

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT

Ninth Delegated Legislation Committee

DRAFT COMMON FISHERIES POLICY
(AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019

DRAFT COMMON FISHERIES POLICY AND
AQUACULTURE (AMENDMENT ETC.) (EU EXIT)
REGULATIONS 2019

DRAFT COMMON FISHERIES POLICY
(AMENDMENT ETC.) (EU EXIT) (NO. 2)
REGULATIONS 2019

Monday 25 March 2019

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Friday 29 March 2019

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The Committee consisted of the following Members:

Chair: PHILIP DAVIES

- | | |
|---|---|
| † Bradshaw, Mr Ben (<i>Exeter</i>) (Lab) | † Johnson, Gareth (<i>Dartford</i>) (Con) |
| † Bridgen, Andrew (<i>North West Leicestershire</i>) (Con) | † Kerr, Stephen (<i>Stirling</i>) (Con) |
| † Clarke, Mr Simon (<i>Middlesbrough South and East Cleveland</i>) (Con) | † Newton, Sarah (<i>Truro and Falmouth</i>) (Con) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Pollard, Luke (<i>Plymouth, Sutton and Devonport</i>) (Lab/Co-op) |
| † Eustice, George (<i>Camborne and Redruth</i>) (Con) | † Seely, Mr Bob (<i>Isle of Wight</i>) (Con) |
| † Fellows, Marion (<i>Motherwell and Wishaw</i>) (SNP) | † Sobel, Alex (<i>Leeds North West</i>) (Lab/Co-op) |
| † Gaffney, Hugh (<i>Coatbridge, Chryston and Bellshill</i>) (Lab) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| † Goodwill, Mr Robert (<i>Minister for Agriculture, Fisheries and Food</i>) | † Yasin, Mohammad (<i>Bedford</i>) (Lab) |
| † Hill, Mike (<i>Hartlepool</i>) (Lab) | Laura-Jane Tiley, <i>Committee Clerk</i> |
| | † attended the Committee |

Ninth Delegated Legislation Committee

Monday 25 March 2019

[PHILIP DAVIES *in the Chair*]

Draft Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019

7.30 pm

The Chair: Is it the wish of the Committee that the regulations be taken together?

Hon. Members: No.

The Chair: Debate on each instrument can continue for up to an hour and a half. I remind the Committee that the debate should be confined to the instrument being considered.

The Minister for Agriculture, Fisheries and Food (Mr Robert Goodwill): I beg to move,

That the Committee has considered the draft Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019.

The technical amendments made by the draft regulations, which were laid under the European Union (Withdrawal) Act 2018, will ensure that retained EU law provides effective and enforceable UK law, as well as continuity to businesses, while protecting the environment. No policy changes are being made to the effect of the retained EU law, and the regulations are not expected to change the way in which the fishing industry conducts its activities.

The draft regulations are complemented by the other fisheries statutory regulations that the Committee will consider today and by the Fisheries Bill, which will deliver our promise to take back control of our waters and decide who may fish in them and on what terms. They will create the powers to allow us to build a sustainable and profitable fishing industry over time.

The draft regulations will extend to, and apply to, the whole United Kingdom. Fisheries management in the UK is largely devolved in Scotland, Wales and Northern Ireland, so the regulations have been developed and drafted in close co-operation with the devolved Administrations, who have given their consent. This will ensure a common approach that respects the existing devolution settlements and maintains the existing system of fisheries management, providing certainty to the fishing sector and businesses.

The draft regulations will amend the majority of the retained EU legislation, including the basic regulation, which provides overarching principles for fisheries management; the control regulations, which contain rules on compliance, including inspection and enforcement; the sustainable management of external fishing fleets regulation, which will provide a framework for authorising UK vessels to operate outside UK waters and non-UK vessels to operate in UK waters; and the regulations on

illegal, unregulated and unreported fishing, which will allow us to prevent, deter and eliminate illegal fishing activities—by prohibiting the import of fish from vessels or countries that fish illegally, for example.

The draft regulations were considered by the Secondary Legislation Scrutiny Committee, which reported them to the other place because of the public and political interest in fisheries. The Joint Committee on Statutory Instruments did not report them.

Because the draft regulations make only necessary technical amendments to retained EU law that already applies prior to exit day in the form of directly applicable EU law, a full impact assessment was not required. A 10-week consultation was conducted through the fisheries White Paper, which described future fisheries policy and the legislative approach taken by these statutory instruments. Meetings also took place with key stakeholders from the fisheries sector, the food industry and environmental non-government bodies, which broadly supported our approach. We also received several questions and comments from stakeholders, which we have addressed in explanatory memorandums available to parliamentarians and the public.

I commend the draft regulations to the Committee.

7.33 pm

Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): It is a pleasure to see you back in the Chair, Mr Davies. It is good to be in Committee for a second time today, albeit not in the same room—this time to debate fisheries.

I begin with the usual health warnings about the speed and the volume of the statutory instruments that are being pushed through. The Opposition believe that there are several glitches and gremlins in them that would have been caught with greater scrutiny and that could have severe consequences when it comes to implementation. We have concerns, which I will set out in turn, about all three instruments that the Committee will consider today.

Combined, the instruments represent about 190 pages of additional regulation. Concerns have been voiced by many of the stakeholders that we on the Opposition side work with about the sheer volume of legislation being pushed through, and about their ability to adequately scrutinise dense legal text and provide good scrutiny from a stakeholder perspective. Some 80% of UK environmental laws come from the EU.

George Eustice (Camborne and Redruth) (Con): The hon. Gentleman will no doubt be aware that when these original regulations came from the EU, drafted by the European Commission, they probably came in the form of delegated Acts or implementing Acts that would have received little or no scrutiny in this House. These regulations, as with others under the European Union (Withdrawal) Act 2018, are just about making those powers operable.

Luke Pollard: I am grateful for that intervention. It is good to see the former Fisheries Minister, the hon. Member for Camborne and Redruth, in his place, and good to know that the Government now need not only a Fisheries Minister but a former Fisheries Minister to rebut some of the Opposition's scrutiny.

The concerns that we are raising sometimes relate to the implementation and drafting of the regulations. As the hon. Member for Camborne and Redruth will know from the statutory instrument Committee we sat on earlier today, the Minister himself acknowledged that there was a gremlin in that particular statutory instrument, which we flagged up. Our concern is about what other gremlins are in the statutory instruments we are considering today, and how they will affect future considerations.

