



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 11 June 2014

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RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE
18th Meeting 2014, Session 4

CONVENER

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

DEPUTY CONVENER

*Graeme Dey (Angus South) (SNP)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Nigel Don (Angus North and Mearns) (SNP)

*Alex Fergusson (Galloway and West Dumfries) (Con)

Cara Hilton (Dunfermline) (Lab)

*Jim Hume (South Scotland) (LD)

*Angus MacDonald (Falkirk East) (SNP)

*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Claire Baker (Mid Scotland and Fife) (Lab) (Committee Substitute)

George Eustice MP (Parliamentary Under-Secretary of State for Farming, Food and Marine Environment)

Jamie McGrigor (Highlands and Islands) (Con)

Stephen Pathirana (Scottish Government)

John Robbs (Department for Environment, Food and Rural Affairs)

Dave Thomson (Scottish Government)

Paul Wheelhouse (Minister for Environment and Climate Change)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Rural Affairs, Climate Change and Environment Committee

Wednesday 11 June 2014

[The Convener *opened the meeting at 09:31*]

Decision on Taking Business in Private

The Convener (Rob Gibson): Welcome to the 18th meeting this year of the Rural Affairs, Climate Change and Environment Committee. Everyone present should turn off electronic items such as mobile phones, except those who may be using tablets in the line of business. Otherwise, such equipment can interfere with the sound system.

We have a substitute for Cara Hilton, who cannot be here. We welcome Claire Baker.

The first item on the agenda is for the committee to decide whether to take consideration of its work programme in private. It is due to come up at our next meeting. Are we agreed?

Members *indicated agreement.*

Land Reform Review Group

09:32

The Convener: Agenda item 2 is the land reform review group's final report. Today, we are taking evidence on the report from the Minister for Environment and Climate Change. I welcome the minister, Paul Wheelhouse, and his officials, who are Stephen Pathirana, who is head of the Scottish Government's land reform and tenancy unit, and Dave Thomson—a regular attendee at our committee, one way or another—who is the head of the Government's land reform policy team. Good morning, gentlemen.

I invite the minister to make an introductory statement.

The Minister for Environment and Climate Change (Paul Wheelhouse): Good morning, committee. It is good to be here to discuss the land reform review group's report. First, I thank the review group and its team of advisers for producing a very comprehensive report on land reform, with a total of 62 far-reaching recommendations.

When the Scottish Government set the remit for the land reform review group, we were clear that it should focus on how to increase diversity in land ownership and that it should support communities in being more resilient and independent. I am therefore pleased that the review group started from the position that land is a finite resource, and that decisions on its ownership and use must be taken in the public interest and for the common good. I whole-heartedly agree with that.

The Government's vision is of a Scotland where we acknowledge that land is intimately linked to ideas of wellbeing, justice, economic opportunity and identity. Our policies should ensure that Scotland's land works for the benefit of the people of Scotland, and a stronger relationship between land and people will empower people across the whole of Scotland in contributing to the prosperity and sustainable development of the nation.

We recognise the empowering nature of land ownership. In our view, land ownership is too highly concentrated, at present. It has been suggested that just 0.008 per cent of the people own more than 50 per cent of the private land.

There are circumstances in which it can be against the public interest for an individual or organisation to hold a monopoly of land. Diversity creates opportunity and choice, and it empowers communities as well as individuals. Land, as a resource, should play its part in building a fairer society.

We need to build a society in which there is greater diversity of land ownership, and in which communities and individuals have access to land in order that they can fulfil their aspirations and needs. We have a target to have 1 million acres of land in community ownership by 2020. It is certainly a challenging target. It is sometimes portrayed as being pro community ownership and anti private ownership, but that is not the case. As the concentration of ownership decreases, there will be room for more community owners and more private owners.

It is clear that land reform is not solely for the Highlands and Islands or rural Scotland; it is for the whole of Scotland. We need to take land reform to urban areas, too, so that we can tackle the blight of derelict land in our cities.

The community empowerment bill will take forward some of the recommendations of the review group's report, but not all of them. The report contains recommendations that we may agree with, and some that we may not agree with, but I welcome the overall direction of travel. I am sure that the committee does, too. That is why I have announced that I will seek to introduce a land reform bill during this parliamentary session. We will try to confirm the figure of 432—0.008 per cent of the population—owning half the privately owned land in Scotland. That is not a situation that we would have thought of creating in designing a system from scratch, as I have stated previously, and it should not be the case in a modern Scotland. My aim is for land reform to address that situation by delivering maximum benefits to the people of Scotland, so that we can engender constructive dialogue on the way forward, finding consensus where we can do so.

The review group's report has given us the opportunity to frame the land reform debate around public interest. I am keen for public land to be made available for community ownership and other opportunities to diversify land ownership. I hope that we can grasp this opportunity with both hands. I welcome the chance to discuss the land reform review group's report with the committee.

The Convener: You have suggested that a land reform bill will be introduced. There is also a community empowerment bill on the stocks. Could you help us by suggesting the sort of timetable that might apply to both those proposed bills?

Paul Wheelhouse: The community empowerment bill will be introduced imminently. That is all I can say as regards the protocol—it is for Mr Mackay to lead on it. I assure the committee that it will be with Parliament in short order.

As regards the land reform bill, it is the protocol that the First Minister—it is his prerogative—announces the legislative programme, which is

why I have not given further detail on that, but that will happen in the normal manner later in the year. We intend to introduce such a bill during this session; I put that on the record at the Community Land Scotland conference on Saturday to give people confidence that there will be an opportunity to address longer-term substantive issues, rather than our having to try to shoehorn them into the community empowerment bill. We need time to consider the recommendations and to take a considered view on them.

The Convener: Given the report's inclusion of matters that it suggests be dealt with in the forthcoming community empowerment bill, can such matters be addressed at an early stage, or should we expect any kind of consultation ahead of their being dealt with, which could be at stage 2, if the introduction of the community empowerment bill is imminent?

Paul Wheelhouse: We have consulted on the forthcoming community empowerment bill; I hope that the committee will have seen our sense of direction in that proposed bill, as we sought to address some of the streamlining of community ownership measures, which ties in with some of the recommendations of the land reform review group. We will use the community empowerment bill to take forward things we believe we can take forward. We have consulted on those, and we have a clear view of where we want to go.

Members may well decide to raise matters at stage 2 of the community empowerment bill, but we urge members to think about the opportunity to take a more considered view of the recommendations that will be presented by the wider land reform bill when it is introduced. The Government intends to consult on any proposals that we will make under that bill.

The Convener: Land registration is viewed as being pivotal to understanding who owns Scotland, and to giving people access to that information. Would it be more useful to build a non-definitive, rather than legal, title register at an early stage?

Paul Wheelhouse: As we have signalled, we believe that completion of the land register is extremely important for improving transparency. If you focus on the outcomes that we are trying to achieve, you will see that we want greater accountability and transparency on ownership of land, so that people can identify landowners, which in many cases is not possible. To be fair, I mention that that is also the case for public land, so we have made a clear commitment to improving our act, as well.

We need greater transparency and accountability for the actions of the people who own the land; that is the focus. I and my colleague

Fergus Ewing, who leads the portfolio interest for the Registers of Scotland, have asked Registers of Scotland to implement measures to complete the land register within a 10-year period. To show leadership, we want all publicly owned land to be registered within a five-year period, and I have already had some feedback from the likes of the Crown Estate, which has committed to completing its registration within 10 years. I welcome that kind of positive engagement on the issue, and I encourage others to take up the opportunity.

The Convener: You will understand that there is a degree of concern in the committee about evidence that we heard about the timescale for completing the register. That is why I asked about a non-definitive method of recognising who owns what. Registration of the actual legal boundaries may well take longer because of the difficulties of surveying them, but surely it should be possible for us to have an outline register that anyone can consult at their local council office to find out who owns a substantial piece of land—let us say, more than about 50 acres.

Paul Wheelhouse: I agree that we need to get that kind of understanding and that that information is vital to optimisation of land use and ownership in Scotland. We understand the challenges in completing the register in time—some people have criticised us for taking 10 years. We know that it will be an extremely challenging task that will not be without resource implications, and we will need to evaluate in full what those resource implications will be. That is why we are consulting Registers of Scotland on the practicalities of delivering the register. There is a positive attitude from Registers of Scotland and among stakeholders who are willing to sign up to the project. There is consensus that it is a sensible and important thing to do, and we are keen to tackle it. I will ask Stephen Pathirana to talk about the details of a definitive land register as opposed to a non-definitive one.

Stephen Pathirana (Scottish Government): A non-definitive register would be useful. We should certainly explore how that could be taken forward at a practical level; it is something that both the review group and stakeholders have pointed to. The sooner we have a clearer picture of the land ownership pattern in Scotland, the better for decision making.

The Convener: I understand that Highland Council commissioned such a register in recent years. I think that it covered areas of a minimum of 200 acres, but it allowed a general picture of who owns the bulk of the Highland Council area to be made quite quickly, within a few months. We have information being held by public bodies such as Scottish Natural Heritage, the Forestry Commission and Scottish Water, as well as the

agricultural IACS—integrated administration and control system—records, so surely it should be possible to tap into those sources in each area and to use some of that information, given that it points to the people who own or who are the holders of particular pieces of land.

Paul Wheelhouse: I agree that the process of identifying and understanding the general pattern of land ownership will help in economic development and community planning and will have great value. A definitive register will also come to the aid of the landowners themselves. I know that crofting is a different issue, but being able to register a definitive boundary for a croft gives people certainty when it comes to engagement with lenders and resolving disputes with neighbours, so there will be advantages to landowners in having a definitive register.

I certainly take your point about using existing data to fully inform us at local level about the general pattern of ownership, so that we have a rough idea of who owns a piece of land, or can at least narrow it down to two different landowners, rather than not knowing who owns it at all. That would be helpful for all economic development partners, as well as for planning purposes.

09:45

The Convener: Before I bring in other members, I have a question. Most Forestry Commission Scotland land is not registered, and I put it to a member of the panel last week that we should perhaps be looking to the bodies that own land to put up the money for registration. I suggested that the Forestry Commission could sell off a few affordable housing plots to cover the cost of making the maps. Such an approach could apply to private owners, too. Should we insist that people spend money to get the process of mapping their land started?

Paul Wheelhouse: The first step is to get positive engagement from all stakeholders and acknowledgment that completion of the register is a valuable exercise. I think that we are beginning to see that. As I said, some stakeholders have written to me to say, “We’re up for this”, and I very much welcome that constructive approach.

We need to do our best to understand the financial implications and what the process will cost. We have a rough idea, but we need more definitive figures, because we are accelerating the timescale for completion of the register, for which we had costings, which will make the process more expensive.

As to who pays for the work, we need to come back to the committee on that, in due course. The Forestry Commission is keen to engage; we acknowledge your point about a lot of its land not

being registered. I think that we all agree that that is not acceptable and that it is in everyone's interests to have that land registered. From a public sector point of view, we will take that on the chin for our organisations and incorporate the cost into our budget, but we need to work through the implications of completing the register for people who are outside Government.

The Convener: You said that crofters have to put up the money for their own registration. It seems only fair that larger landowners, who are far more wealthy than crofters in every sense, should put up the money, too. If we could get guidance on that from you soon, that would be helpful.

Paul Wheelhouse: You will certainly get such guidance. You will appreciate that Fergus Ewing is the policy lead for the register and that I do not want to make policy on the hoof for him. However, Mr Ewing and I are in dialogue about how we can achieve completion of the register; I will contact him after the meeting on whether we can give a more considered view on how charging might work in the future.

Claire Baker (Mid Scotland and Fife) (Lab): I welcome the minister's opening remarks. I hope that members who are committed to land reform can bring forward a radical agenda.

On cost, at last week's meeting, stakeholders expressed a feeling that although transparency is important, there might be other ways to achieve it than by completion of the land register. It was suggested that the money could be better spent and bring greater gains.

At stages 2 and 3 of the Land Registration etc (Scotland) Bill, Fergus Ewing was pretty clear about the costs, which was one of the reasons why he did not commit to a timescale. At the time, some of the language in the Economy, Energy and Tourism Committee was not particularly helpful. Members were asked whether they wanted money to be spent on the land register instead of on schools and hospitals—that might have been committee banter, but Fergus Ewing certainly identified an issue to do with how much registration would cost. More clarity on the issue would be welcome.

The land reform review group commented that land reform has been pursued in a pretty piecemeal and incoherent way. The Land Registration etc (Scotland) Bill is a key example of that. During the bill's passage, it seemed that there was not much awareness of the land reform agenda. Can we ensure that when the community empowerment bill is introduced we have a more coherent approach in Government, so that the bill is regarded as a vehicle for community ownership and for taking forward the land reform agenda?

Paul Wheelhouse: I welcome the positive remarks about the report and I share your view that it is an important piece of work that contributes to the land reform agenda. Claire Baker has made fair points about the debate on the cost of registration; I will come back to the committee with Mr Ewing's thoughts on that.

We have to make choices. If we are to achieve, as a priority, registration according to the timescale that we have set out, that will potentially have consequences in terms of financing the work. We will try to give the committee greater clarity so that members are informed and can bring forward their own thoughts on the implications of the review group's report.

On coherence, I accept that the Government is undertaking various strands of land reform, as previous Administrations have done. The review group has called for what I would describe as an overarching land policy. That raises interesting issues, and we are considering how we look at land use as well as land reform. I know that some people regard land use as being integral to land reform; I am not saying that they are totally distinct, but we have an existing land use strategy that undergoes continual review and updating.

The land reform review group has undertaken an important exercise in examining a number of aspects of land reform, and I very much welcome its report. The question is whether we take forward an overarching strategy to tie the different areas together. Land reform obviously interacts with the planning system and with other policies on biodiversity and even climate change. Land issues have an impact on a raft of Government policy areas, such as the housing strategy. There is a case to be made for taking a more overarching view that considers how all those strands of land reform and land use could be integrated so that we can understand the importance of land reform in context and how it contributes to economic development, to the housing strategy and to fulfilling the needs of the agriculture sector.

I would not necessarily say—the committee would not expect me to—that there has been a complete lack of coherence. We now have a clear focus on examining and reviewing the review group's recommendations and identifying the ones that we can progress.

There may be recommendations that we do not particularly support, but we support the overall outcome that the group seeks to achieve, so we would perhaps find another way of delivering it. I would welcome committee members' views on specific recommendations that could be tweaked to produce a better way of achieving the same result. We will certainly take such views on board, and I would be interested to hear them.

Nigel Don (Angus North and Mearns) (SNP):

Good morning, minister. What you have described is very much a three-stage process in which land reform itself is the third element. It is clear that land reform can come only after the second stage, which is a definitive legal register. Stage 1 would seem to be the production of an apparent-use-and-ownership type of register.

I recollect from my time as a city councillor in Dundee that we were already trying to build such a register. I acknowledge that this area does not fall under your portfolio, minister, but is the Government exploring whether such databases already exist? I am referring to databases in the plural, as I suspect that local authorities—and possibly other organisations—already possess a great deal of information that would form part of a non-definitive register. Has somebody explored how much of that information we already have, spread around the country?

