; you do not need to worry about that. We will come back to the matter

and, as long as you alert us to when the key deadlines are, we will give you feedback.

I will give members a chance to go through the issues we have previously raised, but I will try to put a bit of time pressure on that, because I want us to have a reasonable discussion on the agriculture and fisheries council and what happens thereafter and I do not want that to slip off the agenda.

The WEEE directive is work in progress. There is a United Kingdom consultation, which closes on 1 March, and the directive is due to be transposed into UK law by August 2004. Do committee members want to ask questions on that? We have had a briefing on it. If we do not capture all the questions in the SPICe paper, I will write to the minister, but I do not want to miss the chance for members to ask questions now.

**Roseanna Cunningham:** My question does not come from the SPICe paper.

**The Convener:** But is it on the WEEE directive?

12:45

**Roseanna Cunningham:** Yes. I raise the matter of the obligation on retailers to provide for the collection of the equipment. The Executive paper discusses such things as a network of appropriate collection points and funding for upgrades to collection facilities at civic amenities sites and so on. I know that that is about making the producers or retailers responsible and that private householders will not be penalised, but I wonder how it is to be implemented.

I appreciate that the Executive might not have reached that level of practical detail yet. We are talking about collection points, but for people who do not have private transport, the issue becomes completely moot unless doorstep uplift is available, particularly for larger items. If there is not to be doorstep uplift for larger items, how is it proposed that those things should be got to collection points? Who would do doorstep uplifts, by the way? I cannot see the retailers doing it, so will it be done by local authorities?

**Ross Finnie:** That is a better question than some of the ones SPICe might have prepared.

You raise a point that we are wrestling with. We are extraordinarily anxious that the directive should work and we do not want to be overly enthusiastic in relieving the producer of the responsibility it places on them, but we also acknowledge that there is a relationship between the producer, the retailer and local authorities, which, as you rightly point out, effectively run the civic amenities sites and local collection services.

What is the role of a retailer, who is working on behalf of a producer delivering new equipment, in the system? Does he have some obligation to uplift old equipment? You have put your finger on what we regard as the jigsaw puzzle. Charles Stewart Roper is working on that for the Executive. He might tell us more. We are not far down the road, but he has had meetings with various people and is trying to get the bits of the jigsaw puzzle in place.

**Charles Stewart Roper (Scottish Executive Environment and Rural Affairs Department):**

The only thing that I would add is that quite a lot of take-back already happens when new equipment is delivered. We expect that to continue.

**Roseanna Cunningham:** You mean that when something new is put in, the old equipment is taken away?

**Charles Stewart Roper:** Indeed. Someone will ask about fridges, so I might as well raise the issue myself. Swapping stopped with fridges because of the well-known fridge problem. When, however, someone delivers a new washing machine, they usually take the old one away. We expect that to continue.

When a householder wants to get rid of a heavy item but they are not buying a new one to replace it, all things being equal it will still be dealt with through a special collection by the local authority.

**Roseanna Cunningham:** The local authority will charge for that.

**Charles Stewart Roper:** In most cases, the local authority will charge for that.

**Roseanna Cunningham:** So it is not correct to say that it will not cost the private householder anything.

**Charles Stewart Roper:** As the minister said, there are details of the retailer scheme that are not yet settled. We can listen to your concern that there might still be a cost for some householders and feed that in to the discussions that are going on with the retailers about the form of the collection scheme.

**Ross Finnie:** At the moment, our prime concern is not to end up with manufacturers and retailers having the best intentions but local authorities being clogged up with the material. We are trying to ensure that manufacturers collaborate with retailers so that a proper flow of material is established. That is critical, or we will end up with the material simply being shuffled back to local authorities.

You also raised a secondary, but equally important, point about where the cost burden falls when responsibility lies with the local authority. We are trying to resolve that.

**Eleanor Scott:** A lot is being said about the manufacturer's responsibility. What proportion of our electrical goods comes from outwith the EU and how can we influence manufacturers that do not fall within the EU's jurisdiction?