Mr Goodwill: I appreciate that it is possible for oversights or mistakes to be made, but the gremlin that the hon. Gentleman describes was something that the EU had changed and that we had not quite caught up with. It was not something that was going to have a massive effect; it was just that there had been a change, which we will now reflect in future.

Luke Pollard: I am grateful to the Minister for making my point for me. The fact that mistakes have been made in that respect means that other mistakes could be made, which is why enhanced scrutiny is important in making sure that the regulations we are considering today—all 190 pages of them—are dealt with sufficiently robustly. These regulations affect one of our most important sectors, one that is especially important for those Members who represent coastal communities. As Business Green has noted,

“The pace at which draft legislation has been processed has been relentless...Parliamentary scrutiny has been creaking at the seams with MPs and peers often admitting they haven’t had enough time to review the legislation thoroughly.”

I will now set out the Opposition’s concerns about these SIs, starting with the draft Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019. We have a number of concerns about how the powers provided for in section 8 of the European Union (Withdrawal) Act 2018 are being used. The drafting in a number of areas appears to be defective: it often fails to adequately correct the provisions of EU law, and makes a number of policy changes to the current provisions. Environmental organisations have got in touch with us to recommend that these common fisheries policy SIs be annulled and updated, because they fall short in a number of areas. I will take the Committee through the areas in which we believe the SIs, and this one in particular, are falling short.

These SIs risk creating a governance gap, placing responsibilities from EU bodies on to organisations that are yet to be created or sufficiently financed. They leave gaping holes in the area of enforcement, leaving fishers less safe and our waters less protected—a concern that the Opposition have raised about previous SIs. There is a risk that these SIs could degrade environmental standards, a point to which I will return when we consider electric pulse trawling. We have specific concerns about the Government’s ban on electric pulse trawling: it is a good example of a policy change hidden within these SIs, notwithstanding the Minister’s statement that there are normally no policy changes in such SIs.

I understand that the Minister will want us to hold our nose and vote these SIs through, because we are at risk of careering towards a no-deal Brexit. In the area of fisheries, unlike in other areas of Government scrutiny, the regulations are not necessarily in place if we do not pass these SIs, so we need to make sure we are using our

time properly. However, given the extension from 29 March to 12 April, I suggest to the Minister that some provisions in these SIs should be looked at again and the instruments re-laid, so that they can be comprehensive and fulfil the role they are supposed to.

I am not trying to be difficult or fly a partisan flag, but the concerns about this SI were also highlighted last month by the Secondary Legislation Scrutiny Committee, on 6 February. Its report states:

“Given the significance of fisheries as a policy issue, the House may wish to explore further the approach the Government have taken with this instrument.”

We also reject these SIs being grouped together. That is one reason why we have asked for them to be taken individually, and why I will focus my remarks on each in turn.

I have mentioned the governance gap, which was raised by a number of stakeholders. That is a common theme that Ministers and Government Members will have heard about from the Opposition when responsibilities, especially oversight responsibilities, are being moved from EU bodies to UK bodies. Several provisions in the first common fisheries policy SI remove functions currently carried out by EU bodies, such as the European Commission, the Scientific, Technical and Economic Committee for Fisheries, the European Fisheries Control Agency and the Advisory Council, which are not replaced in this particular SI. The loss of monitoring, reporting and other governance requirements will seriously undermine the functioning and effectiveness of the law. I would be grateful if the Minister came back on that point when he gets to his feet.

Obligations to provide assessments from reports to the European Commission and the European Parliament have been removed, including the provision of data on stock quantities. Given the fact that we are leaving the European Union, that might not be an unreasonable assumption, but our concern is that no subsequent scrutiny functions are inserted. The oversight role that we are looking for is no longer there.

George Eustice: Surely when we become an independent coastal state we will re-join other bodies, such as the North East Atlantic Fisheries Commission. Through those bodies and our membership of the International Council for the Exploration of the Sea we will contribute our own scientific evidence. Does the hon. Gentleman not understand that the UK, year in, year out, regularly corrects data from the European Commission, through our Centre for Environment, Fisheries and Aquaculture Science?

Luke Pollard: I am grateful to the former Minister. Our CEFAS scientists are brilliant. He will know our concern that there is insufficient focus on science in creating truly sustainable fisheries with the Fisheries Bill. I take your note, Mr Davies, about not talking about things that are not in these SIs, but these SIs need to fit together with the Fisheries Bill, and that Fisheries Bill has sunk without trace. It is no longer being tabled. I am really concerned that the lack of a Fisheries Bill—indeed, of an Agriculture Bill for the associated one—means that the jigsaw that is being put together with these SIs is incomplete, and the fishers cannot see what type of environment is being created for them after we leave the European Union.

[Luke Pollard]

The former Minister is right about one element: after we leave the EU, some of those functions will be carried out by other bodies. However, there is no requirement in these SIs for those other bodies to pick up those requirements, nor is there a home for those scrutiny functions to sit in between leaving those EU bodies and becoming part of any future bodies. That is a concern, because it assumes that we will participate in those bodies in the future. I think some of the examples that the former Minister just raised are fair. However, the situation does not sit easily with me. We need to ensure that there is adequate scrutiny throughout.

George Eustice: Is that not just a product of the fact that we are becoming a self-governing nation again? We do not need to be held to account by an external body, but should hold ourselves to account.

Luke Pollard: Indeed. I suggest that the former Minister lobbies his colleague, the new Minister, to bring forward the Fisheries Bill, because without a Fisheries Bill we have no legal and legislative framework to hold ourselves together. The former Minister proves my point again, because we lack a Fisheries Bill. That may have been a concern of his when he was at the Department.

I return to this SI in particular. The key role that the Commission plays in the control and enforcement of the rules of the CFP has been removed and not replaced by this SI. Regulation 4(43) of this SI removes articles 96 to 118 relating to the European Commission's control of the application of the CFP and Council regulations 1224/2009 by member states, including the requirement on member states to report on implementation. That reporting requirement is important, because it is about how we have decent scrutiny of any of the implications of this SI and how hon. Members—assuming they fulfil the role of scrutiny of the European Commission, previously performed by the European Parliament—are able to scrutinise the outcome of this SI.