Paul Wheelhouse: I will bring in Stephen Pathirana on that point.

Stephen Pathirana: Sorry—when I spoke earlier, I should have continued my point. There are a lot of different registers out there that serve different purposes, some of which—the IACS register, for example—have already been mentioned today.

The resources exist to produce a non-definitive register, but the question is how the information can be brought together and on what timescale. It can be done quickly, but we must acknowledge that such a register would be non-definitive. It would create greater transparency in the first instance, but it would not necessarily deliver all the benefits of having a complete land register, which is the goal in the background that we should be working towards. The existing information is being explored, and we are looking at how it can be used.

Nigel Don: I caution against bringing things together that do not need to be brought together, as long as people know where to find the information that they want. I suggest that you do not need to produce one register for the whole of Scotland just so that we have such a register.

Stephen Pathirana: To illustrate the point, if people want to find out what land the Forestry Commission owns at present, they can go on to the organisation's website, which holds a map with all the land on it. Despite that information not being on a land register, it is visible to the public.

Graeme Dey (Angus South) (SNP): I will develop the point about a non-definitive register. The minister mentioned that there was a positive response from stakeholders, and cited the Crown Estate specifically.

Where do non-governmental organisations such as the National Trust for Scotland, RSPB Scotland and the Scottish Wildlife Trust, which take great care with their image, sit in terms of engagement and willingness to participate? Beyond that, with regard to wider public bodies, what thought has been given to engagement with the Ministry of Defence, which is a very substantial landowner in Scotland and would presumably be co-operative?

It strikes me that we could fairly quickly reach the point at which we have a pretty instructive non-definitive register.

Paul Wheelhouse: Graeme Dey alludes to the point that I was making earlier. I believe that this is one area in which there is perhaps an opportunity for consensus. On some elements of land reform, and some of the specific recommendations, there will understandably be differences of opinion on the way forward. However, it is in everybody's interest that we have greater transparency and accountability in land ownership.

If we can achieve that aim in a two-step process, going back to Nigel Don's comments, that would be helpful. It would certainly improve understanding in the short term, and we will, I hope, get to a point in the 10-year period at which we have a complete register.

We are keen to work with the landowners you mention, and we recognise the opportunity presented by large landowners, such as NGOs or private landowners, for registering large blocks of Scotland in a reasonably speedy way.

I appreciate that there is a resource issue for Registers of Scotland and questions about how quickly the organisation could physically do the work, so Fergus Ewing and I are consulting it on the practicalities. Registers of Scotland believes that the work is doable, although it will have its challenges, so we need to have an honest discussion about the amount of resources that will be involved.

I agree whole-heartedly with Graeme Dey that, if we can work with the likes of RSPB Scotland, the SWT, the NTS and others to register the land, we will be able to eat into chunks of the register. We have had no direct dialogue with the MOD on the issue, but that is a fair point, and we should sound out the MOD on whether it is willing to engage in the process constructively.

Jim Hume (South Scotland) (LD): The IACS register covers most of the farming land that is involved with the common agricultural policy—we will see whether that is still relevant after today's announcement, although I am sure that it will be. Have you seriously considered—as Stephen Pathirana mentioned—using that as a very easy system and having an extra box on the form,

rather than sending out extra forms across Scotland?

Paul Wheelhouse: That is a very sensible suggestion. We should look at the options if there is a possibility of avoiding the need for areas to be mapped twice. If there are existing maps, we can see the data that has already been provided and decide whether it is of sufficient quality to inform the process of building the register.

I am happy to look at that issue, and I recommend that we consider it. Obviously, it is part of Fergus Ewing's portfolio responsibility, but we can pass the message back that that might be an opportunity. We have considerable expertise in our portfolio on the IACS system, as the committee would expect. I can confirm that there will be a common agricultural policy statement today, so Jim Hume does not have to worry about there being no CAP provision in Scotland.

We will progress constructive proposals, such as the one that Mr Hume describes, on how we can use existing information. We do not want to create a situation that is overly bureaucratic for people if we can avoid it, and Mr Hume's proposal would be a sensible way to move forward if such information could be used by the register.

Jim Hume: Another point is that half of Scotland consists of tenant farms, and it would therefore be the tenant farmers who would input that data.

Paul Wheelhouse: There is a possibility, for larger estates that have many tenants, that we could co-ordinate that work in some way, or at least give the tenants some guidance on what they need to do. We will certainly take that positive suggestion forward to see whether there is some way in which we can work with that.

The Convener: Some witnesses raised the point with the committee that extra input is needed to help people in completing the mapping process for crofting. Will you find some answers for that in due course? I guess that it has cost implications.

Paul Wheelhouse: Yes—that issue exercises me on a regular basis. We now have a mandatory register and people will have to register any regulated activity through the Crofting Commission. The register will be updated as time goes on, but we do not want that process to take many years. We would rather reach a position in which we have as complete a register as possible for crofting.

I put on record that I welcome the constructive approach that Registers of Scotland has taken on the issue—indeed, it has put in some of its own resource to help to tackle the challenge. We will come back to the committee with further detail on that area.

10:00

The Convener: Thank you. That was the first of our 10 questions. We cannot afford to spend as much time on each of them or we will still be here tomorrow. I remind committee members and the minister that we have quite a lot of ground to cover. The next question is on the ownership of land.

Claire Baker: The review group looked to address the issue of offshore ownership to improve traceability and accountability. Does the minister accept the need for those things, and can he identify the difficulties with the current system when it comes to identifying ownership?

I have another brief question. The report says that the review group's proposal that a legal entity would have to be registered within a European Union member state would not necessarily address the issue of beneficial ownership. Perhaps the minister would like to comment on that.

Paul Wheelhouse: The land reform review group saw that as a very important issue. Let us try to understand why the issue has been raised before we look at the specific proposal. It goes back to the issue of transparency—people knowing who the owners are and the owners being accountable for their performance as landowners. That is what is driving this. Whether the proposal is the solution that we will ultimately choose, I cannot say at this stage because we need to listen to views about the practicalities of it and consult on it. However, I support the land reform review group's sense of direction, which is that it wants greater transparency about who owns the land and greater accountability. We do not want a complete lack of understanding of who owns the land, which may be an overseas owner in some cases and a domestic owner in other situations. Nor do we want owners not being accountable for their actions.

I understand the points that the land reform review group has made about its proposal that a landowner would have to be registered as an EU legal entity, which is designed to give the owner a legal persona that would make them accountable in a European legal context. That is one of the areas that we are looking at to improve transparency and we will come back with our thoughts on that in due course.

I ask Stephen Pathirana to comment on beneficial ownership.

Stephen Pathirana: There are lots of challenges in addressing transparency and it is harder to establish beneficial ownership than it is to have a clearly accountable person within—for argument's sake—the EU, which is what the review group proposes. Denmark tackles the

problem by saying that someone who owns farm land has to be a natural person—no one can own farm land in Denmark if they are only a legal person. There are different ways of dealing with such issues and the Government's objective is to explore the intent behind the review group's recommendation, rather than to focus on the specific recommendation and think about how we can do what it suggests.

Claire Baker: We are at an early stage, given that the bill has only just been announced, but can you say whether the consultation will address that issue? Do you accept that the solution that has been proposed by the review group might not be the one that the Government chooses to support? The proposal was made during the passage of the Land Registration etc (Scotland) Bill and the Government did not support it at that point. Will the need to address the issue of transparency and accountability be covered by the proposed land reform bill?

An amendment to the Land Registration etc (Scotland) Bill was lodged that dealt with beneficial ownership. At the time, the minister said that the matter could in some way be built into regulations around the land register or could be a condition of the land register. Is the minister able to say more about that today, or is that something that he could look into in more detail?

Paul Wheelhouse: I am happy to get back to the committee on that issue. A number of the land reform review group's recommendations do not fall within the rural affairs and environment portfolio, and this is a good example of that. That is further demonstrated by the fact that Fergus Ewing led on the Land Registration etc (Scotland) Bill. I need to work with colleagues such as Fergus Ewing to understand the ramifications and see whether there is any scope for taking on board the ideas that have been put forward by the land reform review group.

To respond to your other point, we absolutely want any proposals that we make to address transparency and accountability. I cannot say at this stage what solution we will ultimately go for, because we have had the report for only three weeks. We have a lot of thinking to do about the package of measures that will be in a bill. However, we are interested in delivering measures to ensure that Scotland has a transparent land ownership system that people understand.

When I was a community councillor in Cockburnspath, which seems a hell of a long time ago—excuse my language, convener—I had to find the owner of a building that was falling into dereliction, which was extremely difficult. That took six months—after lots of googling and looking through documents. When I found the chap, he

congratulated me on finding him. He was an exiled member of a European former royal family.

That shows that it is extremely difficult for community groups and others to find owners. In that case, it was in the chap's interest to know that his building was going to fall down; we were trying to help him to save the building. Even if it is in a landowner's interest for contact to be made, doing so is difficult in many cases.

We need a more transparent system and a complete register so that such issues do not arise in the future. We also need accountability for legal and tax issues. Those matters are important. We will reflect on the report and make proposals.

The Convener: Many of us have had experience of community councils, although not in your area.

Paul Wheelhouse: I put it on record that I was a community councillor; I am not criticising community councils in any shape or form.

The Convener: I was a community councillor, too.

Jim Hume: When the review group's members appeared before us, I pressed them on whether the term "any legal entity" would include individuals, and they recommended that it should. I also pressed them on whether their recommendation would boil down to individual building plots and mean that nobody from outside the EU could buy a building plot—I have given the example of somebody who went to New Zealand and came back with a New Zealand passport—and they said that that would be the case. I asked about retrospection—whether there would be ramifications for people who already own land. There are a couple of questions in that.

Paul Wheelhouse: I remind the committee that the recommendation is from the review group rather than the Government, although we are looking at it. I understand that the desire is not to stop people from outside the European Union owning land but to ensure greater transparency about who owns land and to ensure that they have a legal persona in the EU that technically owns the land. As Mr Pathirana said, that could be a natural person or a legal person, such as a company.

I understand that the desire is to ensure greater transparency and accountability for landowners. The group has recommended other measures, which we may or may not take forward, on the extent to which an individual of any description—whether they are from Scotland or elsewhere—can own land in Scotland. The recommendation must be seen in the context of a package of measures that the group has proposed. I understand that it is trying to improve transparency

and accountability and not to limit the nationalities of those who own land in Scotland.

The Convener: We move on to public land ownership and community acquisition costs.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): Good morning, minister. I hope that you enjoyed the Community Land Scotland conference on Saturday, which we both attended. Convener, I have to say that the national health service cloning unit is not working very well, because Dave Thomson looks nothing like me. *[Laughter.]*

I was pleased to hear the minister reaffirm his acceptance of the view that land is a finite resource that is to be used in the public interest and for the common good. That is a paramount principle that we must all bear in mind as we look at the report and implement various recommendations.

The Crown estate is a reserved issue. In the past number of years, there have been many reports on it, running right through from the 2007 report "The Crown Estate in Scotland—New opportunities for public benefits". The Calman commission recommended devolution of the Crown estate, the Scotland Bill Committee made recommendations on it and there has been consensus across all the parties in Scotland about devolving it, but that has not happened. Nothing has happened. Recently, the Scottish Affairs Committee reiterated its view that the Crown estate should be devolved.

Do you agree that it should be devolved? If so, how can we achieve that given that, despite the consensus in Scotland for the past seven years and more, there is no inkling that Westminster will accede to the request?

Paul Wheelhouse: Dave Thompson MSP—rather than the Dave Thomson who is sitting on my right—has struck on the important issue of whether the Crown Estate should take its direction from Westminster or Holyrood. Colleagues from all parties share concerns about that. We in this Parliament firmly and collectively believe—and ministers have made the point time and again—that the administration of the Crown estate in Scotland should reside with Scottish ministers and that the Crown Estate should be accountable to the Scottish Parliament for its activities in Scotland. We are not asking about Crown Estate activities outside Scotland.

It is regrettable that that request has been ignored to date. As Dave Thompson has identified, the Scotland Bill in 2012 offered an opportunity to do something, but it was missed. I am sure that all of us in this room regret the fact that nothing happened. It would be remiss of me if I did not point out that a vote for independence would mean

that the Crown estate would be devolved to Scotland—that is one vehicle by which the people of Scotland can secure that devolution. I am sure that colleagues from the Opposition parties will have their own views about how that devolution can be achieved, so I am not necessarily saying that I speak for them, but the Scottish National Party and the Scottish Government argue that a vote for independence would see the Crown estate in Scotland being managed in Scotland.

In my speech to the Community Land Scotland conference at the weekend, I put on the record that that is not a criticism of the individuals in the organisation who are performing their function and trying to generate revenue for the Crown Estate for public use. We just believe that, in Scotland, it should be managed by us and accountable to the people of Scotland and we have a desire to devolve it to Scotland and pass it on to communities as well. We hope to set out our plans on that in due course.

Dave Thompson: The big concern about the Crown Estate is that, as the review group report states, its whole purpose is

"to maintain and enhance its value and the return obtained from it".

In other words, the sole purpose of the Crown Estate Commissioners is to get as much money as possible out of their properties, assets and foreshore to feed into the Treasury. That money is not going to help communities, because that is not the purpose of the Crown Estate; its purpose is to make money, and we have seen plenty of examples around Scotland where public works are going ahead but the Crown Estate is charging a commercial rate.

I am pleased that you mentioned further devolution, minister, because I am interested in that. The report clearly states that it should be a two-stage process, and that Scotland should get control of the Crown estate, or the Crown Estate's powers should be given to Scottish ministers. The report also mentions the Lerwick declaration, in which the First Minister and Western Isles Council, Orkney Islands Council and Shetland Islands Council agreed various things. According to the report, that

"appears to demonstrate a commitment to the decentralisation of CEC responsibilities if they are devolved."

You have confirmed that you believe that that would be the right way to do it. You mentioned local communities. Would that further devolution be via local authorities or local development trusts? Do you have any idea how it might be achieved?

Paul Wheelhouse: I am in a difficult position, because I have a good idea about how we might

do that but, for reasons that I hope Mr Thompson will understand, I am not at liberty to divulge the approach that we are taking at this point. Dave Thompson mentioned the Lerwick agreement. Work is being done between both Governments and the island communities to discuss the implications of the yes vote that the Scottish Government advocates, or what a no vote would mean for opportunities for the island authorities. There has been discussion on that, and it is in the public domain that the Crown estate is one of the items that has been discussed.

10:15

I am in a difficult position because, as much as I would like to, I am afraid that I cannot help Mr Thompson understand what the issues are. However, I can state that we want the revenues that the Crown estate generates to benefit local communities and make the maximum possible contribution to sustaining communities in fragile parts of Scotland where Crown estate revenues have the potential to grow significantly in future with the growth of the renewables sector—offshore and, indeed, onshore, in some cases—and the aquaculture sector, which is an extremely important source of revenue to the Crown Estate.