**Charles Stewart Roper:** I cannot tell you the precise answer to the first part of the question, but obviously a substantial proportion of consumer electronics come from outwith the EU. In that case, the obligations that would otherwise fall on the manufacturer fall clearly on the importer of the equipment. The expectations of and hopes for a producer responsibility scheme of this kind—that the incentive to produce materials that are easy to reuse or to recover value from will feed back to the producer—are therefore passed on to the importer. It is expected that the message will be fed back to the manufacturing base through the specifications that are drawn up by the importer and that materials that are easier to reuse and recover will therefore be produced.

**Ross Finnie:** We acknowledge that of the two relationships, the relationship with importers is more difficult to manage. That is why we are engaged in the interface with the industry and the importers.

**Alex Johnstone:** In solid state electronics, almost uniquely, the most toxic substance is the most valuable—that applies to semiconductors and semiconductor components. Has the Executive explored the possibility that in that area, unlike many others, there might be an opportunity for the self-financing of recycling because of the value of the product?

**Charles Stewart Roper:** Overall, the producers and importers will bear the burden of the cost of recycling and recovery. A lot of valuable substances come out of that process, and the producers and importers have every incentive to maximise the recovery of valuable things so that the net cost to them is minimised.

**Alex Johnstone:** I am aware that companies have been successful in that role outside the EU, but I am not aware of companies that have done so in the EU. Is it possible that there are margins to be made by recycling semiconductors in Europe?

**Charles Stewart Roper:** The possibility exists. We are in discussion with Scottish firms that recover electronic equipment. They tell us that they have a lot of spare capacity and are looking forward to the opportunity that the WEEE directive will bring them. Part of that opportunity is the chance to go further into the value chain and to get some of the higher-value products out.

**Rob Gibson:** A lot of the work of clearing houses for various end-of-use items relates directly to our national and area waste plans and

their implementation. The committee has been considering that issue and it concerns me that although most of the items that will be affected by the regulations are available throughout Europe, decisions about regulation and about the clearing houses will be left to the UK Government. I would like that to be explained.

With regard to our national waste strategy, I would have thought it more appropriate for the directive to be interpreted for Scottish requirements, instead of the matter being dealt with through a Sewel motion. Will the minister comment on that?

**Ross Finnie:** First, the obligation on the importers of goods from outwith the EU that is clearly stated in the directive poses a difficult enough problem for us. Secondly, there is an enormous amount of cross-border activity between Scotland and England by domestic producers and retailers. Why would we seek to have a different form of regulation? The truth of the matter is that Charles Stewart Roper and my other officials are engaged in intensive discussions with UK manufacturers and retailers, particularly about how they operate in Scotland. I want there to be a uniform basis for dealing with the matter. I certainly do not want anomalies to arise whereby retailers think that they have a different obligation because they operate in England.

It seems to me that this is a classic case in which we would be better served if we recognised who is producing, who is distributing and who the retailers are. Given that a uniform application of the EU directive will be required, I cannot see any economic advantage in setting up a separate system just for the sake of having a separate system.

**Rob Gibson:** I have a follow-on question, which relates to Charles Stewart Roper's answer about the firms that are based in Scotland and that have a capacity to recycle and reuse material in their solid state. I presume that part of the duty of the Executive is to improve the economy of Scotland. That will be one of its top priorities. In this area, would Scottish regulations be one of the ways in which we could do that?

**Ross Finnie:** I am not sure that setting up a separate regulation for the implementation of an EU directive is necessarily the way in which to promote economic activity. It seems to me that the real challenge, which is recognised across the Executive, is to try to prosecute the opportunities that arise as a result of this directive and, as Rob Gibson rightly pointed out, in the implementation of the national waste strategy. The absolute imperative is to reduce the amount of waste and to reuse some of it.

If we are to recycle a wider range of materials, we will produce vast and increasing streams of resource. That would seem to offer an opportunity for economic development. It seems to me, however, that the way in which we induce that is a related but slightly separate issue. I would be quite happy—indeed, I would be delighted—if more than our proportionate share of the streams of resource were put to economic use in Scotland. I do not necessarily share Rob Gibson's view, however, that we would achieve a higher level of economic activity by trying to tweak the implementation of an EU directive—in this case the waste electrical and electronic equipment directive.