References to “advisory councils” have been removed and not replaced in this SI. The Minister will know that the Opposition tabled amendments to the Fisheries Bill, to include advisory councils in the future fisheries regulation—a proposal that the former Minister encouraged Members on the Government Benches to vote down. The lack of formal stakeholder engagement means that the involvement of the fisheries industry is removed with the direct implementation of this SI, which is a point of concern not just for the Opposition, but many of those stakeholders.

The Secondary Legislation Scrutiny Committee highlighted in its report that the Department for Environment, Food and Rural Affairs argued:

“The oversight function that the Commission currently holds over Member States could, for England at least, be provided by the Office for Environmental Protection (OEP)”.

But in the event of no deal, that will not necessarily be provided. That is where stakeholders have created a governance gap. Indeed, the Office for Environmental Protection is, as hon. Members will be aware, coming down the track—not something that we can implement today. That creates the risk of a governance gap in this particular SI.

Alex Sobel (Leeds North West) (Lab/Co-op): In the Environmental Audit Committee last week, the Secretary of State said that there would be interim arrangements in the event of a no deal, but there would not be an environmental agency until 2021. That creates a huge governance gap.

Luke Pollard: My hon. Friend has highlighted my point better than I was doing in my speech. Creating governance gaps in our regulations is deeply worrying. We need certainty. With the absence of a Fisheries Bill—I will return to this time and again—the jigsaw piece of the fisheries regulation is incomplete. If we look at regulations in future, the omission of advisory councils and other types of governance oversight included in the SI is deeply worrying, because it does not provide the same type of oversight as we have currently.

There are concerns around enforcement in the first SI, which was also a weak area in the Fisheries Bill. Provisions remove the requirement to establish “effective, proportionate and dissuasive penalties”.

Why have those penalties not been replaced in this SI? Perhaps the Minister will set that out when he gets to his feet. Regulation 4(10)(c) removes the ability for a member state to share vessel monitoring system, or VMS, data of its flag vessels with another member state where its flag vessel is in that state's waters. That presents a risk that the UK will not have access to other countries' data, which risks overfishing. What is replacing that provision? We know that data sharing between the UK and the remainder of the European Union after Brexit has not yet been fully established.

Regulations 4(69), 4(74), 4(78) and 4(81) of this SI again remove the obligation on member states to carry out certain inspections and requirements on what actions should be taken for infringements. Again, what replaces those provisions? We are led to believe that all we are doing is simply swapping out European Commission functions for member state or UK functions, so it is worth asking whether we are removing functions as well as transferring them over. Where does all that sit? We saw tensions flare in last year's scallops war, but there could be additional risks in future, and enforcement is an important part of ensuring that our fishing sector is able to succeed. We need more protection for our fisheries after we leave the EU, not less.

Finally, I turn to conservation. When it comes to sustainability, certain provisions of the CFP in relation to emergency measures have been removed entirely from this SI. Regulations 4(35), 4(53) and 4(54) remove the ability of the member state or the Commission to close fisheries or prohibit fishing where a stock has been exhausted. Stakeholders have raised concerns with us about the thoroughness of the provisions that replace the ability that is now being removed from this SI. Will the Minister address those concerns?

The Opposition have concerns about these statutory instruments, many of which are comprehensive and detailed and require good legal knowledge if their full implications are to be understood. I am aware that the Minister has opened a DEFRA reading room for some stakeholders, but not all. Indeed, parliamentarians have been explicitly excluded, which means that the time available for scrutiny has been limited.

If we were dealing with only one SI at a time, the issues might be understood, but we are dealing with dozens at the same time. That means that many of the concerns could have been raised at a pre-legislative stage rather than their having to be dealt with as a simple binary yes/no approval in relation to this SI, for example. Will the Minister address those concerns? I am concerned that this first SI fails to deliver the comprehensive governance arrangements that we need for fishing in future. Will the Minister set out a detailed response to those points?

7.49 pm

Marion Fellows (Motherwell and Wishaw) (SNP): It is a pleasure to serve under your chairmanship, Mr Davies.

The Scottish National party understands that continuity, regardless of our opposition in principle and in its entirety to the UK's withdrawal from the EU, is important and that instruments need to be established that preserve the framework around the status quo. During the Brexit campaign, false promises were made to the Scottish fishing community, which was told that obligations under the CFP would end. It is therefore ironic that the rules of the CFP will apply as part of no-deal planning.

The Prime Minister's withdrawal agreement sold out fishing interests by linking access to waters with trade. No-deal tariffs released by the United Kingdom Government in recent weeks, which would inevitably be replicated by the EU, would devastate our fishing exporters. The Fisheries Bill has been delayed time and time again. Scottish fishing communities have been left in a position of crippling uncertainty. It is essential that the devolved settlement is respected when new powers are returned post Brexit. That should be reflected in the Agriculture Bill and the Fisheries Bill.

The Government could avoid all this administrative burden if they simply ruled out a no-deal Brexit, as instructed by a majority of the House of Commons. Given that these are technical instruments and that the Scottish Government were advised about them and involved in developing them, the Scottish National party will abstain.

7.50 pm

Mr Goodwill: The fundamental point that I need to make at the very outset is that this SI is a business-as-usual SI: nothing is changing. It is indeed the case that once the Fisheries Bill is on the statute book, there will be a lot of opportunities to change policy, but this SI maintains the current situation. Many of the concerns the hon. Member for Plymouth, Sutton and Devonport raised are possibly ones he might raise in the future when policy changes; indeed, they are ones he might wish to build into his party's policies to ensure that these issues are addressed. However, this is a business-as-usual matter.

I also have to say, as a former Member of the European Parliament, that I was always struck by the lack of interest in Westminster in legislation that was being passed; indeed, when legislation did arrive in this building, the stable door had generally been well and truly shut after the horse had bolted, and it was generally a case of just rubber-stamping it. There was little engagement with the way legislation was being considered through the conciliation procedures and through the way the Parliament and the Council worked together. Yes, Ministers were engaged, and certainly British MEPs were engaged, but Parliament was pretty much out of the loop. Leaving

the European Union will give us a chance to put Parliament back in the loop, and laws will be properly scrutinised as they are enacted.

The hon. Gentleman said that issues had been raised by non-governmental organisations and talked about bodies being funded. I have to say that, to a large extent, the enforcement, scrutiny and management of these schemes are already administered by the UK on behalf of the European Commission; we do not have an army of European Union fisheries inspectors marching up and down our quaysides and going on to our vessels to enforce these schemes, so the issue is something that, in many ways, we already have covered.