Those issues are of great relevance to areas such as Dave Thompson's constituency. I acknowledge that and hope that, in the not-too-distant future, he will have great clarity on them.

Dave Thompson: I am very pleased that local communities throughout Scotland, particularly in the Highlands and Islands, which has an awful lot of the coast—the vast bulk of it, I suggest—can look forward to getting control over those assets and starting to make decisions to benefit the community.

I turn to state aid, the interpretation of the current Scottish public finance manual rules and the apparent aversion to risk that those who interpret the rules show, which gives us all sorts of problems with helping community developments. Will you tell us a wee bit about your views on turning that negative view of state aid into something a bit more positive and helpful that would allow us to move on?

Paul Wheelhouse: That is a hugely important issue, which I addressed at the Community Land Scotland conference. We have had some challenges in terms of state aid, particularly in relation to the national forest land scheme, under which we have been keen to encourage community ownership of woodlands in Scotland.

There is an interpretation issue with state aid. We want it to be used positively and, as Dave Thompson alluded to, potentially to facilitate good community projects that do not distort cross-

border trade and intra-EU trade. Clearly, a community project that focuses on improving the amenity of an area will not interact with commercial timber extraction or the commercial timber market. However, in the case of a community project with an element of commercial forestry operation that involved selling timber in the market, we would have to take a view on whether it was realistic to suggest that that would distort EU-wide trade. I am confident that, in the vast majority of cases, we could demonstrate that it would not, but we need to do it case by case rather than take a one-size-fits-all approach.

As we have done with recent awards to the national forest land scheme, we take the view that we are satisfied that such projects do not distort trade within the European Union. Therefore, we have supported them. It is a matter of using the state aid policy intelligently and taking into account local circumstances to ensure that we can facilitate projects that clearly have significant community benefits by improving a local community's resilience, improving its economic future and perhaps making environmental improvements, while ensuring that that will not distort competition in the commercial timber market or any other sector.

That is the nature of the debate that we have to have about state aid. A lot of work has been going on. I am conscious of time but, if I may, I will briefly bring in Stephen Pathirana, who has been examining the issue closely.

Stephen Pathirana: The minister has covered most of the ground. Part of moving forward is about helping communities to understand state aid better. They need to be able to understand what they are doing, articulate it well and test whether what they are doing should be subject to state aid rules. That dialogue between communities and funders will be an important part of breaking the historical deadlock on certain projects.

Dave Thompson: I have one final point. The report recommends a review of the Scottish public finance manual, which prohibits the transfer of public land at less than market value. Is the minister in favour, in principle, of the transfer of public assets to local communities at less than their market value, where that is in the public interest?

Paul Wheelhouse: We have great sympathy with that suggestion, because we have a public policy objective of community ownership and the use of public land by communities. There has been a lot of focus in the debate on the implications for private landowners of community ownership. The Government has a strategy on community ownership. It is right to try to encourage communities to take on ownership, whether the land is in the rural payments and

inspections directorate estate, the crofting estate or the national forest estate. We want communities to have high aspirations for their future and to take forward ownership of the land.

The issue that the member mentions can be a bit of a barrier to us. In effect, we end up paying ourselves, through the land fund, to buy public land. That is not an ideal situation. It would be far more satisfactory if we could gift the land at a low price—£1 or whatever—to ensure that the community gets the benefit of the land, that the common good is served and that public policy interests are satisfied without a financial barrier being put up.

The public finance manual is being reviewed by the Cabinet Secretary for Finance, Employment and Sustainable Growth. Although the issue is outside our direct portfolio responsibilities, we have put those points in the mix. My colleague Stephen Pathirana is engaging with the cabinet secretary's team on those issues so, if there are any supplementary questions, I can ask him to answer them. However, I assure Dave Thompson that the issue is under review and that we are looking at it from our portfolio perspective to try to enable more community ownership if possible.

The Convener: We come to community ownership.

Nigel Don: The report that we are discussing suggests that there might be a large menu of rights for communities: the right to register an interest over land, the right to pre-empt the purchase of land, the right to request to buy public land and the right to request a compulsory purchase order over land. I seem to recall that there is also something about the prospect of a compulsory sale order in appropriate circumstances and, in some circumstances, even the right to buy. Clearly, restrictions and criteria apply to all of those rights. What is your reaction to the general idea of a menu of rights?

Paul Wheelhouse: While the land reform review group was preparing its report, we very much respected the group's independence and did not direct what the group was looking at. We engaged with the group as it developed its ideas, with a view to the forthcoming community empowerment bill. We tried to get early feedback about issues relating to the Land Reform (Scotland) Act 2003 that the group thought might need to be tackled, such as community registration and community right to buy provisions.

As you may have noticed, we floated some ideas that came out of that in the consultation on the community empowerment bill. In that consultation, we tried to reflect areas in which there was early knowledge from the land reform review group that things could be tidied up and

streamlined. We also looked at issues such as pre-emption and the right to buy.

I am tied, in that, in advance of Mr Mackay's introduction of the community empowerment bill, I cannot reveal precisely what will be in it. However, we have already consulted on a number of those issues and, in due course, you will see those that we are taking forward in the bill.

Nigel Don: I do not want to push you into areas where you cannot go—I respect that—but the thrust of the report goes right the way through to a community, quite simply, having the right, under certain circumstances, to say, "We want to buy that," and being entitled to do so under some fairly restricted circumstances. As a general principle, do you see that as an acceptable end point?

Paul Wheelhouse: We think that there are circumstances where there is a case to be made for communities to have a right to buy. There are existing provisions that benefit those in the crofting estate, and the crofting right to buy has been exercised in some cases. We are continuing to develop a pipeline of projects.

All that I can say in advance of the community empowerment bill being introduced is that I am sympathetic about the need to provide opportunities. I stress that we must do that fairly with respect to those who already own land and in a way that allows communities to develop their aspirations where there are particular challenges for them, which might include access to land for housing, economic development and environmental improvements where those are justified or needed. There are circumstances in which the public interest, as defined by the land reform review group, is served through community ownership.

I stress that, in the process, ministers always have the ability to review applications and to approve them or not, depending on whether they serve the public interest and pass the tests that are set out under the Land Reform (Scotland) Act 2003. So the power would not be unfettered, but we are interested in that area.

Alex Fergusson (Galloway and West Dumfries) (Con): I seek clarification. In your opening statement, you mentioned the possibility of introducing measures at stage 2 of a bill. I have no idea whether the aspect that we are discussing is what you were referring to.

In written and oral evidence to us, a number of stakeholders have pointed to what they view as a failure to consult or a lack of consultation, particularly on the second part of the land reform review group's exercise. They feel fairly strongly that they should have been consulted. Will you assure us that the Government will not introduce

at stage 2 of a bill anything that not all the stakeholders have been fully consulted on?

Paul Wheelhouse: First, I challenge the position taken by some people that there was no consultation for phase 2 of the review. I will bring in Dave Thomson on that point shortly.

When the land reform review group needed greater clarity about what was submitted for phase 1 evidence, it might have approached individual groups for clarification on points. The group has had discussions. I understand that, in response to some of the criticism, the vast majority of stakeholders have pointed to that and have said that there was consultation when it was required for the phase 2 process.

I appreciate that one or two stakeholders feel that they were not adequately consulted and were disappointed with the content of the review group's report. However, it is wrong to say that there was not consultation; when the review group felt that it was necessary to supplement its knowledge or to clarify points that people who submitted evidence made, the group had discussions.

I appreciate that Mr Fergusson wants to come back on that, but I will bring in Dave Thomson to expand on that point, as he was closely involved.

Dave Thomson (Scottish Government): There were two phases to the review group's work. From the beginning, the first phase was identified as being the collection of evidence, to provide a broad base. The second phase was primarily focused on the end goal—the report. By the midway stage, the group had ideas about the topics that it wished to explore further and those on which it needed clarification. That is where it focused its energy.

Over and above speaking to organisations or individuals to clarify points, the group had a team of 13 advisers, who had experience and good knowledge of particular areas, such as housing and planning. The group used that expertise to develop its ideas further and to point it in other directions, so that it could speak to other individuals and organisations. In the second phase, the consultation was more focused on particular points that the group wanted to put in its report.

Given the width and topic of the group's remit, it was inevitable that the group would never be able to collect all the evidence on all the topics from all the people who wanted to say something. That is the reason for the focused approach in phase 2.

Alex Fergusson: I understand that, although I might not agree with it. My point is that, if the Government were to lodge a stage 2 amendment to a bill, that might impact on the Scottish moorland group, for instance—it is quite possible

that a community right to buy might impact on that group's interests. That group said that it was not consulted. All that I am asking the minister to do is to assure us that he would not introduce at stage 2 of a bill something that had not been fully consulted on and which might have a considerable impact on one of the main stakeholders.

10:30

Paul Wheelhouse: I apologise for not addressing that point in my answer; I dealt with the other part of your question. I am happy to give an assurance that, although I cannot say what will be in the community empowerment bill, all the significant provisions that will be presented for consideration at stage 1 have been consulted on. The land reform bill will offer us the opportunity later to address the issues on which we feel that there needs to be consultation, more work or evaluation of evidence that has been presented. It will give us an opportunity to take forward issues that we believe deserve proper parliamentary scrutiny and consultation.

I do not have in mind a huge number of stage 2 amendments. We will reflect on the points that the committee and stakeholders make in response to the provisions that we present at stage 1, and we might have to make amendments at stage 2 in the normal way.

I take the point that you make. That is why it is important to have a land reform bill that gives us a second chance to put forward a considered view—one that reflects the opinions of all sides—on the review group's recommendations. I hope that people will engage in the process constructively and look for opportunities to achieve a consensus, which I am keen to build.

I propose to have a programme of stakeholder engagement on the review group's report, in an effort to get feedback from all parties on its recommendations. I welcome the committee's examination of the group's recommendations, but we will need to engage more widely with groups outside Parliament, as the committee has done, to hear directly from them about the recommendations that they are very supportive of, the ones that they might support and the ones that they have concerns about.

I give an undertaking to Mr Fergusson and colleagues around the table that, as we build towards the introduction of a land reform bill, stakeholder engagement will be extremely important to our gaining an understanding of what we can take forward in that bill.

Alex Fergusson: I am pleased to hear that.

Claire Baker: I take a different view. I encourage the minister to see the community

empowerment bill as a possible vehicle for land reform. That bill has been consulted on for almost two years and there has been a lot of engagement with stakeholders on community ownership. It would be sensible to consider the option of using that bill to address land reform, especially when we think about how broad the review group's report is. It will be hard to fit everything into the land reform bill. It would be sensible to spread the work and to take some action a bit more quickly, because there are concerns about timescales.

I want to ask about the definition of the public interest. Last week, there was discussion about how robust that is. How confident are you in your ability to define the public interest?

Paul Wheelhouse: I share Claire Baker's view that we have had a lot of consultation on community ownership. There is a reasonable degree of consensus on the need to streamline the process. Even those in the land ownership community—the private sector—support that. It would benefit landowners for community ownership right-to-buy applications or registrations to be determined more quickly and more easily, as that would give landowners certainty. It is in the interests of all sides to have a streamlined process.

I am optimistic that we can deliver quite significant measures in the community empowerment bill, and we will have a second opportunity to take forward measures on which more work needs to be done to prepare the case and to understand the impact. The review group pointed to a number of issues on which it thought that further work needed to be done.

On the public interest, there is an element of subjectivity in any definition. We need to get some consensus on the issue. I believe that there are circumstances in which the public interest is not necessarily being served. People might be unable—perhaps because of a very localised monopoly—to get land for social housing, to facilitate an economic development project or to grow their own produce on allotments. There are good examples of landowners collaborating to achieve those things. It is not true to say that such developments do not happen in every case, but it is clear that communities' aspirations are being thwarted in some circumstances. We need to consider whether it is in the public interest that we allow that to continue.

The review group has given a strong steer on what it feels to be the public interest. We need to reflect on that and respond in the land reform bill. We might not be able to come up with a definition that satisfies everyone, but we should be able to reach a consensus on what the public interest is in particular situations. I would welcome the views of

Claire Baker and other committee members on that. We will listen to them.

Graeme Dey: Some land already belongs to communities, in the form of common good, which is covered by a very good section in the report. It is interesting to note that the estimated total of such funds held across Scotland is £300 million, so the issue is significant. The recommendations are probably best summed up at the end of the report, where the group says that there should be a system in place so that common good land is

“adequately safeguarded and appropriately managed”.

The group talks about the need for “a new statutory framework” and a duty to have a common good register. Will you shed some light on the Government's reaction to those recommendations?

Paul Wheelhouse: It was not without a sense of irony that someone sent me a cheeky tweet the other day. Before I went to the Community Land Scotland conference, I was at the Hawick common riding—as were other members, no doubt—which is a celebration that involves riding the community's boundaries.

Common good land is a very important issue. One problem has been a lack of transparency about land ownership. I am sorry to fall back on personal experience again but, when I was a community councillor, there was a wind farm application that would have impacted on the old Ayton common. None of us was informed about it, because nobody knew who the trustees were, and it had been so long since there had been any contact with the trustees of the common good land that we missed the planning process completely.

There are procedural issues about understanding engagement in the planning process when there is an implication for common good land. As you rightly said, another issue is how the associated revenue and funds are used to the common good, which is what they were intended for.

I welcome the review group's examination of the issue, which comes back to the definition of the public interest. The recommendations are intended to address a particular issue, but it is important that we see common good in the context of the overall pattern of land ownership and the model as it emerges.

Common good land is an important and emotive issue. I know from experience that people in places such as Selkirk and Hawick believe that they have lost control of the common good. The local authority is perhaps the custodian of the funds, but people do not believe that they have a full say in how the land is managed. We certainly have to get transparency about what and where

common good land is, and we have to understand how we can use it for its intended purpose, which is the public interest and the common good.

Claudia Beamish (South Scotland) (Lab): I hope that we will move seamlessly into the issue of agencies to support communities and oversee governance. I preface that by stressing my support for the direction of travel on the broader diversification of land ownership and community empowerment.

The review group stressed that an

“integrated programme of land reform measures”

is needed, and you referred to the spirit of that quote in your opening remarks. The review group also recommended that

“the Scottish Government should establish a Community Land Agency, within Government, with a range of powers, particularly in facilitating negotiation between land owners and communities, to promote, support and deliver a significant increase in local community land ownership in Scotland.”

Before I ask about the other proposed agency, will you talk about the scope of that recommendation? Highlands and Islands Enterprise has a social remit, but no organisation has such a remit for South Scotland, which we both represent, or for other parts of Scotland. Will you reassure me that there will be a focus across Scotland on the support that some have said—although I strongly disagree with them—that the south does not get?

Paul Wheelhouse: I have great sympathy with the suggestion that we need to ensure that there is aftercare. As Claudia Beamish identified, HIE’s remit includes a social aspect so, under statute, it has the freedom not only to support communities that are fortunate enough to be in the Highlands and Islands to build up their business plans but to support them in implementing those and to take forward economic development aspects. HIE can ensure that sound organisations that have good business planning are given aftercare support. In some ways, organisations that are taking forward projects in the HIE area have a much better prospect because of that aftercare.