**Nora Radcliffe:** Something bothers me about the directive being implemented by means of an obligation on producers to fund it. The underlying intention is to persuade producers to produce things that are more easily recycled and reusable. An awful lot of the burden of the directive, however, seems to fall on the retail sector. I seek information about how the retail sector's activities are funded by the producers. We expect the retailers to collect stuff, arrange compliance schemes, set up a network of collection points, give information to consumers and fund upgrades to collection facilities at civic amenity sites and so forth. How is all that to be funded by the producers?

**Ross Finnie:** That is part of the discussions. The retailers are not sitting back glibly saying, "This is all very interesting, but we are going to take the financial burden." Clearly, part of the commercial negotiation in which they are engaged directly with the people whose products they purchase is to reach new agreements on precisely how the new obligations are to be discharged, given that they effectively fall on the original producer. Nora Radcliffe is right. We too are slightly nervous that one or two people might seek to use the directive as an opportunity to shift the burden down the chain. We are conscious of that issue.

I want to add that we are particularly clear that discussions should not take place separately. The discussions that Charles Stewart Roper has had involve retailers, manufacturers, local authorities and ourselves. We are trying to get everyone around the table. We want everyone to understand what their obligations are and, in particular, whose ultimate responsibility it is to implement the directive.

**Nora Radcliffe:** Can I follow up on that reply?

**The Convener:** If it is a brief question.

**Nora Radcliffe:** Would it not have been more effective to lay all the obligations on the producers and the importers? Would it not have been better for them to negotiate with the retail sector as to how they could help it implement its obligations?

**Ross Finnie:** The question is then one of who has the purchasing power and where does it rest. There is a huge and effective economic linkage between the retailers and their main suppliers. One has only to go into one of the large retailers to know perfectly well that they deal with certain suppliers. One retailer will have a wide range of somebody's specific products and a retailer across the road will have a different range: there is a clear linkage between certain retailers and suppliers.

There is also the historical pattern. As Charles Stewart Roper said in his opening remarks, in many parts of the country—but, unfortunately, not everywhere—white goods retailers uplift used products. The issue is what happens after they have been uplifted. The uplifting is not a new burden on retailers, but there is an issue about what then happens to the uplifted equipment. There is also an issue about a retailer's relationship with the original manufacturer of the equipment.

13:00

**The Convener:** We are tight for time, but Maureen Macmillan wants to come in on this.

**Maureen Macmillan:** I am concerned that the directive will ruin the trade in second-hand electrical goods. Many people cannot afford to buy a new washing machine, cooker or fridge, so they get refurbished second-hand ones—for example from social firms who provide them in communities. If someone replaces a two-year-old product with a new one and the old one is wheeled away and broken up, what happens to the second-hand sector?

**Ross Finnie:** We are conscious of that problem. As you said, a large number of community and, in particular, voluntary organisations deal in second-hand white goods. Increasingly, they also deal in second-hand information technology equipment. The beneficiaries of that are the disadvantaged persons in our communities, who benefit hugely. Charles Stewart Roper and I discussed the matter recently: we do not want that second-hand sector to disappear. There must be further discussions on the subject, so that those who have been in the habit of providing a regular supply of second-hand goods, whether white goods or IT goods, can continue to do so. They will not breach the regulations if the goods continue to be in use: it is only when the goods are dismantled that they come within the mischief of the directive.

We are keen to ensure that the kind of companies to which I referred continue to exist, because they provide a valuable resource. However, we must be slightly careful about one issue, which Charles Stewart Roper might want to elaborate on. Where a lot of refurbishing has taken

place and a voluntary organisation cannibalises—to use an old phrase—some machines to produce, for example, one good one from three, we must be careful that an unfortunate burden does not fall on the voluntary organisation, because it would be left with equipment that it could not simply put to the local authority. We are trying to resolve that issue.

We are also trying to resolve the fact that the original equipment manufacturer is not relieved of its responsibility if a voluntary organisation at least commences the process of breaking up a machine. We are aware of the issues around the second-hand sector. It is quite a tricky problem, but we realise the socioeconomic benefits that would disappear if we did not address the issue.

**The Convener:** Thank you for those answers. I have just looked at my agenda and have been attempting to rationalise how we use our time for the rest of the evidence session. I will make some recommendations to the committee and members can tell me whether they are happy with them.