The hon. Gentleman mentioned CEFAS and the excellent science that is done by it, and my hon. Friend the Member for Camborne and Redruth also mentioned the work it does. Science can be the only basis on which the available fish is allocated and we consider our conservation measures. Having been to an EU Fisheries Council with my hon. Friend's predecessor, I saw first hand the horse-trading whereby countries with no coastline and no fishing industry traded away the interests of fishermen in other member states to gain favours. Being an independent coastal state will give us the opportunity to set our fishing policy in a way that benefits our own economy and our own fishermen, rather than being subject to the horse-trading in smoke-filled rooms in Brussels—or rather rooms that used to be smoke filled.

The hon. Member for Plymouth, Sutton and Devonport talked about sharing vessel monitoring system data. One reason why it is important that we get the deal across the line is that we will then move into the implementation period, when a lot of these things can be hammered out. If we go for a no-deal scenario, then, yes, there could be problems; that is why I have now voted twice to get the deal over the line. If Members of the Committee would really like to avoid even the possibility of a no-deal scenario, they will have a third opportunity to act very soon.

Luke Pollard: I am reading into what the Minister has just said. The criticism I raised about VMS data-sharing is real, and it is a concern. When he gets to his feet, could he confirm that there are no data arrangements about VMS data-sharing? It sounds like he just admitted there were. For the record, it is really important that we are certain: is there data-sharing or is there not in relation to this SI?

Mr Goodwill: As far as I am aware, this is one of the issues that needs to be dealt with during the implementation period.

George Eustice: Does my right hon. Friend agree that, with other countries outside the European Union, such as Norway, we have in place framework agreements that set out our approach to joint fisheries management; that those agreements include provisions on data sharing; that the European Union has created a mandate for there to be a continuity agreement for the remainder of this year, which would cover such issues; and, indeed, that the Department already has advance plans for a future framework agreement to cover such matters?

Mr Goodwill: I thank my hon. Friend—having had five years in this job, he is well aware of the intricacies of some of the issues. However, the point that I am

[Mr Goodwill]

making is clear: the Prime Minister negotiated a 20-month implementation period to allow this and other measures to be agreed.

The hon. Member for Motherwell and Wishaw, who speaks for the SNP, said that we want to see continuity. That is precisely what this measure does: it ensures continuity. The measures agreed at the Fisheries Council before Christmas will continue past the date on which we leave the European Union. It has always been clear that that will be the case. I have to say to her, however, that members of the Scottish fishing industry—those to whom I spoke, anyway—are fully behind Brexit. They relish the opportunity we have to be an independent coastal state and to exploit the resource available to us.

Marion Fellows: Which group of fishermen did the Minister meet? Were they east coast fishermen, as opposed to the guys on the west coast, who are very much against Brexit?

Mr Goodwill: The guy I spoke to was on the east coast and very keen to exploit the opportunity. However, I am aware of some of the west coast issues as well, and they would need to be addressed. East coast fishing is big business, and its fishermen are concerned for us to move ahead. In that regard, fishermen on the east coast are absolutely out of step with the SNP's view.

The Labour Front Bencher, the hon. Member for Plymouth, Sutton and Devonport, asked why we had removed the requirement to enforce compliance with the rules effectively and proportionately. Under common law, the UK Government are already required to act in that way, and that is well established.

The hon. Gentleman talked about why the draft SI might result in a lack of regulatory oversight, which follows on from my previous point. It is not possible to create equivalent bodies through these SIs. Instead, the Environment (Principles and Governance) Bill will create the office for environmental protection and introduce other measures.

Luke Pollard: The Minister is making a good fist of this, but I worry that he is placing much of the key emphasis—the foundation of his arguments—on Bills that might appear in the future. As we know from the Fisheries Bill, however, Bills can go missing—that Bill has gone missing without any date set for it to come back. We are placing hope in a Fisheries Bill that does not exist in the current parliamentary schedule—it stands no chance of coming back—and in an environmental protection Bill that might face a similar fate if introduced in the next Session of Parliament. We need to look at the protections in this piece of legislation, within our existing regulatory framework. Doing that reveals a governance gap, because we do not have the primary legislation in place. Does the Minister agree with that concern?

Mr Goodwill: I am as keen as anyone to make progress on not only the environment Bill but the Fisheries Bill and the Agriculture Bill. It would certainly help if we can clear the decks for them, and one way to do so is to get the withdrawal agreement through so that we can move forward into the new phase and have new legislation from which the UK would benefit as an independent coastal state in terms of fisheries.

The hon. Member for Plymouth, Sutton and Devonport talked about pulse trawling, which is very much at the forefront of my mind. Article 31 of Council regulation 850/98 contains a prohibition on fishing with beam trawl using electrical pulse current in specified areas in most of the southern North sea. Part of that area falls in UK waters, and article 31a contains a limited derogation from the prohibition. That derogation has been amended so as to apply only to UK fishing vessels after EU exit—in other words, non-UK vessels will not be able to take advantage of it in our waters.

Third-country vessels cannot be authorised in UK waters when we leave the EU. The UK currently has three authorisations linked to pulse use, which are in the process of being reviewed with a view to withdrawing them, irrespective of the proposed EU time line to implement a pulse trawling ban effective from July 2021. Once again, the UK is moving ahead of our European partners on that method of fishing, which is deemed unacceptable by many and particularly members of the public.

Mike Hill (Hartlepool) (Lab): I know we are going to move on to pulse fishing, but the Minister will recall that it is allegedly so cruel that it breaks the backs of fish. He will also recall that the number of vessels in the UK is pretty limited, and that other countries, such as the Netherlands, have much bigger fleets. Given that the EU has voted to completely ban pulse fishing by 2021, should we not be following the same lead?

Mr Goodwill: I thank the hon. Gentleman for the question; Hartlepool is an important port just up the coast from my constituency. As I said, only three authorisations are in place for UK vessels. We are proposing to review that, with a view to withdrawing them. I am confident that we may well be in a position to be ahead of the EU in getting that ban in place.

George Eustice: Does the Minister agree that the UK has led the calls in the EU for that change? Far from responding and reacting to what the EU is doing, we will implement, through the changes he outlines, a ban on the majority of pulse trawling in our waters far sooner than the European Union.