I feel a lot of sympathy for organisations elsewhere in Scotland and we want to ensure that community land ownership is taken forward outside the Highlands and Islands. Community land ownership has significant cultural and social impacts in the Highlands and Islands for historical reasons, and the sparsity of the population means that community ownership can be an important vehicle for furthering economic development in the region. However, we also want a wide range of community ownership projects to happen elsewhere in Scotland, whether that is in the south of Scotland, Aberdeenshire or Angus or in cities.

Scottish Enterprise’s current remit is therefore a limitation.

I recognise the challenge that the review group has put down and I know that Mr Ewing, as the enterprise minister, is aware of the issue. It would ultimately be for him and Mr Swinney to make proposals if they agreed with the recommendation on changing Scottish Enterprise’s remit, because I understand that primary legislation would be required to make that change. I hope that what I have said answers your question.

Claudia Beamish: Yes—thank you. I asked the question from the perspective of broader Scotland beyond the Highlands and Islands. I appreciate your response.

The Convener: I would like to get clarity on whether Scottish Enterprise could have adopted a social remit but chose not to. I understand from previous committees that that is the case. I might be wrong, but I think that Scottish Enterprise’s choice about how it works is the important issue.

Paul Wheelhouse: I might have been incorrect; we can come back to you on the point.

The Convener: It would be good to get clarity.

Paul Wheelhouse: My understanding has been that a change in statutory provision would be required to enable Scottish Enterprise to adopt a social remit. Stephen Pathirana might be able to clarify that.

Stephen Pathirana: I think that what the minister said is correct. There would need to be a statutory change in the remit that is given to Scottish Enterprise.

I stress that the review group has identified an outcome that it is interested in and a possible way of delivering that. We should focus on the outcome and, if we support it, ask ourselves what the best way of delivering it is. Is the review group’s proposed solution the best way? Can the same outcome be delivered in other ways? That is an important point. I generally ask those questions about every recommendation, because it is important to look at the best practical way of making things happen.

Claudia Beamish: I turn to the agencies that the review group proposed should be established. As you know, the group considered that, in addition to the creation of a community land agency,

“there is a need for a single body with responsibility for understanding and monitoring the system governing the ownership and management of Scotland’s land, and recommending changes in the public interest. The Group recommends that the Scottish Government should establish a Scottish Land and Property Commission.”

I could not attend last week's committee meeting, when I understand that evidence was given that largely supported those recommendations, although concerns were expressed about the costs involved. What are the minister's views on the recommendations? Would three separate bodies be required? How would they be resourced?

Paul Wheelhouse: Claudia Beamish's questions show the scale of the challenge that we face. I will not gainsay what the review group said. We are very sympathetic to the idea that we need to look at what the appropriate architecture is. The point that Stephen Pathirana made about the outcomes that are being sought is appropriate.

10:45

If we take it for granted that we want to understand better exactly what community ownership is out there and how we can help to increase that, in line with Government priorities and Parliament's seeming will to do so, we need to understand the architecture that is needed to support that process, to ensure proper monitoring of progress towards targets, to facilitate progress where necessary and to resolve any disputes. The review group made interesting recommendations about all those aspects, from the establishment of a community land agency to the creation of the Scottish land and property commission, as well as the recommendation that we have already taken forward, which involves the working group that we are building up to consider how to achieve the 1 million acre target.

It is too early for us to rush to a conclusion about whether we will have a commission or a community land agency. However, I assure Claudia Beamish that we are interested in looking at such ideas. As my colleague Stephen Pathirana identified, regardless of whether the proposals are the right way to achieve the outcome that we agree with the review group that we want to achieve—more community ownership—we should try to achieve it, because that is a good way of delivering the common good and the public interest. However, we need to work out how we will do that and what architecture we will need. Because the subject is complex, we will need time to determine the best way of achieving that and we will need to listen to stakeholders' views on the practicalities.

Claudia Beamish: Will you speak briefly about the concerns that stakeholders expressed about the cost?

Paul Wheelhouse: That is a significant factor. We need to understand what, if any, financial ramifications there might be. We have been reducing the number of public agencies that we

fund, so we understand that, if there is a rationale for creating a new one, it will have to have a pretty good business case. We do not yet understand fully what the financial ramifications would be, what skills would be needed and where we would get the skills from.

Unfortunately, we will need time to think through the recommendations. We are sympathetic to the outcomes that the review group is trying to achieve, which are to facilitate community ownership, monitor it and understand its impacts and the benefits that it brings for the public interest.

Alex Fergusson: My question has been partly answered, but I want to put on record a concern that I have. I am on record as supporting community ownership, and I would like to see more of it in the south of Scotland. However, I dislike the element of compulsion in the recommendation—I am just genetically opposed to that.

The point that I wanted to make is that I believe that community benefit, community ownership and the decisions that surround those things are local issues. There are different issues in different communities, as I am sure that the minister will agree, but when I see suggestions to introduce four new rights and three new agencies to oversee and guide all of that, I see something that is anything but local; I see a very centralised, bureaucratic operation. Of course, I know that that is not what the land reform review group wants to happen. Can you reassure me that that will not be the case?

Paul Wheelhouse: I put on record that I am aware of Alex Fergusson's support for community ownership projects in the Mull of Galloway and elsewhere, and I respect the point that he makes.

Whatever we decide, we have an opportunity to strengthen the drive from the centre to give communities the support that they need and ensure that the advice and procedures are standardised, so that they are of consistent quality and have the depth that communities need. We also have an opportunity to facilitate the process. We are aware that, with regard to their internal capacity, some communities are less capable than others of making bids, whether they relate to demand-led measures or applications for funds. As a degree of professionalism is needed to support communities in that activity, there is an argument for having some central resource in that respect.

However, I take the point about having local understanding and flexibility at a local level. The process in the Land Reform (Scotland) Act 2003 involves a significant element of local consultation on community registration and the right to buy,

with communities required to have a robust business case that takes account of the public interest. As the minister, I have to determine whether the proposal is in the public interest. I take Claire Baker's earlier point about the definition; that might evolve over time, and we have various safeguards in place to ensure that we can take a view on whether the public interest is being served by a registration or a right to buy. Those safeguards also take account of local views.

As I know from correspondence with Mr Fergusson, not every consultee is happy with the outcome. However, there is a consultation process—and for good reason; it allows us to take account of local arguments and concerns in making a decision. Any procedure that is followed must involve some degree of safeguard to ensure that things are done not on a whim, as some people have suggested, but with a good understanding of the case that has been made.

It is in the interests of a community group that is taking on ownership to have a strong business case that has been subject to scrutiny, so that the case stacks up and the community organisation has a viable and sustainable future.

Alex Fergusson: I am sure that we will have the opportunity to discuss the matter further.

The Convener: We will indeed.

As we have very limited time—about six minutes each—for our final five question areas, I am going to put a guillotine on questions and answers so that we can get through everything. This is a first stab at a process that is very much in development, and I realise that some of the issues that we are going to ask about soon will require slightly more time. I therefore ask members to curtail their introductory remarks, please, and the minister to curtail his answers. We will move on to land development and housing.

Graeme Dey: With your comments in mind, convener, I will not rehearse every aspect of the subject. The review group made several recommendations on land development and housing. I accept that not all of that is within your remit, minister, so what discussions have you had with the housing minister on the recommendations and how to take them forward? I am thinking of, for example, the possibility of reintroducing the rural home ownership grant scheme.

Secondly, can you take action to address concerns about land banking and the cost of building plots?

Paul Wheelhouse: There has been close engagement between the officials who are developing the community empowerment bill and colleagues in housing and planning. As the lead

minister on that bill, Mr Mackay has taken a close interest in issues such as land banking and other points that have been made in the consultation. I cannot say what is in the bill, but I assure you that there has been good joint working between officials in housing and planning and my own portfolio interests in the context of the community assets and land team.

I have not discussed any provisions directly with Ms Burgess, as Derek Mackay is the lead minister on the bill, but we can come back to the committee with information about the engagement that has taken place. We can get a response to you on rural housing grants, if that would be helpful.

Graeme Dey: Thank you.

The review called for

“longer and more secure tenancies in the private rented sector.”

Given that, like many committee members, you represent a rural area, you will be aware of particular issues about estate tenancies—not necessarily tied tenancies—in which there can be a unique relationship between landlord and tenant. Estate tenants very often find that ultimately, although they have invested in their properties, they have no more security than anyone else. Should we do something about that?

The countryside is peppered with housing plots that have derelict properties on them. Is there an opportunity to bring such plots back into use, even if the houses are in no fit state to be rebuilt? Such an approach would address the issue of local opposition to proposed housing developments in rural settlements and villages. There is almost always such opposition, even though we all know that we need more rural housing. Will you respond briefly to those two points?

Paul Wheelhouse: I acknowledge that the issue is hugely significant. Land, and land reform, affects every one of us, because we all require housing, even if our only land ownership aspirations in life are to own a house and have a wee garden somewhere.

There are alternatives to ownership, and private rented properties are important in rural areas, where there is often less provision from social housing providers, perhaps because the land is all privately owned and it is difficult to secure social housing opportunities. I put on record that we want to use the land reform process to ensure that communities can fulfil their aspirations for housing, where they need it.

I am aware that stakeholders have expressed contradictory views about the length of tenancies. We certainly need to improve the degree of certainty for people and people's ability to invest in their property. I would have thought it in a

landlord's interests to have tenants who invest in their properties and maintain them well, if that is part of the lease conditions.

Although we do not have a definitive view that I can give Mr Dey today, I can tell him that some of those aspects are likely to be addressed in the forthcoming community empowerment bill. Unfortunately, I cannot say in what way, but we are certainly conscious of the area being a barrier to fulfilling the aspirations of communities and, in many cases, individuals.

Graeme Dey: Thank you. I look forward to seeing the bill.

Angus MacDonald (Falkirk East) (SNP): Good morning, minister. I was pleased to see in the review group's report a call for a "vibrant self-build sector" for housing in rural areas. Last week, I brought to the attention of the committee and the stakeholder panel the our island home initiative, which asked architects to design an affordable two-bedroom starter home costing about £100,000 that would be suitable for the Hebrides, suitable for extension later on, easy to build, cheap to heat and in a walk-in condition. I believe that the self-build cost is sitting at about £70,000. I also believe that 50 architects entered the competition, which is a healthy number, and that they were narrowed down to six finalists, with the winner being Tom Morton of Arc Architects from Cupar.

With so many architects keen to get involved in the rural housing initiative, what still needs to be done to ensure that communities can fulfil their wishes for affordable and social housing to be available in rural areas?

Paul Wheelhouse: In the speech that I gave on Saturday, I identified two aspects, one of which relates to Mr Dey's point about the housing sector and the fact that we have opportunities in rural areas for self-builds and for identifying plots. I also pointed out to the Community Land Scotland conference the number of plots that have been created in the community ownership projects that have been taken forward, but I will just check the figure with Mr Pathirana.

Stephen Pathirana: It is 141.

Paul Wheelhouse: It is sometimes argued that community ownership is taking away private ownership opportunities, but in this case opportunities have been created for self-build projects, and I think that about half of them have been started. In many cases, there are opportunities for stimulating the local self-build sector, which will then feed through into work for architects and local construction contractors and will generate local employment in construction sector jobs.

However, that might not happen in every case, which is why it is important to assess the business case for community ownership to ensure that it is robust and will add value rather than damage an area's economic performance. In most cases, the business cases have been robust, and that is why the projects have been able to proceed.

We have an opportunity through that vehicle, and we are also looking at some of the review group's recommendations about provision for housing and land for housing development as a way of stimulating that. There has already been some success with community ownership as a vehicle for stimulating the self-build sector, and I would hope that, as community ownership expands up to the 1 million acre target, other opportunities will come. That is why we can be confident not only that community ownership will be aided but that private sector opportunities for smaller landowners to gain access to land will also be enhanced.

Angus MacDonald: It is good that you have undertaken to work with the Minister for Housing and Welfare, but will you also undertake to work with the Minister for Local Government and Planning to ensure that the issue is streamlined?

Paul Wheelhouse: I can certainly give that undertaking. Because of our close engagement on the community empowerment bill, we have a good opportunity to discuss the issues.

The Convener: We will move on to the pattern of rural land ownership. Alex Fergusson will lead the questions.

Alex Fergusson: One of the report's headline-grabbing parts was the idea of a cap on the amount of land that is owned. I do not think that today is the right time to get into how much is too much and whether there should be such a cap, other than to say that I was fascinated by Andy Wightman's statement last week that nobody should own more than 1 per cent of Scotland. I would be very surprised if he would be happy with a situation where 100 people owned the whole of Scotland, but that is a potential outcome of his proposal. However, I guess that there will be room to discuss that side of the issue later.

Does the minister agree with the review group's statement that ownership is the key determinant in how land is used? Many people would argue—and I am certainly sympathetic to the idea—that the key determinant is the type and quality of the land, rather than ownership.

11:00

Paul Wheelhouse: I recognise that the quality of land inevitably has an impact on what it can be used for. That is a fair point. However, I have put it

on record—in a way that I hope was not confrontational; it was certainly not meant to be—that if I as minister were asked to design a system of land ownership, there is no way that I would come up with one that ended up with 0.008 per cent of the population owning more than half of the private land. That is not meant as an attack on any individual who owns a substantial amount of land. The pattern of ownership is just a fact of life, but I certainly would not design a system that ended up with such an outcome, and I hope that members agree that it is not necessarily in the public interest to end up with that position.

We have to be mindful of the need to be fair, which is why we have the land fund. As I have indicated, we have extended that up to 2020 and, indeed, we are prepared to consider on a case-by-case basis individual projects that would stretch it. For example, there might be a big project that would go over the threshold for the maximum grant that is allowable from the land fund in a normal year. We will look flexibly at that. We give an undertaking that, if an opportunity to own a larger estate comes on to the market and a community wants to take it on, we will be sympathetic to that and engage with the community to see what is possible. An important objective is to work with communities to further community ownership.

There is a debate about upper limits and other such matters. We will study the report's recommendations, but I should put it on record that at the moment we have limited powers in that area. As has been said, there are different ways to achieve the outcome that we want, and we need to evaluate the options. The review group has made its recommendations on how to help achieve the move towards what the group calls a pattern of "fairer" land ownership. I agree that we should try to achieve that outcome over time. There is the potential to use thresholds at some point to assess whether it is in the public interest for someone to own land.

Alex Fergusson: I will come back to the question of the public interest in a minute, if I may.

You have stated on more than one occasion that, as the concentration of ownership decreases, there will be room for more community owners and, you believe, private owners. How do you equate that with other strands of Government policy such as the land-use strategy and the climate change targets? There is evidence to show that such targets are often reached more easily when land management is in larger units rather than very small ones. How do you equate all that in formulating the policy?