It seems to me that nearly all the questions we have asked the minister are also relevant to the batteries directive. We could repeat our questions, but I suggest that I send directly to the minister a couple of questions on issues from the batteries directive that need to be addressed. We can come back to the batteries directive in February, when the minister reports on the Irish presidency.

We have had a report on the sheep and goat tagging issue which, if I understand it correctly, is now concluded. If members want to raise any outstanding issues on that, we can do that in February too. Finally, I suggest that we do the same on the animal transport issue. As I understand it, there was progress at the agriculture and fisheries council in December, but the issue is now with the European Parliament, which will not give an opinion until April. Therefore, we could hold that issue back for a month.

I hope that members are happy with my suggestions, because they would let us use the next half hour to discuss the outcome of the December fisheries council. I suspect that we have already lost one of the members who were sitting in on the meeting. I want us to get on to discussing the fisheries council. That would allow us, as part of our scrutiny of the whole matter, to follow up the issues that were raised by Ross Finnie's statement in the chamber last week.

I did not want to stop the previous discussion, but I thought we needed to be a bit drastic about using our time today. Are members happy with that?

**Members indicated agreement.**

**The Convener:** We move to the outcome of the December agriculture and fisheries council. Richard Lochhead is present.

**Alex Johnstone:** Minister, you have been reported as saying that you will seek readjustment of the recent settlement by the December fisheries council, particularly on the opening up of restricted zones to allow fishing for haddock. Will readjustment be possible and, if so, in what time scale will it happen?

**Ross Finnie:** Between the conclusion of the council and the meeting with representatives of the industry that I had last week, I said privately to the industry that if detailed examination revealed unintended consequences in the detail of the regulation—as opposed to the principles that have been agreed—of course I would consider that. My judgment was that a number of the important issues that representatives of the fishing industry raised with me when we met last week clearly came into the category of possible unintended consequences. Therefore, as we speak, my officials are in Brussels seeking further clarification of those issues.

For example, although the principle of seeking a spatial management agreement that deflects fishing away from more cod-sensitive areas is sound, if we are to prosecute more haddock, we must examine how the boundary has been drawn between the western sector and the area adjacent to the Norwegian sector. The principle that cannot be overturned is that the total amount of boxes that are to be declared as being cod sensitive must, on aggregate, represent 50 per cent of total cod landings by the UK fishery. Scotland has the overwhelming preponderance of that fishery.

Another issue is that, in its being made clear that conditionality ought to be attached to the increased haddock quota, the principle that was agreed was that the regulation was to relate to the additional quota. However, it has become clear that in some areas, the regulation would apply to existing quota, rather than to additional quota, which was not, I believe, the original intention. The details of the regulation appear to me to be at odds with the intention.

We are doing what I told the fishing industry we would do: we are in the midst of a line-by-line examination of the regulation. It is difficult to say what the timing will be, but the discussions must happen quickly because the regulation comes into force on 1 February. We must also take into account the fact that the EU-Norway discussions are expected to resume today. There is real pressure to try to resolve matters for our fishermen and the industry. I do not want to give a specific date when the issues will be resolved. Indeed, I cannot even say how the discussions are progressing. All I know is that, as a result of the work that we did in the lead up to, and immediately following, the meeting with the Scottish Fishermen's Federation, my officials are in

Brussels. They may have to return to Brussels, depending on the response and on how the potential important differences between the principles and the details are resolved.

**Alex Johnstone:** The minister has largely covered this issue, but I ask my question in the interests of clarity. Given that Scottish boats are restricted from fishing for haddock within the cod protection area, but—it seems—boats from other countries are not, does the minister define that situation as being one of the unintended consequences of the deal?

**Ross Finnie:** No I do not, and for the following reason. As a consequence of relative stability, we have something like an 80 per cent entitlement to fish out the haddock fishery. No matter what the level of quota is, once the quota is set, the UK and Scotland is the huge bene—historically it is quite right that that is the position. That is our position.