Mr Goodwill: My hon. Friend is absolutely right—I can think of several instances where the UK has wanted to move ahead on environmental or animal welfare legislation. I am digressing slightly, but we are looking at dry sow stalls, battery cage legislation and veal crates. The UK moved ahead of, and faster than, the rest of the EU—it was not moving at the same speed as us. Although people say that leaving the EU will result in a degradation of our environmental and animal welfare legislation, that has no regard to our track record as a nation. Both parties have been keen to promote those topics and to move faster than the rest, so leaving the European Union will give us the opportunity to do that, rather than dragging behind.

Hugh Gaffney (Coatbridge, Chryston and Bellshill) (Lab): On the point about the environment, can the Minister outline the limitations on the voltage and frequency? On top of that, what are the penalties if people go above them?

Mr Goodwill: I am not aware of the limitations on the voltage used, but we want to move to a situation where we have banned the practice altogether. As I say, when we have left the European Union, foreign vessels will not be allowed to operate it in our waters. We are also aiming to make progress on the three remaining UK vessels that are operating it. Every piece of advice that I have received indicates that it is an unacceptable way to fish.

The hon. Member for Plymouth, Sutton and Devonport asked why we had removed articles 11, 12 and 13. They will be replaced by schedule 7 to the Fisheries Bill. Together with the Sea Fish (Conservation) Act 1967, that will allow us to go much further to protect the marine environment.

I thank all hon. Members who have contributed to the debate. The amendments made by the instrument are essential to ensure that retained EU fisheries law is effective and enforceable after the UK leaves the EU. The instrument marks an important step towards having a cohesive statute book for exit day, and provides us with a solid foundation on which to build our future fisheries policy as an independent coastal state. I thank hon. Members for their points, and I hope the Committee will approve the measure.

Question put and agreed to.

Resolved,

That the Committee has considered the draft Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019.

Draft Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019

8.2 pm

Mr Goodwill: I beg to move,

That the Committee has considered the draft Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019.

The instrument was laid under the European Union (Withdrawal) Act 2018. The technical amendments made by the instrument will ensure that retained EU law concerning international agreements, technical conservation measures and the management of certain North sea stocks provides effective and enforceable UK law, as well as continuity for businesses, while protecting the environment. The draft instrument will also transfer powers from EU entities to UK fisheries administrations.

No policy changes are made to the effect of the retained EU law, and no change is expected in the way that the fishing industry conducts activities as a result of the draft instrument. The instrument is complemented by the Fisheries Bill, which will deliver on our promise to take back control of our waters and to decide who may fish in them and on what terms. It will create the powers to allow us, over time, to build a sustainable and profitable fishing industry.

The amendments extend and apply to the United Kingdom. Fisheries management in the UK is largely devolved to Scotland, Wales and Northern Ireland. The instrument has been developed and drafted in close co-operation with the devolved Administrations, who have given their consent, ensuring a common approach that represents existing devolution settlements, and maintains existing systems of fisheries management, providing certainty for the fishing sector and businesses.

The instrument amends regulations concerning regional fisheries management organisations. Having these in place when we leave the EU will mean that we are fully compliant with international agreements, allowing us to join key conventions in our own right. The instrument also amends the technical conservation measures that fishing vessels must adhere to. These regulations are essential for the management of the fisheries activities of UK vessels, wherever they are, and of non-UK vessels in UK waters.

Furthermore, amendments are made to the North sea multi-annual plan, which establishes long-term plans for the recovery, preservation and sustainable management of mixed fisheries in the North sea. The instrument also transfers powers contained in 15 of the regulations amended by the other two statutory instruments, as well as one aquaculture regulation.

These powers to make legislation or to exercise legislative decisions were previously conferred on EU entities but will now be enacted by UK Administrations, and parliamentarians will be able to scrutinise them in a way not possible when the powers were exercised by the EU—a point I made during the debate on the last instrument. There are also minor, consequential changes to domestic legislation. The instrument has been considered by the Secondary Legislation Scrutiny Committee and the Joint Committee on Statutory Instruments, neither of which reported it.

Because the instrument makes only necessary technical amendments to retained EU law that—prior to exit day—already applies in the form of directly applicable EU law, a full impact assessment was not required. A 10-week consultation was conducted through the fisheries White Paper, which described future fisheries policy, as well as the legislative approach taken by these SIs.

Alongside that, meetings took place with key stakeholders from the fisheries sector, the food industry and environmental non-government bodies. Stakeholders were broadly supportive of the approach taken. We also received several questions and comments from stakeholders, which we have addressed in the explanatory memorandum, which is available to parliamentarians and the public. I commend the regulations to the Committee.

8.7 pm

Luke Pollard: This draft instrument bears the brunt of my concern and the Opposition's concerns about electric-pulse beam fishing. I am grateful to the Minister for doing my job for me by saying that there will be no changes in behaviour because of the draft instrument, and then in the next sentence saying that changes over time will build a more sustainable fisheries industry. Both cannot be true.

My concern relates mainly to the electro-pulse beam fishing method. There is widespread, cross-party condemnation of this method, as was raised in the Fisheries Bill Committee. I will spend a bit of time talking about those concerns in relation to the draft instrument.

The explanatory notes to the draft Common Fisheries Policy (Amendment etc.) (EU Exit) Regulations 2019 say:

“The technical changes made by this instrument are necessary to ensure that the rules contained in the CFP continue to operate effectively, so that fishing within UK waters continues to be regulated in a sustainable manner.”

However, our concern is that how sustainability will be provided is open to broad interpretation.

[*Luke Pollard*]

Provisions of the draft Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019 replace certain duties on authorities to take action with powers. This is not only a legal change, but also potentially undermines the effectiveness of the law. The main concerns around this raised by stakeholders—some environmental and some from the industry—relate to conservation. Regulation 25(7) removes reference to article 7(3) of Council regulation 2018/973, which provides that emergency measures under the CFP should form part of remedial measures to restore stocks above maximum sustainable yield. That sounds very technical, but what it effectively says is that we must ensure there are sufficient fish in the sea for our fishing industry to fish, and the changes to that could be quite considerable. Provisions on conservation measures have also been removed and not replaced; regulation 3(5) of this statutory instrument removes articles 6, 7 and 8 on types of conservation measures and the establishment of fish stock recovery areas. That is a concern to a number of stakeholders who have got in touch.

Certain provisions of this SI, such as regulation 25(11), remove requirements for the UK to co-operate with other countries when taking measures to protect fish stocks. That presents a risk that the important role that other countries and European functions play in ensuring that fish stocks are maintained will be lost and not replaced. Further to the concerns raised about the first SI, the question is how we ensure that we have a functioning fisheries regulatory environment, especially when it comes to sustainability, as soon as we leave the European Union.