Paul Wheelhouse: I put it on record that some estates are very supportive of our land use and climate change strategies and have been helpful

in delivering land-based projects at ecosystem level or large-scale or landscape-scale projects in which community ownership, private sector ownership or NGOs have been involved. That is an important feature, but we can achieve a similar level of engagement among a larger number of landowners. It might take more time, but we can still achieve the same result if there is a positive will.

To go back to a point that I have just made, I think that, when community ownership is taken up, we need to consider how we can marry those two things. How can we have growing community ownership and at the same time create new opportunities for the private sector? I have just referred to housing plots. A community might take over a large estate and then release on to the general market lots of smaller plots or small farm units that are not felt to be core to the purpose of the community project. In that way, private sector owners might be created. My basic point is that there are opportunities through community ownership to release more land for private ownership.

On co-ordination, I accept that there are circumstances in which having a small number of large landowners can be a relatively efficient way of getting early agreement on how to proceed with a landscape-scale project. I recognise that there have been good examples of that, but we should not necessarily assume that it will be impossible to do it with a larger number of smaller landowners, who will identify with the same public interest and will know that the end goal is in their interests, too.

The Convener: Do you recognise that the Coigach-Assynt living landscape project has seven owners and that they work together, and that deer management groups are supposed to work together on neighbouring estates to manage particular aspects of our wildlife?

Paul Wheelhouse: Indeed. As we know, that does not happen in some cases in which there are large land holdings but, equally, it can work effectively when there are small land holdings. There is a danger in being too simplistic, and I know that Government is sometimes accused of being simplistic, so I am trying to take a sophisticated approach. I do not want to paint a picture in which all private landowners are a problem—far from it. Many of them do a very good job, but we must recognise that there are some who do not, and that there are some community ownership models that do not work as effectively as they should, while other community ownership models are excellent.

We need to have a mature discussion that does not polarise the debate. We should reflect on the fact that there are good models of private land ownership in which private owners work with local

communities and there are excellent models of community ownership in which communities work with private owners and release land for private ownership. We need to have a less binary view of the debate, because opportunities for private ownership are coming out of community ownership, as well as opportunities to work with private landowners to deliver wider public interest.

Alex Fergusson: If I may say so, I am pleased to hear you highlighting the fact that there are good examples of private ownership, because mention of that is sadly lacking in the report.

The term “public interest” has been used a lot in the debate, and I think that some people would argue that the land reform process is all about the public interest. How do you see the public interest being defined? Will it be defined at local level or will it, as I fear, be defined by one of the agencies that have been mentioned, or by a combination of those agencies? I worry about the idea of a centralised definition of public interest being adopted when I see it as a local thing.

Paul Wheelhouse: The Land Reform (Scotland) Act 2003 allows a degree of discretion in interpreting public interest at a local level. In assessing the case for registration, I want to see a strong demonstration of public interest. Community owners or potential community owners could be encouraged, through engagement with Scottish Government officials or with Highlands and Islands Enterprise and others who support them, to define as clearly as possible what their objectives are, how they will fulfil them and how they will engage in delivering the public good and public interest. That should give confidence that there are methods by which we can be sure not only that there is community support through a democratic local vote in favour of registration, but that there is a robust business case for it.

We can have guidelines and a common understanding of the things that would, generally speaking, be considered to be in the public interest, but there will always be a degree of ministerial oversight—as there is with the Land Reform (Scotland) Act 2003—in signing off decisions and saying, “This one is in the public interest, but that one is not.” There could be a situation in which someone applies to take over land that has been run perfectly well, there has been a good level of engagement and a high degree of economic impact has been delivered for the community, and it might not necessarily be in the public interest to have the ownership changed for a poorly defined project without a clear public interest.

We have rejected some applications; it is wrong to assume that we have not. I sometimes regret having to do so, because I feel sorry for the community, but if it has not made its case or if

there has been a technical breach of the 2003 act, we cannot support it. There are safeguards in place to ensure that projects are properly defined, that they are in the public interest and that they comply with legislation and with the requirement to demonstrate community support. I am confident that, although we need to streamline the system to make some things less bureaucratic and cumbersome, the principles that underlie the 2003 act are sound and demonstrate that community ownership is in the public interest.

The Convener: That leads us naturally on to carrots and sticks. Jim Hume has a question on land taxation payments and markets.

Jim Hume: I do not have any questions on carrots, but I have one on taxation. The review group made some recommendations on taxation and increasing the number of landowners in Scotland, and I am interested in the minister's views on that. One of the taxation recommendations was on ending the exemption for agricultural, forestry and other land-based businesses from non-domestic rates, which I believe the Government does not intend to progress, but perhaps that could be clarified. Land value taxation, species-specific sporting rates, and the review and reform of exemptions and reliefs for agricultural and forestry land in national and local taxation have all been mentioned.

When I pushed the review group and asked its members whether they had considered the economic impact on what we would call normal agricultural farming, they said that they had not, as it was not within the group's remit, which I thought was a strange answer. I would be interested to hear your views on that, and whether you, and the Government in general, intend to progress those measures.

Paul Wheelhouse: I recognise that there is strong public interest on both sides of the debate around taxation and business rates exemptions. We completed a review of business rates last year, and the Cabinet Secretary for Finance, Employment and Sustainable Growth and other colleagues such as Derek Mackay have sought views on how the system can better support sustainable economic growth.

An important pillar of Government policy is that we are committed to retaining the most competitive business tax environment in the United Kingdom through our business rates policies, and we certainly have no plans to change that position. Given that we had recently reviewed business rates and how they apply to businesses, including agricultural businesses, we did not feel that there was a case for changing our position. I appreciate that some people have been upset by that view, as they were pushing for that area to be examined.

We believe that we can better support sustainable economic growth while delivering the same level of income that is needed to provide the local services on which businesses and communities rely. If the objective is to support the type of local services that business rates would fund, we think that there are better ways of funding those services—through Government block grants to local authorities, for example—than by having to raise business rates from agricultural businesses, many of which are quite highly geared and have quite a lot of borrowing.

We are undergoing a major CAP reform; today, the cabinet secretary will make a statement on the outcome of that process for Scotland. Farming is in an important transitional period, and giving businesses a bit of stability by not proposing to change the business rates environment will allow them to take on board the impact of the new CAP without having another change coming in from left field that might impact on them. We just did not think that there was a case for reviewing that decision. At this time, we think that it is important that we maintain some stability and retain our competitive business rates environment.

On land value tax, we recognise that there is wide support for such a tax in economic circles, and we are still considering the review group's recommendations. We do not want to engage in a knee-jerk reaction either way. Because of the strong support for a land value tax, the subject is worthy of further discussion. We understand the role that such a tax could play, but we do not yet fully understand the potential impacts that it might have. I will keep an open mind on the matter and will listen to stakeholders' views on how a land value tax might fit into the system in future. It is a complex area and one that would require a full economic study, which—as Jim Hume mentioned—the review group did not undertake. That partly reflects the group's remit, as well as the fact that it did not have the resources to commission such a piece of work.

If we were to consider a land value tax, we would need a full economic study to determine the potential impacts. I understand the reasoning and rationale behind the group's recommendation, and I acknowledge the strong support that exists for such a tax. We are keeping an open mind. We would need to understand the implications before we took a view either way on whether we should proceed down that route.

Jim Hume: My only other question was on species-specific sporting rates—that is never easy to say.

Paul Wheelhouse: I know that there are contrasting views on that issue. At present, the position is that taxation such as a land value tax or business rates would be a form of taxation on land

and not necessarily on the species for which the land was used. There is an element of debate on that point, and I am not saying that I have a definitive legal position, but I understand that there may be no scope in the law to distinguish between different species by operating differential business rates on that basis.

The Convener: Given the complexity of taxation issues, which you have mentioned, I take it that there could be a workstream that would include the various aspects of tax that affect land. Those aspects could be taken forward together and the land value tax inquiry could become part of that work over a period of time.

Paul Wheelhouse: That is another example—like the one that I described in my response to Claudia Beamish—of a workstream that would primarily involve another minister rather than me or the Cabinet Secretary for Rural Affairs and the Environment. We must engage with our colleagues on that, as their officials would be likely to undertake or commission such work. We will feed back to the committee as soon as we have some clarity on how we will address that issue. We are clear that some modelling needs to be done to gain an understanding of the impacts, and the impact of the CAP reform package would need to be taken into account.

11:15

The Convener: Last, but by no means least, we come to the subject of crofting.

Dave Thompson: The review group recommends that we need a “modern and robust” statutory framework for crofting. It was not that long ago that we went through those issues. The crofting law group has collated a sump—that is an interesting word—that highlights significant anomalies in crofting law.

Should we—as some would suggest—tear up crofting law and start from scratch, or should we take another look at the subject based on what the crofting law group has produced?

Paul Wheelhouse: I recognise that crofting is a hugely significant area. During the passage of the Crofting (Amendment) (Scotland) Act 2013, we had to address the decrofting problem. I gave an undertaking to members on all sides of the chamber that, although some other challenges were presented with regard to crofting law, we had, out of necessity, to cut short the parliamentary procedure for the bill and to keep its remit fairly limited in order to ensure that it went through to address the problem at hand.

That being the case, we said that we would look at those other issues. We are engaging with the crofting law group's sump—I agree that it is not

the most charming term—and I welcome that helpful initiative, which has been taken by specialists in crofting law. It will, I hope, help us to identify, on the 80:20 principle, the 20 per cent of problems that are causing 80 per cent of the difficulties. In turn, that will help us to understand the options that exist for dealing with the situation. Should we amend existing legislation to deal with a relatively limited number of high-impact issues, or do we require to undertake a more fundamental exercise?

I have in mind the fact that there are potentially significant resource implications for the committee and for Parliament in scrutinising the crofting law situation. We have engaged a crofting stakeholder group that involves all the key parties to look at the future of the regulatory framework and provision for crofting. It is a huge issue and, as the year progresses, we will get more information from the sump and from our engagement with stakeholders, which will give us an idea of what the next steps should be.

I am aware that, if we were to take the view that we should scrap crofting law as it stands, that would be a huge undertaking, and I would not enter into it lightly. We need to understand what needs to be done first. We need to consider whether we should address a relatively limited number of issues that will make the maximum possible impact. Do we need legislative change, or can administrative changes at the Crofting Commission address some of the issues?

We need to understand where the balance lies with regard to legislation versus administrative change and how extensive the change needs to be. We will then reflect on what the best approach is.

The Convener: I think that Dave Thompson is happy with that.

Dave Thompson: Yes.

The Convener: We will have a couple of points to sum up the debate, first from Claire Baker and then from me.

Claire Baker: This morning's discussion has been interesting, minister, and many of the areas that you have talked about cross over into other portfolios and departments. There is quite a lot of pressure to include in the proposed land reform bill policies that come under areas for which others have responsibility, and Government is not usually very good at that sort of thing.

How do you plan to ensure that the bill is as broad as possible, that it takes into account the responsibilities of other ministers and that it is Cabinet focused?

Paul Wheelhouse: The community empowerment bill is a good example of how we

have worked and engaged with other portfolios to look at the ramifications for other areas, so I will not necessarily agree with Claire Baker on the record that the Government has not been a paragon of virtue in that respect. She has made her point.

We recognise that, when we have a multidisciplinary team, we need to have strong engagement with ministers and officials in different departments and with their stakeholders, because I and my department may not necessarily engage with those stakeholders on as wide a basis. We need to explore and exploit the stronger stakeholder lines that may exist with other ministers in understanding the ramifications of a bill.

It is important that we take stock of what the land reform review group has said, and that we go into the process with support for the direction that the report sets out and the outcomes that the group wishes to achieve while considering how those can best be delivered. In some cases, we might well be able to say, "Yes, we agree with that, and we will take forward the recommendation," and in other cases, we might have to modify a recommendation or take a different approach.

I give Claire Baker an undertaking that we will try to demonstrate joined-up thinking and working. I would certainly welcome input from committee members and the wider Parliament on where we go.

The Convener: It would seem that we need to come up with some suggestions for workstreams, based on the evidence that we have taken, and we will consider that in the near future. I thank the committee members and the minister and his officials for elucidating some of those points.

I reiterate the statement at the end of the land reform review group's report, in which it says:

"We offer the Scottish Government, a range of recommendations",

which are summarised in the report,

"and we encourage it to be radical in its thinking and bold in its action. The prize to the nation will be significant."

That sets the bar high, and we hope that our negotiations with you, minister, and your recommendations will meet those targets. We believe that it is in the best interest—the public interest and the common good—of the nation to do so. I hope that today's session will be the first of several bites at the cherry in which we interrogate you on the development of your plans to achieve those aims.

I thank you and your officials for your involvement. We will take a short break while we bring in new witnesses.

11:22

Meeting suspended.

11:30

On resuming—

Marine and Fisheries Issues

The Convener: Agenda item 3 is marine and fisheries issues. I welcome George Eustice MP, the Parliamentary Under-Secretary of State for Farming, Food and Marine Environment, who is here to give evidence to the committee on marine and fisheries issues. I also welcome his official, John Robbs, the director of marine and fisheries at the Department for Environment, Food and Rural Affairs of the UK Government. I invite Mr Eustice to make an introductory statement.

George Eustice MP (Parliamentary Under-Secretary of State for Farming, Food and Marine Environment): Good morning and thank you very much for the invitation to come here. It is great to have this opportunity to talk about the common fisheries policy and the reforms that we are implementing.

The final agreement that we got on the common fisheries policy has the potential to be a really radical reform of the CFP. For decades, the CFP has not worked properly and there has been the scandal of good fish being discarded back into the sea. The combination of a discard ban, flexibility in the way that quotas work and a much stronger emphasis on regional decision making could produce quite a radical reform. Although we will never have a man-made fisheries policy that is perfect, because the marine environment is incredibly complex, the agreement that we have got is a major step forward. That is why we are keen to roll up our sleeves and get on with implementing it effectively.

At the moment, we have groups working on a discard plan for both the North Sea and the north-west waters. John Robbs is on the working group for that initiative. We expect that those groups will submit their plans to the European Commission during the summer—perhaps by the end of this month—so that we will be in a position to implement the discard ban for the pelagic fisheries from January 2015. We will then begin the slightly more complex process of working out how to implement a discard ban for the wider white-fish fleet, starting in 2016.

The Convener: Thank you. Various members have issues that they want to raise. I will start. How is the regionalisation process developing so that the North Sea regionalisation can become effective?

George Eustice: One of the key things about the new system is that, instead of the Commission initiating proposals and member states having to argue their case through trilaterals at a long,

exhausting December council, we have changed things slightly. There is now a legally binding commitment to fish sustainably and the member states that have a shared interest in certain waters will initially draw up discard plans and will then draw up multi-annual plans for the management of those fisheries. We will still have the regional advisory councils that are in place at the moment, and the advice that they give will be very influential at the multilateral negotiations that take place between member states. At the end of that process, there will also need to be some kind of delegated act from the European Commission to give authority to it.