During our negotiations we tried try to secure increased haddock quota on the ground that the International Council for the Exploration of the Sea's advice was clear about the more robust state of the haddock stock. It transpired, and I do not know that I was wholly aware of this at the start, because I was in one-to-one negotiations, that we were the only nation state—Scotland, in particular—that was arguing that the haddock quota should be increased. We were certainly the only member state that was arguing that the quota should be increased by more than 50 per cent. It is my understanding that no other member state was engaged with the Commission in that process. It was made clear to us at the outset and even before we got there that—as I said in my opening statement—increased haddock quota would not be unconditional because, very simply, more haddock does not equal no problem with cod.

Of the remaining states that have entitlement to haddock quota, we are not aware that the Germans have fished their quota for a number of years, but they do not—on the ground that relative stability is an important aspect of the common fisheries policy—relinquish their quota. Historically, the Danes and the French do not fish the same waters. It is my clear understanding that, given the very marginal impact on the haddock fishery of those member states, in relation to the totality, the conditionality was attached specifically to the 58 per cent quota increase that we were arguing for.

**Richard Lochhead (North East Scotland) (SNP):** As an MSP for North East Scotland, I congratulate the committee on inviting Ross Finnie to speak about the fishing talks.

I will ask the minister two or three quick questions. First, does he agree that the deal discriminates against Scotland, given that the new

restrictions apply only to Scottish vessels, but not to other vessels that fish for the same stocks in exactly the same waters? Does he also agree that there are more restrictions this year on the Scottish fleet, despite our having fewer boats and there being more fish in the sea?

**Ross Finnie:** No, I do not agree. First, I do not agree that other member states fish for exactly the same fish in exactly the same waters. As I pointed out, historically the Germans have not taken up their haddock quota. They have it merely as part of the relative stability entitlement, and the other two member states—France and Denmark—do not always fish in the same waters.

Secondly, we are the member state that has an 80 per cent interest in the mixed fishery. We are therefore the member state that could potentially do the most damage to the cod stocks. I do not see anything discriminatory in a proposition that starts from a scientific recommendation to close the North sea because of the state of the cod stock, or in negotiating a far better and more sensible balanced arrangement. I accept that that arrangement takes account of the scientific advice on the health of the other stocks and I do not think that the deal is discriminatory when the nation is prosecuting—and has the capacity to prosecute to its maximum—80 per cent of that fishery. I do not see that there is anything discriminatory in insisting that conditionality is attached to how that fishery is prosecuted.

13:15

**Richard Lochhead:** Will the minister try to tidy up what is perhaps the most discriminatory element of the package? What is discriminatory is that the Scots can catch only 10,000 tonnes of their haddock quota in the large area of the North sea that is closed—as part of the shaded area that is the cod recovery zone—although it is feasible that foreign fleets can catch 30,000 tonnes there, despite the fact that that is where the Scots would normally go to catch haddock. Is not that discriminatory? Is that one of the points that he will try to tidy up in Brussels?

**Ross Finnie:** It is part of the argument that I tried to explain at the outset. The principles of the agreement were that, apart from trying to ensure that fishermen continue to catch haddock in broadly the same proportions in sensitive and non-sensitive areas as they did last year, the conditions should apply more specifically to the increased level of total allowable catch. In certain areas, the detail of the arrangement does not necessarily accord with that principle. That is one of the technical issues that we are raising urgently with the Commission.

**Richard Lochhead:** I welcome that statement, and I have one final question. The minister said after he signed the deal that he argued for more days at sea for the fleet. Will he tell us how many days he argued for and who determined the boundaries of the cod recovery zone that is currently in place in the North sea?

**Ross Finnie:** We were arguing for days on a derogated basis. In the regulation, as Richard Lochhead well knows—in fact, he can probably quote it to me, as he probably has it written out in front of him; I do not—the days-at-sea calculation was based on data that were supplied to the Commission by other member states and the Scottish Executive on the number of days that the white-fish fleet spent at sea. The average number of days was 264. I have said a number of times that the effort reduction that the scientific community believes to be credible—on a 2001 baseline—is 65 per cent. Monthly, 264 days equals 22 days, so a 65 per cent reduction would take us back to something like 10 days. The days that we applied for were days that would equate to the 30 per cent decommissioning that had taken place in the past two schemes. We believe that to be a credible position, because it was based on an actuality. It was not a figure plucked out of the air; it was an actual decommissioning and a reduction in effort.