George Eustice: Is the hon. Gentleman not just alighting on the simple fact that after we leave the European Union, it will no longer be the role of the European Commission to enforce these things? Instead, it will be for us to enforce them ourselves. He is referring to the removal of a function from the European Commission, which is absolutely right and proper in the context of our leaving the European Union.

Luke Pollard: I like to think that scrutiny is a bit like energy. We cannot destroy it; it can only be moved from one function to another. If we are taking scrutiny away from the European Commission, it must be placed somewhere else, and that is not what this SI does.

Our main concern with this SI relates to the phony ban on electric pulse beam trawling. Crucially for us, this SI had the potential to create commonality—a common bond between the Opposition and the Government on the need to ban this cruel fishing method. As my hon. Friend the Member for Hartlepool said, this fishing method is cruel. The voltage used by some fishers can be so high that it breaks the vertebrae of the fish they are dealing with. Given how strong a fish is, a considerable amount of force is needed to break those vertebrae, and that involves a level of cruelty that I think the people who sent us to this place would find completely unacceptable.

The Minister will know that the Opposition have significant concerns about this ban. It does not go far enough, it is open to abuse and it fails to make good on the promises that I believe were made by his predecessor

in the Fisheries Bill Committee, where the Opposition tabled amendments that, by my rough arithmetic, would have passed if we had not withdrawn them.

George Eustice: Will the hon. Gentleman give way?

Luke Pollard: I have not even got to my main point, but I am happy to give way.

George Eustice: As the Minister at the time who made that offer, I completely refute the hon. Gentleman's allegation that this does not live up to what was offered. It was made clear in Committee that the derogation that applied particularly to the 87 or so Dutch vessels would not be carried into domestic law, but it was also made clear that the small number of Scottish vessels—I think there are three or four—that practise that method would still be subject to that derogation, but obviously it would be open to the current Minister, or indeed a future Minister, to change that through licensing regulations.

Luke Pollard: The hon. Gentleman tempts me to move ahead with my speech; I will run through the first bits, and then, if that does not address the point, I am happy to come back to it.

This controversial form of fishing in UK waters is done mainly by Dutch trawlers operating under a phony scientific derogation. They have effectively built a commercial fishery in electric pulse beam fishing—a fishing method that has caused excessive harm to our marine life. British fishers and conservationists warn that it is wreaking havoc on our sea bed, and there are reports that large parts of our sea bed have been turned into graveyards after this method has been used in the waters above them. It is powerful enough to break the vertebrae of large cod, and it is thought that similar damage and suffering is being inflicted on other sea life.

The previous Minister and I were corresponding on this issue before he resigned from the Government. I thank him for responding to my feedback, but it was unfortunate that he decided not to accept it. The Opposition were trying to create a comprehensive ban that would have ensured that this fishing method was not seen in our waters. In Committee, we withdrew an amendment that would have put a ban in the Bill. Following the Minister's response to the amendment, I was more than happy to grant him the opportunity to correct the situation.

Although we welcome the idea of introducing a provision in the SI to ban electric pulse beam fishing, we do not believe that this one goes far enough, because, as the explanatory notes state, far from removing the ability for any boats to fish with this method, it includes a derogation. Page 16 of the explanatory notes—hon. Members may wish to read this for themselves—states:

“The derogation will therefore permit the authorisation of up to 5% of all the beam trawlers in the United Kingdom fleet to use the electric pulse trawl, along with certain other conditions that remain the same as before EU Exit.”

To me, a ban on a fishing method means that no one can use it. Allowing 5% of beam trawlers to use that method sounds like authorising a large number of fishing boats to use it.

George Eustice: Is that not simply a product of the fact that the EU withdrawal Act says that we should not change policy? We should simply bring across EU policy, and the 5% the hon. Gentleman mentions is EU policy.

The best that we could do with this SI is remove the derogation for the Dutch vessels that make up the vast majority of those using this technique.

Luke Pollard: The former Minister hits on the problem. The SI does not do what it needs to. The commitment given when the Committee amendment was withdrawn was that an SI would come forward that would comprehensively ban electric pulse beam trawling. That is not what the SI does. It opens the window for up to 5% of all beam trawlers in the UK to use electric pulse trawl, and certain other conditions remain the same as before. That is not the ban that we need.

Hugh Gaffney: On that 5%, we need an agreement that sustainable fishing is an important goal for the industry. Does electric pulse fishing not put sustainable fishing at risk?

Luke Pollard: My hon. Friend is right. If we are to create sustainable fisheries, we need them to be sustainable, both environmentally, by dealing with climate change and its effects, and economically. The temptation to use this method is a real concern, which is why I want to see it banned comprehensively, with no provision for an opt-out.

Mr Goodwill: My hon. Friend the Member for Camborne and Redruth is absolutely right: under the withdrawal Act, we cannot move further than this legislation does, because that would be a policy change. We have clearly announced that we will review the three UK boats that pulse fish, with a view to stopping that activity. I cannot see owners of other vessels considering it to be a worthwhile investment to engage in that type of fishing and investing in the equipment, given the message that we have sent out.

Luke Pollard: When the Minister got to his feet, I was looking to him to commit to removing that 5% derogation and ban the practice completely. That is what the Opposition are looking for and what hon. Members on the Government Benches, who have fishing communities that have been trimmed from the SI, also want.

If we are to have truly sustainable fisheries, which is the ambition set out in the fisheries White Paper, we must not allow a loophole through which up to 5% of beam trawlers can use this method. Conditions might change; we need to ensure that fishing regulations are future-proofed. Otherwise, all we are doing is simply allowing a loophole that will need to be addressed in future.

We are very concerned about the 5% figure. I would be grateful if the Minister could set out how he intends to remove any loopholes from future regulations. Potentially allowing 200 boats—5% of beam trawlers—to use this fishing method in future opens the opportunity for considerable pain.

I would also like the Minister to edit this part of the SI to include additional protections. The former Minister set out the need for occasional scientific derogations, to investigate whether elements of technological change in pulse beaming could be more sustainable, but clear parameters should be set around that.

The Minister missed a trick with regard to public consultation, and when he said there was no prohibition on this type of fishing activity in marine protected

areas, or within 12 nautical miles of the shore. We believe there should be strict punishments and proper enforcement.