We are making good progress on the discard plans for both the North Sea and the north-west waters. As John Robbs, who is closely involved in that, is at the table, I ask him to give you an update on the details of that work.

John Robbs (Department for Environment, Food and Rural Affairs): Throughout the EU, there are a number of regional groupings. There is one in the Baltic that has some history behind it, we have a history of co-operation in the North Sea and further groups have been created as a result of the CFP reform. The one that the UK is interested in is the north-west waters group, which stretches from the north of Scotland down to Brittany. There is another new group in the south-west waters, and other things are being done in the Mediterranean.

We are all finding our way forward. We are not quite making up the rules as we go along, but we are certainly working out how to make the rules work. Our immediate and top priority is to prepare the discard plan for the pelagic fisheries, where the discard ban will come into effect on 1 January next year. All the groups are concentrating on that because, within the reformed regulation, there are things to be set down clearly in a discard plan and agreed regionally where there is no multi-annual plan in place, as is the case now.

It is fair to say that the group in the Baltic is working very successfully, as there are a limited number of countries with a long history of working together. In the North Sea, the group is working pretty successfully, but the work is obviously more stretching in the newer groups where there is no history of working together. Nevertheless, there is a strong desire among all the countries concerned to make the process work, and we are now at the critical stage of balancing the desire to make it work with everybody's desire to get the best possible deal for themselves. We will see where we get to in the next few weeks.

I add that, although I speak for the UK in the director-level group, a Scottish colleague has invariably been with me at the meetings and we agree our approach before we go to them. We are

very happy to have a Scottish colleague with us, given the strong Scottish interest.

The Convener: Does any member have a supplementary question on regionalisation?

Jamie McGrigor (Highlands and Islands) (Con): I have a question on the discard ban, which has been mentioned. The groups for the North Sea basin and the north-west waters are both submitting discard management plans to the EU at the moment—the deadline is the end of June. There is concern that the controls and rules should be the same for all member states that fish in Scottish waters; otherwise, Scottish fishermen might not be on a level playing field with the likes of fishermen from, say, Norway. Will you ensure that the rules and controls that are put in place for the discard ban are the same for all member states that fish in our waters?

George Eustice: The EU regulation makes it clear that the enforcement measures that are adopted should be equivalent. The reason that the word “equivalent” is used rather than the word “identical” is that we want to move the discard ban forward and make it happen. If we insisted on total uniformity, one of two things would happen. Either we would have to centralise those decisions again back in Brussels, which is not what we are trying to do—we are trying to decentralise the decision making—or one member state that was not keen on the policy as a whole and did not really want a discard ban might make such an unreasonable request that the whole system would collapse. Although we will not say that the measures will be identical, as we want to move things forward, it is clear to us that they will be equivalent.

You are right to put your finger on the issue, as it is a concern that fishermen—particularly Scottish fishermen—put to me. They are concerned that, although they will abide by the rules, fishermen from other countries might not. I understand that, and it is one of the most contentious issues that the groups have to deal with. The focus of the groups is the discard ban, but, below that, the focus and discussion is on exemptions on the grounds of such things as survivability, methods of enforcement, de minimis derogations and the like.

I cannot say that the measures will be identical, as that is not how the regulation is drafted, but we intend them to be equivalent.

Jim Hume: Good morning to you both and thanks for coming along. You talked about Scottish representation during negotiations. We are often led to believe that we do not have good representation, but I believe that, during the mackerel negotiations, it was a Marine Scotland representative who led the negotiations for Scotland. Is that quite common?

George Eustice: We have recognised throughout the importance of the mackerel settlement to the Scottish fleet, not least because well over two thirds of the mackerel that we land is landed in Scotland. The industry is vital for you.

The European Commission led the mackerel negotiations, because it has competence to do that on our behalf. However, as the UK has the greatest interest in the subject and we have a lot of credibility on fisheries issues, it is fair to say that the Commission consults us closely on its plans. In turn, the UK Government works incredibly closely with the Scottish industry. Does John Robbs want to add anything?

John Robbs: What the minister said is absolutely right. The Commission leads on negotiations with third countries and we all have to live with that way of working. For co-ordination in the EU, member states discuss with the Commission what the EU line should be. I cannot think of an occasion when a Scottish official has not been present at such discussions, as would be expected, given the significance of the negotiations. Members of the UK team work closely together to influence the EU position, from which the Commission negotiates with Norway or other third countries.

Dave Thompson: I ask Mr Eustice to elaborate on that point. Officials are one thing, but has a Scottish minister or cabinet secretary ever led the negotiations on the UK's behalf?

George Eustice: No. I make it clear that I am a UK minister, not an English minister. I happen to come from Cornwall, so I do not usually describe myself as English, anyway. I represent the UK when I do such negotiations. It is important that I am fair to every part of the UK when I do that.

Richard Lochhead attends virtually all the council meetings when fisheries are discussed. Before we go into the council, we have a detailed discussion about the exact approach that we will take. We frequently amend our negotiating position in response to concerns that Scotland raises. We work incredibly closely, but a UK minister should lead a UK negotiation, although we do so having consulted the devolved Administrations in great detail.

Dave Thompson: I believe that, on occasions, no UK politician has been available to attend—or they have had to leave—and a Scottish minister has been there, but the opportunity to allow the Scottish minister to take the UK minister's place has not been taken up and an official has taken the UK minister's seat. Why do you feel that that is a satisfactory way to deal with things?

George Eustice: As I said, I and the officials who are with me represent the whole UK and do

so fairly. It is an important principle that I am there as a UK minister and not as an English minister.

What you describe has not happened since I have been the responsible minister. I always make a great effort to get there. We are always keen to have proper ministerial representation for the UK at council meetings.

Dave Thompson: I certainly hope that you will change things—that is the implication of what you said. However, the fact remains that, given the huge amount of fish that we contribute to the UK pool, a Scottish minister could equally represent the whole UK. Surely it does not have to be a Westminster minister who represents the whole UK. In the past, when the UK minister could not attend but the Scottish minister could, why was the opportunity not taken to allow the Scottish minister to lead for the whole UK?

11:45

George Eustice: I have made the point that a UK minister should be in the chair to represent all the parts of the UK. Otherwise, we could get into an argument about why the UK should be represented by a Scottish minister rather than a Northern Ireland or Welsh minister.

I know that the argument has been made before, but I find it a curious one. To have a Scottish minister who wants to leave the UK but who seems so eager to sit in the chair representing the UK is something that I have always found rather curious. All that I would say is that I go there to represent the whole of the UK. It is important that we do that so that we do not start getting lots of confusion at a European level about where we sit on these matters. However, be in no doubt that I regularly discuss those matters with Richard Lochhead and that our officials are in constant dialogue about the positions that we take.

For instance, in the crucial negotiations during the December council when we go in for the most important part of the discussion, which is the trilogue that we have with the European Union presidency and the European Commission, Richard Lochhead and the other devolved ministers attend that with me and, yes, do lead on the issues that matter most to them. In December, Richard Lochhead was in that trilogue alongside me and he led on some of the issues around flexibility for angler fish.

Dave Thompson: The basic principle that you have just outlined, however, is that a Westminster politician must lead for the whole of the UK because it would not be appropriate for a Scottish minister to lead, as he might have the opportunity not to be fair to his colleagues in Wales, Northern Ireland and the rest of the UK. That is the implication of what you said a few minutes ago.

George Eustice: Yes, I do not think that I can be clearer on this. It is a UK delegation so it should have a UK minister who represents the interests of every part of the UK. I do not think that you would want to get into a situation where you had just one part of the UK representing the whole. I am very much there representing every part of the UK when I attend.

Dave Thompson: Do you not accept that a Scottish minister could represent the whole of the UK in a fair way?

George Eustice: I make the point that a Scottish minister is not in the UK Government. When I am there, I am representing the UK Government, which represents every part of the UK. That is different from having a Scottish minister who represents the Scottish Government and Scottish interests only. However, we recognise that the Scottish fishing industry is incredibly important in Scotland and it is almost half of the UK fishing industry. It is for that reason that I work very closely with Richard Lochhead when we are putting together the positions that we take to council.

Dave Thompson: Thank you.

The Convener: We will move on to the new CFP and Scotland's share of the UK and EU fisheries funding. Nigel Don will ask the first question.

Nigel Don: Thank you, convener, and good morning, minister. Thank you very much for coming. Some of your colleagues apparently do not come to committees in this place, so I am very glad to see you and grateful to you.

The European fisheries fund is of course a pot of money that comes back from Europe. It is divided across the UK and, as you say, you represent the whole of the UK—I understand that. I have in front of me figures that show that Scotland will get from now on some 46 per cent of that funding, which I believe is an increase and is, of course, welcome. However, I also understand that we have at least two thirds of the fish landed in the UK, so I wonder whether you can explain to me why even 46 per cent is fair, please.

George Eustice: You will appreciate that arriving at the allocations is always difficult because, obviously, every part of the UK would say that it should have more. However, we did develop, with officials from all the devolved Administrations, a set of criteria that looked at the new scheme's objectives. For instance, there is a slightly greater emphasis in the new scheme on things like aquaculture. You have a large aquaculture industry here in Scotland. We looked at other objectives of the scheme, such as delivering the discard ban. On that basis, they came up with a formula—John Robbs might be

able to elaborate the precise criteria in the formula—that arrived at a certain allocation.

For the last European fisheries fund, which was the predecessor of the European maritime and fisheries fund, we allocated 40 per cent to Scotland. Richard Lochhead said at that point that that was a big boost and a great deal for Scotland and that he was very satisfied with it. So, if 40 per cent is a great deal for Scotland, then 46 per cent has got to be an even better deal for Scotland, as far as I can see.

As I said, these will always be difficult, contentious decisions because, of course, everybody would always like more money, but I think that 46 per cent is a fair outcome and a significant uplift for Scotland.

Nigel Don: Anything extra will undoubtedly be welcome, but I am still struggling with the notion that the allocation is fair. You mentioned aquaculture. The fact is that the vast majority of British aquaculture is in Scotland. We land the vast majority of fish and we do a great deal of the processing, which is also a part of the industry that the fund is meant to support. I struggle to see how an allocation of less than half—let us not be churlish about the number—is fair.

George Eustice: All that I would say is that the agreements were very fair to Scotland in the end. Under the criteria, England should have got, if anything, a slightly higher uplift than it did. However, to facilitate an agreement with Northern Ireland and Wales, we went for a slightly smaller increase for England on the basis that it had not previously claimed the funding.

I should highlight another important point. In light of the fact that the big argument that Richard Lochhead and fishing leaders have made to me is that Scotland tends to use its allocation whereas other parts of the UK do not always do so, another part of the deal is flexibility. If we get into the year and find that other parts of the UK are not using their allocations, we can move up to 10 per cent of those other allocations to, for instance, Scotland to ensure that the money is used rather than sent back to Brussels.

That combination of a significant uplift for Scotland and flexibility in dealing with the problem of certain parts of the UK not claiming all their allocation results in a really good deal for Scotland.

Nigel Don: Again, let me be clear: flexibility is always welcome. To be honest, it is good administration whichever way it happens to go. However, if someone starts with less than their share, they will want to get more out of the deal.

I have some other figures. For example, although we land 7 or 8 per cent of the fish that

are landed in Europe, we get less than 2 per cent of the EFF. How is that fair?

George Eustice: It is all about how the EU allocates the funding. There is inside-the-UK allocation for which we are responsible, but the EU itself tends to allocate funds to member states along lines similar to the way in which it allocates convergence funding. As a result, less-developed countries with weaker industries tend to attract more investment.

The problem would not go away if Scotland became an independent country—unless it became substantially poorer, which I am sure no one would want. The fact that the UK gets a smaller allocation than some member states is a product of the fact that the funding is allocated along the same lines as convergence funding. However, I should note that that is not the case for all member states. For instance, Malta gets a very small sum of money per vessel compared to Scotland, whose allocation per vessel is three times as much.

I will ask John Robbs to elaborate on the formula. Although you might take the view that Scotland is starting from an unfair position, I am not sure that that is right, given that the starting point was a set of principles and criteria that were agreed by officials in all the devolved Administrations.

John Robbs: For the allocations both within the UK and to the UK from the EU, the level of landings is one criterion but is in no sense the determinant. The point of the fisheries fund is to help member states to fund changes to the fleet and to enable them to implement CFP reform. In that respect, the number of fishermen is in many ways more important than the number of fish that are landed. As far as the criteria are concerned, England has more vessels, more fishermen and a bigger processing sector than Scotland although Scotland has a bigger aquaculture sector, more landings and more ports. We could all select one criterion and say that we wanted it to be the determinant because it would give us the most money, but the fact is that there is a mix of criteria, all of which were weighed in the balance to work out, as well as we could, what a fair distribution would be.

The result of that work was that Scotland and England were to receive increased shares whereas Northern Ireland and Wales were to receive reduced shares—after all, everything had to add up to 100 per cent. As the minister said, the reduction in the levels of allocation was very difficult for Wales and Northern Ireland and, as the UK minister, he decided to soften that reduction.

That relates to the UK, but the share of landings is equally not the simple criterion at the EU level.

There are questions about the overcapacity that needs to be reduced in different member states' fleets and there is a convergence issue relating to overall levels of population and poverty. Those factors all come into play although, in all honesty, we do not know precisely how the Commission determines the allocations.

The sums of money that are to be allocated per member state in the new fund are yet to be announced, but we expect that announcement any day now. We expect that the UK will receive more for the data collection work and the control and enforcement work, both of which are really important to the UK, especially in Scotland. We expect that our share of that funding will go up and that we will get rather more money, which would be welcome, but the process in the Commission is not completely transparent and we are waiting to find out what the numbers are.

Nigel Don: Thank you for that explanation, which is useful. It suggests to me that an industry that is properly organised, operates efficiently and is efficiently managed—I put that all together—will get less. It suggests that those who organise themselves properly are, in effect, penalised and that public money goes to those who have failed to organise themselves properly.

George Eustice: I suppose that that is a feature of any convergence-style fund. We could say the same about structural funds. Such funds are designed to support those who need help in converging with the best performers in the EU. That is the stated purpose of the funds and the purpose of regional policy the world over.

Claudia Beamish: Good morning. In your opening remarks, Mr Eustice, you said—I hope that I am quoting you accurately—that the marine environment is incredibly complex. I am sure that everybody around the table and people beyond the committee agree with that. Will you comment on the importance of member states having to reward fishing businesses that meet environmental criteria under the new European maritime and fisheries fund? Mr Robbs has already mentioned some input from the fund into data collection. Will you highlight how that money will help the wider marine environment and the sustainability of our fish stocks?

George Eustice: We have made the allocation and it will be for the Scottish Government to work out how to spend its share. Nevertheless, I will tell you a little about our thinking on that front in England.

Given the challenges of the discard ban, we envisage that the lion's share of the so-called core funding, which is the main part of the funding that goes directly to fishermen, will support more selective fishing practices and equipment that

helps fishermen to fish more selectively. That will have a big impact on our ability to make the discard ban work and, if we can make the discard ban work, will lead to a huge improvement in the environmental outcome of fishing.