On the further reduction or flexibility that we were seeking, there are probably only four or five vessels in Scotland that could demonstrate a track record of a cod bycatch of less than 5 per cent. Given that, we joined the argument about whether the Commission and other member states would be prepared to accept a proposition to impose a requirement on fishermen such that, if they undertook to restrict their cod bycatch to 5 per cent, they would be allowed the freedom of additional days. That was also argued by the Scottish Fishermen's Federation. The firmly held position was that, in terms of cod, one would have to demonstrate historically that one had achieved that level of bycatch to get any derogation, so we lost that argument, which would have resulted in additional days.

**Richard Lochhead:** I also asked about the map and the boundaries.

**Ross Finnie:** The boundary map was proposed by the Commission's officials. Throughout the negotiations, we made vigorous representations about what we regarded as matters in relation to the map and the lines being drawn on it that were not consistent with the principles that had been agreed.

As the committee knows, we reached no agreement in relation to the map that was to apply to the nephrops fishery, which we simply could not accept. We still needed to establish some broad

spectrum, however, and the Commission was the driving force behind that. In an attempt to skew the areas, some of the initial maps actually had restricted areas right up to the shoreline and would therefore have embraced the inshore fishery, which would have been ludicrous. We were not the constructors of the map, but we made our feelings clear, particularly in relation to the inshore fisheries. I believe that we now have grounds for asking questions about the unintended consequences of the way in which the map has been drawn. We have been quite clear about the principles that were supposed to apply and about how those were supposed to affect any request for an increase in the haddock quota.

**Roseanna Cunningham:** I understand that the Commission announced at the end of last year that it was taking action against the UK and Spain for poor enforcement of fisheries rules. Could you outline what that was about? In that context, what does "action" mean? Given the recent announcement by Scotland's fishermen about ignoring the 15-day rule, how will the minister proceed, or is that likely to be a matter for Ben Bradshaw who is—if I am right—still the UK Minister for Nature Conservation and Fisheries?

**Ross Finnie:** No—enforcement of the regulations in Scottish territorial waters is very much our responsibility. That answers the second question.

There are several issues to address as far as the main question is concerned. From time to time, the Commission sends its inspection units to member states. The units, each of which consists of only a few people, act covertly, and we are not always aware of their presence. They observe what is happening in port and the actions that are being undertaken by the Scottish Fisheries Protection Agency. If an inspection unit has concerns, it follows them up.

For some time now, the Commission has been concerned about apparent discrepancies between landing data and anecdotal evidence about what has been coming to the producers. That is unsatisfactory, because we cannot come to a conclusion based on anecdotal evidence. However, we have concluded that if black fishing is to be addressed we need to take additional powers. As I announced earlier, we will seek to license purchasers and processors. That would give the Scottish Fisheries Protection Agency powers to access landing data and powers to examine what was purchased and the source of the purchase. Therefore, almost arithmetically—I would not quite call it simply arithmetic—we can reconcile across a number of adjacent ports the total amounts that are being declared as having been landed and the total amounts that are finding their way into producers' hands.



We believe that the actions that I have announced could have a substantial impact on the black fishery. The Commission's reservations and its perception of our position were greatly assisted by the unfortunate publicity that went through the Scottish press, which almost amounted to alleged admissions by the fishing industry of black-fish landings.

The Commission feels strongly that we should move to a scheme of more administrative penalties. We must caution the Commission, however, which seems to have a rather cavalier view of the important principle in Scots law of corroborated evidence, which I will under no circumstances compromise. I had rather expected that Commissioner Fischler would empathise more with me on that, given that Austrian law is a combination of German and Roman law. However, the principle of corroboration did not seem quite to have percolated down to one of his junior officials. As an advocate, Roseanna Cunningham will be well able to imagine that getting a burden of proof is quite difficult in such cases. Who provides the corroborating evidence? There are issues, in terms of using administrative penalties, which might act more as a deterrent against simple failure to adhere to the laws. We have undertaken to review that, but the matter will have to come to Parliament if it is ever to be dealt with.