I am conscious that hon. Members wish to return to the main Chamber, so I will not keep us on this point much longer. Our concern is that the SI creates a loophole in law and does not set out a clear enough vision or certainty that this method will be banned. I would like to see the SI brought forward again with that loophole removed, in which case the Opposition would be happy to support the Minister.

George Eustice: Does not what the hon. Gentleman is asking for violate the essential principle of the European Union (Withdrawal) Act? It is not there to change policy. What he is asking for should be delivered through the Fisheries Bill, which, as he knows, has passed its Committee stage and will, we all hope, return to the House shortly.

Luke Pollard: I am grateful to the former Minister for that comment. As he will recall, in a room very similar to this one, he made the commitment that an SI would be brought forward before we left the European Union that would comprehensively ban electric pulse trawling.

George Eustice: That is not what I said. I said that we would not bring across the derogation for non-UK vessels, and that is what the SI delivers.

Luke Pollard: I am grateful to the former Minister for seeking to clarify his words. The fact is that the SI provides a 5% loophole for this cruel and unsustainable fishing methodology to be used in UK waters. It does not provide a ban as soon as we leave the European Union—the Opposition withdrew the amendment to the Fisheries Bill because we thought it would—nor does it seek to close loopholes that could be used in the future.

Andrew Bridgen (North West Leicestershire) (Con): The shadow Minister is criticising the deficiencies of the EU law that we are transposing into UK law via this SI, so will he join me in voting to leave the European Union at every opportunity?

Luke Pollard: I am grateful to the hon. Gentleman for his comments. The appropriate place to turn one's fire on this would be the Minister, who said that this cruel fishing method needs to be banned. I believe that the hon. Member for North West Leicestershire sometimes makes the argument that we could have a more sustainable future after we leave the European Union. Although I disagree with him in some respects, if we are to have that more sustainable future, we need a commitment from the Minister that the 5% loophole will be closed and that a subsequent SI—outside the realms of the European Union (Withdrawal) Act, if the Minister so chooses—will be brought forward without delay to remove that 5% from our regulations. The SI creates a loophole that allows the cruel and unsustainable fishing method that is electric pulse trawling to continue. We are deeply concerned that that possibility remains through the SI, and that there is no commitment to there being no place for it in the future. The Minister may say that

[*Luke Pollard*]

the place for that commitment is the Fisheries Bill; that suggestion does not stand much scrutiny, as the Fisheries Bill is missing in action and is probably not going to make a comeback.

8.22 pm

Mr Goodwill: The hon. Gentleman cannot have it both ways. I have given him assurances that the SI is merely updating EU legislation to take account of the fact that the UK will be an independent coastal state with control of its own fisheries, and we will be leaving the European Union. At the same time, he is tempting us to add additional measures. This is a business-as-usual measure that will reassure the industry that things are not going to change. When the Fisheries Act, as it will become, is on the statute book, we will have the opportunity to make changes.

The hon. Gentleman can be assured that on the day that we leave the European Union, none of the 87 Dutch-registered vessels using this fishing method will be able to fish in our seas. We will review the three UK boats, with a view to stopping that activity; it would then be banned.

Mike Hill: Earlier, the Minister was talking about making improvements. I understand that improvements can be made further down the line, but some matters are simple. Marine protected areas are protected for a reason—they are vulnerable or important ecosystems. Why is there no protection for them against pulse fishing? Why is pulse fishing not kept away from marine protected areas?

Mr Goodwill: Marine protected areas are there to allow habitats to build, and fishing can be limited or banned altogether in those areas. One of the big conversations I have with the charter boats in my constituency is whether they should be allowed to fish using conventional rod-and-line methods in those areas. The Fisheries Bill gives us the opportunity to make further changes unilaterally, without having to get the agreement of 27 other nations, many of whom do not have a coastline and have no real interests in fisheries, but do have votes in the Council.

Listening to the hon. Member for Plymouth, Sutton and Devonport, one would assume that the common fisheries policy had been an unqualified success, and that we were being dragged kicking and screaming from its clutches. I do not need to remind the Committee of, for example, the effect of discards on fish supposedly being conserved and having their stocks improved; it has been very destructive. It is only in recent years that we have brought in the landing obligation and more reasonable methods. We can build on that as an independent coastal state without waiting for the others. When we come to the annual fisheries negotiations, we will be there in the same way that Norway and the Faroes are there. I hope we will have close links with them so that we can work together with the EU as another part of the process to ensure that we continue to build stocks in the North sea and have fewer stocks under threat.

Luke Pollard: I am sure the Minister knows, having read back on fisheries debates in this House over the past year, that it is not my view that the CFP is a field of gold. Despite my being fond of Europe in many respects, the CFP is an example of where it went wrong. I am grateful to set the record straight. Improvements can be made, and banning electric pulse beam fishing is something that we could and should do now. If it is not to be banned in this SI, will the Minister commit to introduce a dedicated, tiny SI to remove the 5% so that when we leave the European Union—if that happens—a cruel fishing method will be banned in its entirety?

Mr Goodwill: I have made it clear twice that we will review the remaining three vessels. There are only three UK boats that are doing this and, following the review, we will consider how we can stop such activity. When we have left the European Union, none of the 87 Dutch vessels will be able to fish in our waters.

The hon. Gentleman mentioned why we have revoked emergency powers on recovery of stocks. I remind him that each UK fisheries administration already has existing powers to do that through licensing of fishing vessels under the Sea Fish (Conservation) Act 1967.

I think I have covered the points made during the debate. Once again I reassure the Committee that this is a business-as-usual statutory instrument. It reassures the industry, environmentalists and others that when we leave the European Union, as I am convinced we must and should if we are to deliver on the momentous decision made by the British people, we can do so in a way that is orderly. If Members are concerned about how that will happen, I have only one message for them: vote for the withdrawal agreement. Their third chance is coming up. We need to move into the implementation period where many of the issues raised can be sorted out. It seems nobody wants a hard Brexit. I do not look at anyone in particular, but if we can just get over the line we can move into a situation where we can resolve the issues.

We have had a constructive and useful debate and I commend the regulations to the Committee.

Question put.

The Committee divided: Ayes 9, Noes 7.