John Robbs alluded to the three strands of the EMFF—nothing is ever simple at the European level—two of which support data collection and enforcement. I think that I am right in saying that both funds predominantly support Government work in those areas. John Robbs might like to say a little about how we intend to spend some of those two funds in England and might add something on the wider environmental point.

12:00

John Robbs: We are currently preparing the UK programme for implementation of the European maritime and fisheries fund, which needs Commission approval. The committee will not be surprised to learn that there are four different parts to the UK programme—I am sure that committee members can readily work out what those four different parts are. They reflect the desire of the four Administrations to set their own priorities, which is totally within our devolved system.

In all parts of the UK, but probably particularly in England and Scotland, data collection is a key area in improving our understanding of the state of stocks in the seas and will become increasingly important as we implement the discard ban and move towards achieving maximum sustainable yield in all the fisheries. We will look to get maximum benefit from that funding. As Mr McGrigor alluded, the discard ban presents additional problems for control and enforcement, which require a degree of investment. We will use the additional money to help us to make the new rules operate effectively.

All of that is aimed at improving the state of the fish stocks, which will benefit the marine environment generally and will ultimately lead to increased quotas that will benefit the industry.

Angus MacDonald: I listened to Mr Robbs's arguments for using other factors to determine the EFF split, such as the greater number of fishermen and processors in England. The problem that I have with that is that the UK Government negotiated a 1.4 per cent share of the EFF for Scotland, whereas a number of other countries with fishing sectors that are similar in size to the Scottish sector negotiated a much better deal. For example, Denmark negotiated a 3.1 per cent share of the total fund, Latvia received 2.9 per cent and Estonia received 1.9 per cent. We are languishing near the bottom with 1.4

per cent. Do you not recognise that that is an unfair deal?

George Eustice: We could trade figures endlessly. I mentioned Malta, whose allocation equates to around €8,000 per vessel from the EFF compared to the allocation of €26,000 per vessel in Scotland. I have also covered why some of the less-developed countries receive a greater share, given that an element of the formula calculation is similar to the convergence one. That is why Scotland would end up with a lower allocation.

Angus MacDonald: I do not think that Denmark is less fortunate than Scotland with regard to the quality of its industry, and its allocation sits at 3.1 per cent.

George Eustice: Lots of criteria are used in the allocation. One of the things that the UK Government wants to achieve more broadly at a European level is a freeze in the EU budget. That proposal has received cross-party support at Westminster. The SNP joined the Conservatives and others in voting for a freeze in the EU budget—all the parties want to freeze the EU budget. However, there are implications to that, and there are sometimes difficult choices to make on the budget.

Graeme Dey: Scotland's new Conservative member of the European Parliament, Ian Duncan, recently suggested that the European fisheries fund should be spent elsewhere than in Scotland. He justified that by saying:

"The funds should go to those places which are struggling—the Scottish industry is not struggling."

However, as we heard from you earlier, Scotland has been using up all of its allocation of the funding. Do you not accept that that is an indication that the demand does lie here and that we are struggling?

George Eustice: There are always challenges in the fishing industry, not just in Scotland but elsewhere. For instance, we have had an incredibly difficult winter and fishermen in the south-west have had a very difficult time because of the storms.

It goes back to what I said earlier. We recognise that Scotland has tended to use all of its allocation, which is why we have done two things. First, we have increased Scotland's allocation from 40 per cent to 46 per cent of the UK allocation, which is a major increase. Secondly, we have added flexibility so that, if other parts of the UK are underutilising their allocations, we will transfer those funds to Scotland because we do not want them to go unused. Having that flexibility has been an important part of the agreements here. It is a good solution and a good way forward.

Graeme Dey: You do not agree with Mr Duncan. You recognise that there is a demand for those funds and a need for them to come to Scotland.

George Eustice: We recognise that there is a role for those funds, absolutely, which is why we will put in quite a lot of effort in England regarding where we use them. For instance, we see that they have an important role to play in investment in more selective net gear to make the discard ban work.

Your comments might have been made in the broader context of the EU allocations rather than the allocations within the UK. We have demonstrated that we recognise the importance of fishing in Scotland by making an allocation of 46 per cent, which is up from 40 per cent.

Graeme Dey: In developing the point a little further, I will go off at a slight tangent. In yesterday's press release from DEFRA, there is a reference to accessing the funds for the processing sector. Can you outline what exactly the processing sector can get from the funds? Much of Scotland's processing sector is currently finding things very difficult because of a lack of continuity of supply, for instance, and it is struggling to attract new entrants. That presents obvious problems for the future. What criteria apply to the funds for the processing sector that might allow it to get some benefit from them?

George Eustice: I will ask John Robbs to give some specific criteria in a moment. The EFF and the new EMFF allow investment in processing. Towards the end of last year, I visited Peterhead, where people are hoping to access some of those funds to upgrade their facilities. The EFF has previously funded investment in equipment and in fish-processing capacity.

Another potential implication of the discard ban is that people might land more unwanted bycatch and might, therefore, need additional capacity to process fish in some places. It is too early to know the extent to which that will happen. In many parts of the country there is a lot of surplus capacity on the fish-processing side, and that is one area that could be considered.

John Robbs may want to add something on the specific types of project that the new EMFF might fund.

John Robbs: It is correct to say that there is a good deal of flexibility, and it is very much up to the Scottish Government to decide how far that is a priority within its part of the programme.

The only issue that I can immediately think of in addition to those that the minister has covered is the potential to develop new products and new markets, particularly for species that are currently

not deemed to be marketable simply because there is no market for them. That is quite a promising area for some species.

Jamie McGrigor: I very much welcome the fact that Scotland is set for a bigger European fisheries fund share within the UK, and I thank the minister for that.

The subject of deputisation and who sits in the chair at EU meetings has been much mentioned by Dave Thompson. Am I right in thinking that, when Scotland wanted to manage its own levels of effort by way of days at sea, the UK negotiated that for Scotland despite disagreeing with the Scottish position and that Scotland now has that opportunity?

Am I also right in saying that, in the mackerel dispute resolution talks, it was Scotland that took the helm, very ably supported by the weight of the UK? Can you think of an instance when the UK delegation worked against the needs of Scottish fishing in Europe? Do you agree that, in EU negotiations, being a large member state is a very good thing?

George Eustice: I will answer those questions in reverse order. On your latter point, that is absolutely the case: the UK is one of the major members of the EU and has a large number of votes. We are taken very seriously on fishing matters because we have a huge fishing industry and we are a maritime country. We also have a lot of credibility because we advocate sustainable fishing and we are serious about it. All those things mean that the UK has incredible clout in fishing discussions at the European Council.

Because Scotland represents the best part of half the UK industry—it depends on which measure is used, as people cite all sorts of different figures, but it is roughly half—it has a major bearing and influence on what we do. We go to those discussions as the UK arguing for Scottish interests, which we do routinely, and Scottish fishing interests are hardly ever at variance with the fishing interests in other parts of the UK. We are able to go to the EU and argue with a very strong voice. I do not think that that would be the case for an independent Scotland, which would have similar voting rights to, say, Estonia. The situation would be different.

On your point about UK representation, I have to account to Parliament for the decisions that I make, and if I am unfair to fishermen in Wales I will have Welsh MPs on my back. If I am unfair to fishermen in Scotland, I will have Scottish MPs on my back, and the same is true for Northern Ireland and England. That is how accountability should work. I am accountable to all those people and they are, in turn, accountable to their electorates and the fishermen in their constituencies. That is a

really important principle if we want accountability to work. If a minister from a devolved Administration is in the chair, they do not have the same incentive to be fair to everyone else because they do not have all those other MPs from the other parts of the UK on their back if they feel that they are being unfair. That is an important principle. My view is that we can get a better deal for Scotland if it is part of the UK.

Jamie McGrigor: Am I allowed to continue with a question on another subject, convener?

The Convener: There will be another chance. We will stick to the same subject for the moment.

Dave Thompson: I just want to follow up on the point that Jamie McGrigor raised there. You said that the Scottish position was “hardly ever” at variance with that of the rest of the UK. That implies that it is occasionally at variance. You represent the whole of the UK. If you had to choose between voting for the position of the rest of the UK—or England perhaps—and voting for the Scottish position, could you ever see yourself voting for the Scottish position ahead of the RUK?

George Eustice: As I said, in those situations, I would always do something that would be fair to all parts of the UK. However, I come back to the point that I cannot remember there ever being a time when that was the case.

At the last December council, we all had an interest in getting the right deal between the EU and Norway, and we all had an interest in increasing the North Sea total allowable catch and not accepting the proposed 9 per cent cut. We all had an interest in, and argued powerfully in that December council for, increased flexibility with angler fish, which was important to some sectors of the Scottish fishing industry. I cannot remember a time when we have been on a different page on these issues.

We have shared waters, we are one UK, and we very much have shared interests when it comes to the fishing industry.

Dave Thompson: Perhaps I can pursue the point briefly, convener.

Individual transferable quotas were mooted some time ago. The Scottish cabinet secretary's position on quotas is fairly straightforward. He does not want quotas that are allocated to Scotland being traded so that those who have the deepest pockets can buy up quotas and we end up with Scottish communities not having access to any. Is there not a possibility that that is a different position to the one that you might take?

George Eustice: I do not think that it is. I might ask John Robbs to come in on the detail, but I note that one of the key benefits that Scotland has as part of the UK is that we have a fluid and

flexible market that allows us to swap and lease quotas between producer organisations within the UK. That is quite important. We have the fisheries concordat to deal with the way in which different parts of the UK relate to one another on issues such as where vessels are registered.

I come from Cornwall and when I talk to Cornish fishermen, they sometimes complain to me that there are lots of Scottish boats scalloping around Falmouth bay and in the channel, and that certainly concerns them. However, I do not begrudge that. One advantage is that we have a flexibility that comes with being part of the UK, and if we did not have that we would have fewer options to trade and lease quota in order to match the quota that a producer organisation holds with the fishing opportunities. That is a major argument for doing these things at the UK level.

John, do you have anything to add on the question of transferable quotas?

12:15

John Robbs: The background history to the issue is from before the minister's time, but Dave Thompson and I remember it. The last time I was before the committee, with Richard Benyon, we had a lengthy exchange on the Commission's proposal for transferable fishing concessions. I think that that is the point that Dave Thompson is raising.

At that stage, early on in the CFP reform negotiations, we were clear in the UK that we did not like what the Commission proposed, but there were very different perspectives between Richard Lochhead and Richard Benyon, which we were working through. Over the course of the negotiations we did work the issue through and we ended up with a united position within the UK.

You have not heard about the TFC problem for quite some while, because we sorted it out in the context of the negotiations. We may start with different perspectives, but we work the problem through until we have a shared position.

Dave Thompson: Thank you for that. Minister, would you be in favour of allowing the Scottish Government to ring fence quotas in Scotland's seas? Would you consider that approach, to ensure that quotas remain for the use of our communities around Scotland?

George Eustice: At the moment, we have the right balance, with the fisheries concordat, which makes sure that we do not get vessels trying to circumvent enforcement measures that a particular UK Administration might put in place. There are benefits of having a larger pool, in which producer organisations are able to lease freely between themselves, so that they can match

fishing opportunities to the fish that are available. It would not be in Scotland's interests to withdraw from that, have a much smaller quota allocation and deny it the flexibility to trade that quota with the rest of the UK.

Alex Fergusson: Good morning, minister. As someone with a Cornish wife, I learned long ago that introducing her as English was not in my domestic interests. [*Laughter.*] Welcome to the committee.

Will you clarify something that you said early on? I think that you said that the criteria for EFF funding allocation in the UK were entirely agreed by all the devolved Assemblies and Parliaments in the UK. Is that what you said?

George Eustice: The process that we went through was quite exhaustive at official level. There were long discussions between officials from all the devolved Assemblies and the UK Government, and I understand that we reached a position in which everybody said that they were broadly content.

I discussed the issue with Richard Lochhead at the beginning of the year at one of our fisheries councils. He understood the difficulties in reaching these agreements, as everybody wants more than they might be allocated, but he was very clear that about his preference. His primary point was the fact that Scotland had used its allocation and the other parts had not, and he wanted to find a way of addressing that. If we could get an agreement that was reasonably fair and dealt with the issue, his preference was that a decision would be made, so that we had clarity and certainty about the funds and fishing businesses could prepare for them, rather than a long, protracted process that went for many months or even years.

Alex Fergusson: That is fantastic. Thank you.

The Convener: Minister, it is a fact that, as you mentioned, Britain has strong role to play in the negotiations, yet Denmark got 3.1 per cent of the funds, Latvia got 2.9 per cent and Estonia—that small independent country in the Baltics—got 1.9 per cent. Scotland has about 1.1 per cent: the second lowest amount of funding per tonne of fish in Europe. Is that a very good outcome for the UK negotiations?

George Eustice: I simply return to what I said: how the European Union calculates such allocations is quite complicated. A strong element of that includes looking at things such as the convergence criteria, which means that, with this particular fund, the UK gets less than, for example, Denmark. However, as I said, if you look at the amount allocated per vessel, the UK gets considerably more than a country such as Malta. There are lots of anomalies in how any such EU scheme works.

John, is there is a bit more detail that we can give about the precise nature and the formula that the EU follows for such allocations?

John Robbs: First of all, this is not a negotiation of the normal sort: it is an allocation by the European Commission. It is not like a council negotiation between the member states to reform the CFP, where the UK works very closely with the other big member states to exert maximum influence; rather, the Commission decides on the issue.

I do not have the percentages that you were reading out, convener, but I would guess that those are the allocations under the current European fisheries fund rather than the future European maritime and fisheries fund. We have yet to learn what those allocations are; we should learn about them in the next few days.

In the past, Denmark had by far the largest fleet in the EU. It has reduced its fleet by a vast amount and closed down big chunks of its industry. That is essentially why Denmark got the amount that it did. We did not make the case for being allocated a very large amount of money to close down much of the Scottish industry—we would not want to do that.

You must look at the situation in each country in order to discern what reasoning the Commission applied in determining the shares. Sometimes, it is based on convergence; sometimes, it is based on the needs of new member states, which, in this case, had to change their entire way of operating in order to introduce the CFP. That was an issue when Estonia got its share, but that has not been an issue for Scotland since 1973 or subsequently when we developed the CFP. There are therefore different reasons.

The Convener: I see. That perhaps might explain why Spain got 25 per cent of the fund in the previous period—although it does not seem to have reduced its fishing effort that much.

John Robbs: You will find that, subsequent to Denmark having the largest fleet, Spain had a very large fleet. It had a lot of problems, including a lot of overcapacity and big issues with poor enforcement and control and losing fishing opportunities in third countries. I do not know how wisely the money has been invested, but there were reasons behind the Commission's thinking that a lot of investment was needed in Spain.

The Convener: I will finish this line of questioning by referring again to your press release from yesterday.