Basically, we are looking to put more people ashore. The other thing we are going to do is satellite monitoring. When we introduced satellite monitoring, we took the view that we should simply incorporate it with navigational systems, but that leads to problems of people using it for different purposes. We have agreed with the Commission that we will fund the fitting of tamper-proof satellite navigation equipment on all our vessels. It will be explicit that the equipment is not for navigational purposes, but for the Scottish Fisheries Protection Agency to determine whether a boat is in an area and has the appropriate licence and legal entitlement to fish in that area. That will go a long way towards meeting the substantial criticisms that were raised in the Commission's infraction letter.

**Mr Morrison:** I have three questions. The first relates to white fish and I will then shift my focus to the west coast. Can you attach a figure—to the nearest £0.5 million—to what the substantial increases in quotas secured at the council will be worth in cold cash terms to our fishermen and the Scottish economy?

**Ross Finnie:** It is difficult, because we have to catch and sell the fish, and do so in a regulated and organised way. There are a lot of ifs and buts in there. There are also important issues to do with the relationship between the fishing industry and the processing industry; last year, there was a serious breakdown between those industries over

what the processing industry was seeking for the market. Fish were being landed that were simply not required or not wanted on the particular day. Optimising the price is a big issue. Taking averages for haddock and nephrops over the past year, I think that the total value of the additional quotas for haddock and nephrops, if they are landed and realised in the market, is in the order of £20 million.

**Mr Morrison:** That is substantial, and welcome news indeed.

Moving to the relatively calm waters of the Minch, the minister will not be surprised to learn—

**Ross Finnie:** I have never regarded the waters of the Minch as calm, with you as the member looking after them, but I take the point.

**Mr Morrison:** There is an issue to do with prawn stocks. As you will know, and as your deputy heard only a month ago, fishermen's leaders in the Western Isles are very conservation minded, whether we are talking about scallops or prawns. I am happy to report—albeit on an anecdotal basis—that the sensible measure that we passed here some months ago is already yielding the very outcomes that were clearly stated at the time: namely, prices have increased and stabilised; and, more important, of course, stocks are being conserved sensibly.

My question relates to securing a quota increase on the west coast. I appreciate the efforts in that regard at the council. I do not know whether you are aware of it, but scientists from Fisheries Research Services are going to the Western Isles before the end of the month to present the most up-to-date data on prawn stocks. Do you agree that it would be particularly useful to have one of your senior officials at that meeting, because it is my intention—depending on the data that are presented—to go to Brussels to begin making and building a case for additional prawn quota on the west coast?

**Ross Finnie:** The department is committed, as a matter of principle, to pursuing an in-year increase in the west coast quota. That was agreed because of the prospect of updated and improved scientific advice.

I have no hesitation about taking up your suggestion of seeking closer collaboration and co-operation between my senior officials and those providing scientific advice, and of ensuring that our case is prosecuted in the most effective way.

**Mr Morrison:** Thank you.

I have a final question on the common fisheries policy, in the widest sense of the expression. The UK's withdrawal from the CFP has been mooted. On a scale of one to 10, how moronic do you think that that proposal is?

13:30

**Ross Finnie:** I will resist answering that. However, I will say this. I have been at all sorts of ports and harbours discussing the CFP with people who would want us to come out. In trying to tease out the argument, I have been interested in finding out where people want to be in the medium to longer term. There is a great degree of unanimity in what I, the Scottish Executive and the UK Government are seeking to achieve. We want to move faster than some member states have realised—although there is a growing momentum—towards having a far greater degree of regional management of the fisheries.

Fish move about in the north of the North sea, and we require to regulate the stocks—not independently, but in collaboration with Iceland, the Faroes, Greenland, Norway and even Russia and some Baltic countries. I cannot see any point in having a complete renegotiation of international treaties. It therefore seems to me that—especially with the accession of 10 new member states—the momentum for change in how we operate our policies means that we are far more likely to secure our objectives by working within Europe than we are by withdrawing from Europe.

**Eleanor Scott:** You mentioned that we were the only member state that argued for an increase in the haddock quota—a very substantial increase. My understanding is that the apparent health of the haddock stocks is due to recruitment in one year only, in 1999. Recruitment in subsequent years has not been that good. Are you happy that the increased quota is sustainable or are we in danger of overfishing a stock that is not as healthy as we might think it is?