The press release says that the Scottish fisheries sector is to receive the greatest share of the UK fisheries fund. That is correct. However, I am surprised that it is said that Scotland receives

a large amount of the European fisheries fund compared with other well-developed member states. You used an analogy about the allocations per vessel by country. You said that Scotland receives €26,000 for each vessel compared with €12,000 for Finland, €18,000 for Ireland and €15,000 for England. Is that not the wrong analogy? You have said that data, enforcement and the number of fishermen, the processing sector, which is part of our activities, and so on are really important. In fact, using that analogy is spin.

George Eustice: There are different ways to look at the figures. We have made it clear in England that, if we are to use the EMFF partly as a way of investing in more selective net gear and the like, the number of vessels that we are trying to support in that endeavour is not an irrelevance.

As John Robbs said, the allocations are decided by the Commission. It takes into account a lot of different factors in how it makes an allocation to member states. The bit that we control is the allocation within the UK, and I come back to what I said at the beginning: I think that we have been extremely fair. This is a great deal for Scotland. As I said, when we had 40 per cent, that was heralded by Richard Lochhead as a very good deal for Scotland. We are now at 46 per cent. That is the bit that you can judge the UK Government on, and I think that we have been extremely fair to Scotland in this allocation.

The Convener: Do you think that, since we had the second-lowest funding per tonne in Europe in several other measures the last time around, it will make much difference at all?

George Eustice: Coming back to what John Robbs said, I note that we expect the EU to confirm any day now—possibly today but certainly by the end of the week—the allocation that it is making to EU member states. Perhaps that would be a time to rerun all of the formulas in terms of amounts per vessel, absolute amounts and amounts per tonne.

The Convener: We will move on to fish quotas. Claire Baker has some questions on that.

Claire Baker: We have already heard some questions about quotas, and I would like to ask about the concordat that has been in place for the past year. We have touched on the subject of the referendum, which obviously dominates a lot of Scottish discussion at the moment. What is the current status of the concordat and what would its status be if Scotland were to leave the United Kingdom?

George Eustice: The concordat was drawn up to solve a particular problem arising from the fact that the total allowable catch is allocated at a UK level but there is a significant amount of devolved responsibility for enforcement.

There were some particular concerns in some parts of the UK and some licensing changes—triggered by England—were made to help support devolved enforcement measures. However, it was then found that boats were trying to get around those measures by registering at ports in other parts of the UK. It was important to get some agreement on the issues that are involved, the principal one being that boats should be registered at the port at which they land most of their fish and where most of their activity takes place, or that they should have another connection with the particular part of the UK in which they are registered.

That was an important step. It is quite a recent one, as it was taken during the summer of 2012. There have been some issues and tensions around how the measure works, obviously, but it has been broadly successful.

If Scotland left the UK, the first thing that would happen is that it would be outside the EU for a period of time and there would then be accession negotiations to try to get back in. Never mind being outside the UK; Scotland would be outside the EU in that interim period. That would mean that the relationship would be very different, and the discussions would be similar to the ones that we have with Norway and Iceland.

Clearly, if there were a vote for Scotland to leave the UK, there would be a long period of negotiations during which we would try to work out that type of issue. It would be complicated. I do not have an immediate answer with regard to the concordat. I suppose that there would no longer be a need for it, in such a situation. It is uncharted territory.

John Robbs: I think that there would be plenty of other things to worry about.

Claire Baker: The point is that, at the moment, we have a concordat. The concordat would no longer apply, and there would have to be negotiations about what our quota share would be and how the regulatory system would work.

In my experience, the fishing fleet largely identifies itself as a UK business and has a lot of cross-border activity, whether that is in the processing sector or the catching sector.

John Robbs: The concordat is simply an agreement between the four UK fisheries ministers on the details of how we manage fishing opportunities in the UK. Bearing in mind that the responsibilities are heavily devolved, we just need a few core principles and conventions about how we behave in relation to each other, in the interests of everyone.

As you say, people in the industry, who are not necessarily all great fans of the concordat, work

across borders. A lot of the fish that the Scottish fleet catches are caught using quota that has been leased from English companies. It is not Scottish quota—it is English quota that has been leased within the UK to Scottish vessels. That arrangement is to the benefit of both parties, so it is fine, and it reflects the internal flexibilities that exist within the UK. If Scotland were to leave the UK, the concordat would no longer apply to Scotland and we would have a host of new arrangements to negotiate.

12:30

Claire Baker: You mentioned the system of leasing quota that operates in the UK. You will be aware that the Scottish Government has a moratorium on certain aspects of that system and that it plans to hold a consultation on the operation of leasing. The driver for that is the concern of fleets and harbours about the cost of leasing—there is upward pressure on the cost of leasing. Do you recognise what has led to the decision to hold a consultation? Do you have any thoughts on how the current system works and on the operation of the moratorium?

George Eustice: The way in which quota is allocated to different producer organisations is a matter for the Scottish Government to look at. The Scottish Government has made it clear that it wants to do that, which is why it intends to hold a consultation.

We have looked at the issue in a smaller way in England. There had been some quota that was being underused by the producer organisations. We made a modest change to take some of that unutilised quota and move it to the under-10m pool, which involves the smaller inshore vessels, whose skippers felt that they were not getting a fair enough deal. Even taking such a modest step was highly contentious and controversial in some parts of the industry. It is quite difficult to unravel systems that have been set up over a long period of time.

There is no harm in having a consultation, as the Scottish Government wants to do, although there is a danger that uncertainty might be created in the industry. Producer organisations have got quite good at swapping and leasing quota in order to match the quota that they have with the fishing opportunities that are available. My view would be that people should proceed cautiously with revolution in that area, but I understand that there will always be anomalies that the Scottish Government has a right to look at.

The Convener: Am I right in thinking that the British Government wanted to have totally transferable quotas that could be sold around the EU?

George Eustice: I think that that comes back to the point that John Robbs mentioned earlier. Some discussions took place at EU level about transferable fishing concessions, but that agenda did not go any further. That was before I became fisheries minister. I have got up to speed with all the issues that are currently being debated, but John Robbs might be able to provide additional information about the TFC debate, which took place two years ago.

John Robbs: I think that the key point is that you do not know about it, minister. [*Laughter.*]

George Eustice: Thank you very much.

John Robbs: That reflects the fact that it is no longer a current issue—it is a closed issue.

The Convener: Thank you, Sir Humphrey.

George Eustice: They only tell me what I need to know.

The Convener: Jamie McGrigor has a question about the west coast.

Jamie McGrigor: It is not about the west coast.

Recently, Scotland's First Minister made a speech in Bruges, in which he said:

"We propose a practical, common sense approach to membership, which means that there is no detriment—none whatsoever—to any other member of the European Union as a result of Scotland's continuing membership."

Given that there will be a negotiation, which the UK will be in charge of, regarding Scotland's uncertain position within the EU and that, as you clearly recognise, fishing will be an important part of that, is there a risk that an end point will be reached for the Scottish fishing industry that is worse than the status quo?

George Eustice: That is always the case, and it will be the case on many other fronts. When a country tries to join the EU, goes through the accession process and seeks the agreement of all the other member states to its being allowed in, it suddenly turns out that all the other member states have a lot of demands. That is an inevitable part of an accession negotiation, and in my view it would happen if Scotland were to leave the UK and the EU and then seek to negotiate re-entry to the EU.

Jamie McGrigor: Can I ask a small question about the west coast, convener?

The Convener: Not at the moment. Let us try to deal with quotas first. I thought that you wanted to ask about prawns.

Jamie McGrigor: Well, I have another question.

The Convener: We will see how the time goes—the minister's and ours. I call Dave Thompson, who has a question on quotas.

Dave Thompson: To follow up on the point that you just made, Mr Eustice, I would dispute that we would be out of the EU. In September, when we get our yes vote, if the Scottish people make that decision, we will still be in the UK and the EU for 18 months, and many eminent people have said that that is more than enough time to get the bulk of the toughest negotiations out of the way.

However, there would be a problem for the EU if your scenario was correct and Scotland was outwith the EU. When it negotiates with countries such as Norway, Iceland and the Faroes and swaps quota with those countries to allow 12 European nations to fish in their waters, a huge amount of the bargaining chips that Europe has come from Scotland's seas. If Scotland was out of Europe, Europe would not have those chips to bargain with, and the agreements that allow the 12 European countries to fish in Norwegian, Icelandic and Faroese waters would need to be renegotiated without the massive benefit of the bargaining chips from Scotland's waters. It is therefore in the interests of Europe and those 12 countries in particular to ensure that Scotland is in Europe at the end of the 18 months. Otherwise, their fishing industries would suffer severely.

George Eustice: In any negotiation, both sides have some chips. This is starting to sound a bit like a hustings for the referendum campaign, for reasons that I can entirely understand.

A lot of the fish that are landed and processed in Scotland are exported through the EU. I think that Scotland should want to remain part of the UK and part of the EU because that is the best outcome for its fishing industry and its industry generally. That is my personal view. Far be it from a Cornishman to tell Scots what they should decide in the referendum, but I think that there is a degree of uncertainty for the industry in leaving the UK and the EU and then going through an accession process and a renegotiation to try to get back into the EU, with 28 other member states having their lists of demands. That is not something that the country should decide to do lightly.

The Convener: We must move on. Claudia Beamish has some questions on research.

Claudia Beamish: Can we turn our minds to scientific research? I am interested in your thoughts from both the UK perspective and the English perspective on what is happening, taking into account the regionalisation. How does that inform sustainable fisheries and the marine environment? The Aquaculture and Fisheries (Scotland) Bill, which is now an act, came before the committee, and there are also complexities in other sectors in our waters. How does that fit with changing patterns due to climate change, and with biodiversity? I ask you those questions just to set the scene.

George Eustice: Absolutely. As I said in my opening remarks, the marine environment is incredibly complex, which means that no man-made policy will ever be perfect. We have come quite a long way with the methodology of assessing maximum sustainable yield—MSY—and there is a constant process of trying to refine that. We have the advice from the International Council for the Exploration of the Sea, which is respected the world over for the work that it does on MSY, and in England we have the Centre for Environment, Fisheries and Aquaculture Science, which does a lot of survey work for us. We have survey vessels out there that monitor stocks and feed that information into ICES to help to inform its work in the area.

We have also been keen to encourage more partnerships between the scientific community and the fishing community. There have been some great examples around the country where we have managed to break down the barriers and the suspicion. I frequently come across fishermen who are suspicious of the science and claim that it is out of date. We can address that by having more partnerships whereby the fishing industry and the scientific community work together more closely to come to a consensus on the state of stocks.

We hope that, eventually, we will get on to the next stage following the creation of the discard plans, which are currently being put together. There will be a discard plan for pelagic fisheries next year and one for the white-fish fleet the year after that. At that point, the regional groups will focus their attention on multi-annual management plans. We would like to move to a situation in which MSY is at the core of informing those plans. We want to develop an ever more sophisticated understanding of things such as predation patterns between different fish species and how different stocks interact with one another, so that rather than having an arbitrary TAC for an individual species, we might have something more sophisticated that looks at groups of species and their interactions with one another. That is an incredibly complex step, but we should constantly be looking to evolve the policy so that it can address some of the complexities in the system.

The scientific advice will be really important. Under the new CFP agreement, there is a commitment to fish at MSY for all species by 2020, and for species where it is possible from next year. We are well on the way to having MSY as the key policy objective.

Claudia Beamish: I am a strong supporter of regionalisation, but could you clarify the arrangements for sharing the scientific research on the ways forward between the different regions? Are there processes for doing that?

George Eustice: At the most essential level, it is done through everybody feeding in all sorts of science to ICES, which leads on recommendations. John Robbs will tell you whether there are any other partnerships between the countries in the North Sea and north-western waters group.

John Robbs: I am not aware of formal regional structures, but there are strong relationships between the scientists in the different countries, for example around the North Sea and north-western waters. They know each other pretty well, there is a lot of co-operation and there are joint projects. If you want EU funding for research projects, a key requirement is to have contributors from more than one member state. There are various means of doing what you describe, but I am not aware of a formal regional structure.

The Convener: There is an issue with the Crown Estate's distribution of the coastal communities fund and with access to that fund for fishing effort. Can you say anything about that now?

George Eustice: The main thing to say is that the matter does not come within the responsibility of DEFRA. However, I am aware that some concerns have been raised about the fund. I think that I am right in saying that the Treasury and a number of other organisations are looking at the issue of transparency to address some of the concerns that have been raised. From memory, Scotland got just short of £8 million from the coastal communities fund last year, which supported about 38 projects. About 38 of the 100 or so projects in the UK were in Scotland so, on the face of it, it does not look as though Scotland was getting less than its fair share of the fund. However, I know that concerns have been raised and the Government takes those seriously, so it is looking at the issue.

The Convener: I thought that I would raise the matter now, so that your comments would be on the record for future analysis. Thank you for your response.

Jamie McGrigor will come in on prawns.

Jamie McGrigor: How very kind.

I am an MSP for the Highlands and Islands region, which covers most of the grounds for prawn fishing and scallop fishing, which are both important sectors of the Scottish economy. The boats in those fleets are quite small and a lot of them are very old. The same would apply to some of your west coast Cornish fleets as well. You talked about the funds being allocated on the basis of need, and there is a definite need to get those fleets up to scratch for convergence. Will the fisheries fund be able to do that? I know that you have increased it, but will it go to the areas where

is really needed and are you responsible for ensuring that, or is it a question for Mr Lochhead?

12:45

George Eustice: In Scotland, it is a question for Mr Lochhead. As John Robbs pointed out, how the Scottish Government chooses to allocate the EMFF is very much a matter for the Scottish Government. Under the old EFF, there was an opportunity for people to buy replacement engines for their boats, provided that they were either less powerful or no more powerful than the engine that was there previously, so that it would not increase fishing effort. I do not think that the fund was available for buying new boats—John Robbs may be able to clarify that—but it was available for equipping boats more effectively.

A lot of the EFF was used—as we hope that the EMFF will be used in England—to invest in more selective net gear. When it comes to the nephrops fisheries, more selective net gear has been successful in ensuring that fishermen are not getting bycatch or catching juvenile stock.

John Robbs: It is a matter for Richard Lochhead.

Jamie McGrigor: I am glad that you know what “nephrops” means.

George Eustice: They are called all sorts of things—langoustines, nephrops or prawns, depending on what part of the country you are from.

The Convener: I thank George Eustice and John Robbs for the wide-ranging and robust discussion that we have had about the current CFP and the new one. It is useful for us to get the measure of what the UK ministry is thinking, but I hope that it is equally useful for you to hear the concerns of some of the members of the committee, as representatives of the rural areas of Scotland. We hope that we can repeat the exercise should that be necessary.

The committee will be looking at fishing quotas in parallel with the cabinet secretary's consultation, to try to get to the bottom of how and in whose interests they are traded.

At its next meeting, on 18 June, the committee will take evidence from a round table of stakeholders on petition PE1490, on the control of wild geese numbers, and will also consider its work programme paper, as discussed earlier.

Meeting closed at 12:48.

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