**Ross Finnie:** There is no question but that the ICES advice came with the caveat that it referred only to the year class of 1999. However, one has to take a balanced view. The levels of increase that we sought were, in my opinion, entirely consistent with scientific advice. The total numbers of fish available have not gone up by huge amounts. However, the 1999 year class has been rather a slow class to mature. There was a marked improvement in the general health of that stock. The scientific advice was therefore that we could safely have an increase. We would not have prosecuted a case for such a substantial increase in the haddock quota if that had been contrary to scientific advice. We were clear that the real trouble lay in trying to prosecute the case for decoupling the relationship between haddock and cod and, further, in getting into spatial management in terms of overfishing haddock.

The issue has not gone away. Recruitment has been low, although the history of the haddock stock has been of recruitment years of great booms and busts. However, you are absolutely

right: the caveat in the ICES advice refers specifically to the increasing overdependence on the year class of 1999. However, you cannot gainsay the total amount of biomass that is there. That information is scientifically supported.

**Rob Gibson:** I would like to turn to the large box about the size of the Minch off the north of Scotland, west of 4° west, where Scottish boats are excluded from fishing for cod. I would like to know something of the origin of and rationale behind that and why it is suggested that Norwegian fishermen but not Scots will be using that box.

**Ross Finnie:** I suspect that whether that is going to be the case will be finally determined at the EU-Norway talks. I have read about that suggestion and I am aware of it. Because of the EU's obligation to manage a recovery of the cod stock, it took much greater care this year not to have a one-size-fits-all approach and differentiated between different advice. There is no question but that, although the cod biomass remains below its sustainable limits, the rate of recovery in the North sea has been markedly better than it has been in the north and the west. The approach of the Commission and the scientists and their willingness to engage in dialogue about other fisheries in which cod might be taken as a bycatch have been hugely influenced by those factors. Hence, there has been a real difference between the scientific willingness to engage on the North sea and the approach that has been taken on the west and the north, based on the scientific advice consistent with trying to ensure coherent support for the restoration of the cod stock.

**Rob Gibson:** I await developments.

**Ross Finnie:** Indeed. We could move more towards an ecological footprint approach but, at the moment, it would be irresponsible to ignore the available scientific advice about the state of the cod stock. One swallow does not make a summer. I can only hope that the efforts that are being made by the Scottish fishing industry and the small signs of recovery in the rate of increase in the cod biomass can be sustained. If so, that is good.

**The Convener:** I have a brief question about financial aid. I am conscious of the fact that the Parliament approved a fairly hefty decommissioning package. Where are we in the implementation of that package and what future aid measures do you see as being relevant in enabling the fleet to manage more effectively our use of the stocks in the sea?

**Ross Finnie:** I am not contemplating any further decommissioning. The scheme achieved its essential conservation objectives in combination with the previous scheme of reducing the fishing

effort by 30 per cent. That was regarded as a reasonable reduction in fishing activity. Transitional aid was introduced and approved by Europe explicitly in relation to last year's arrangements. We will have to look carefully at the matter.

Notwithstanding my answer to Alasdair Morrison about the value of those stocks, there are areas of difficulty. Be in no doubt that, as long as we have a problem with the cod stock, there will be difficulties for elements of the white-fish fleet. That is an inescapable result of our trying to strike a balance between taking a responsible attitude towards conservation and allowing greater fishing activity. This year, it looks as though the difficulties might be more geographically defined.

We are considering whether there is any case for further assistance, but we have not come to any conclusions. I am certainly not able to give any undertakings to the committee, as no approval has been given to that. We will have to review the situation.

**The Convener:** Two members who have already asked several supplementary questions want to ask further questions. Do you want to push that? We are down to our minimum number of members present, and if another member leaves we will no longer be quorate. Are you happy to take up those matters informally with the minister? I do not want to be brutal, but I would encourage you in that direction. I have asked at least one of the questions that were on the list.

**Members indicated agreement.**

**The Convener:** We have had a pretty good exploration of the issue, but we will come back to it. This is definitely not our last meeting on fishing. I thank the minister for attending the meeting and having a good go at answering our questions.

I remind members that, although we will not have a formal meeting next week, we will have a briefing session on procedures at 10:30.

*Meeting closed at 13:40.*



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