Division No. 1]

AYES

Bridgen, Andrew	Kerr, Stephen
Clarke, Mr Simon	Newton, Sarah
Eustice, George	Seely, Mr Bob
Goodwill, Mr Robert	Stewart, Iain
Johnson, Gareth	

NOES

Bradshaw, Mr Ben	Pollard, Luke
Debonnaire, Thangam	Sobel, Alex
Gaffney, Hugh	Yasin, Mohammad
Hill, Mike	

Question accordingly agreed to.

Resolved,

That the Committee has considered the draft Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019.

Draft Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019

8.29 pm

Mr Goodwill: I beg to move,

That the Committee has considered the draft Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019.

The technical amendments made by this instrument will ensure that regulations concerning fishing opportunities and the landing obligation continue to operate effectively as retained EU law after the UK leaves the EU. They will provide continuity to businesses while protecting the environment. No policy changes are made to the effect of the retained EU law, and no change is expected in the way the fishing industry conducts its activities as a result of the SI.

The instrument is complemented by the Fisheries Bill, which will deliver our promise to take back control of our waters, and decide who may fish in our waters and on what terms. It creates powers that will allow us over time to build a sustainable and profitable fishing industry. The amendments apply to the United Kingdom. Fisheries management in the UK is largely devolved to Scotland, Wales and Northern Ireland. These instruments were developed and drafted in close co-operation with the devolved Administrations, who have given their consent, ensuring a common approach that represents the devolution settlement and maintains the existing system of fisheries management. They provide certainty to the fishing sector and businesses.

This instrument amends three regulations that set out exemptions from the landing obligation for certain fisheries in north-western waters and the North sea. The minor technical amendments to these provisions enable the UK to facilitate the full implementation of the scheme from January 2019. That will ensure that the UK continues to abide by the same conservation measures.

The instrument also amends two regulations that set fishing opportunities. One sets total allowable catch and quota for fish stocks for 2019, and the second sets total allowable catch and quota for certain deep-sea stocks for 2019 and 2020. In those two regulations, the prohibitions on fishing for certain species in certain areas will be amended so they continue to apply. However, provisions that put into law the TAC and quota set by the EU will be revoked, because it will not be appropriate for them to apply to the UK when we become an independent coastal state.

This instrument has been considered by the Secondary Legislation Scrutiny Committee and the Joint Committee on Statutory Instruments, neither of which reported it. Because it makes only necessary technical amendments to retained EU law prior to exit day, which already applies in the form of directly applicable EU law, a full impact assessment was not required. As I say, it is another business-as-usual SI.

A 10-week consultation was conducted through the fisheries White Paper, which described future fisheries policy and the legislative approaches taken by these SIs. Alongside that, meetings took place with key stakeholders from the fisheries sector, the food industry and environmental non-governmental bodies. The stakeholders were broadly supportive of the approach. We have also received several questions and comments from stakeholders,

and we have addressed them in the explanatory memorandum that is available to parliamentarians and the general public. I commend the regulations to the Committee.

8.33 pm

Luke Pollard: The Minister will be unsurprised to know that I have similar concerns about the governance gap in these regulations, and about how they fit with the Fisheries Bill. I appreciate that the Minister may want to call it a Fisheries Act, wishing that it had gone through its parliamentary stages, but it is a Fisheries Bill—at the moment, it is a missing Fisheries Bill—and we need to ensure that it fits with this SI so everything works together.

The Minister talked about the removal of TACs, and I will return to that concern in a moment. More broadly, our concerns about this SI relate to conservation and governance gaps. They are similar to the concerns we set out in relation to the previous two SIs. The requirement to report certain catches against gear type has been removed—that is regulation 6(10)(c)(ii), for people following this closely—but it has not been replaced by an obligation to report that anywhere else instead. The Minister may say that that will be in the Fisheries Bill, but the Fisheries Bill does not exist in the way we want. It is not going through its parliamentary process, so that level of oversight and governance has been lost. The Minister says it is business as usual, but it is business as usual with only minor scrutiny. We have concerns about that. The provision stating that total allowable catches should be set in line with the principle of sustainable exploitation and consistent with maximum sustainable yield have been removed in this SI.

Regulation 6(7) omits article 6 of Council regulation 2019/124, which states that total allowable catches should be set in line with the principle of sustainable exploitation and should be consistent with maximum sustainable yield. The Opposition have raised concerns throughout the fisheries SI process, and during the Fisheries Bill, that if we remove the requirements to fish at a sustainable level and do not replace them with robust requirements to ensure our seas are fished sustainably, there is a risk that our fishing may be at unsustainable levels in future. When the hon. Member for Camborne and Redruth was the Minister, I had great confidence that he would not set catches above sustainable levels, although I recognise that they have been set in some cases leading up to this point. I hope that the current Minister would not do such a thing either, but that is not to say that any future Minister, buoyed by political concerns or otherwise, may not be tempted to do that.

George Eustice: Is it not the case that in doing so they would be in breach of other international fisheries obligations that we have?

Luke Pollard: I am grateful for the former Minister setting that out, but we know that there is fishing above sustainable levels today. Mackerel losing its sustainable status just a few weeks ago shows that all our fisheries in the UK are not being fished at sustainable levels at the moment, but they need to be. Given the risk of fishing populations changing due to climate change, we need to ensure that there is an adequately responsive deal on fisheries.

George Eustice: Is the hon. Gentleman aware that the UK has no right to represent itself in the mackerel negotiations with countries such as Norway and the Faroe Islands? That is done by the European Union. Insofar as there is a problem, it is literally the fault of the European Union.

Luke Pollard: The lack of fish in the sea is also about overfishing and the regulatory environment that deals with overfishing. The solution to restoring mackerel stocks to sustainable levels will not be about pinning blame on whichever body, but about making sure that fishing levels are set at a sustainable rate, so we are not overfishing stocks, especially those on the decline due to poor recruitment or overfishing. We have to be clear about that.

I have been through most of my concerns about the governance gaps in the statutory instruments, so I will not keep the Committee any longer. I would be grateful if the Minister could set out where our total allowable catches lie, and his vision for the Fisheries Bill. Perhaps he could say when he expects the Fisheries Bill to return, so we can see how this statutory instrument would fit in with any provisions the Government propose in future.

8.37 pm

Mr Goodwill: I thank the hon. Gentleman for his comments. He asked why we removed a reference to maximum sustainable yield; setting stocks at maximum sustainable levels is the key to building stocks, particularly for declining or flatlining species. That is a key element of the way we measure stocks and control fishing. A target to achieve maximum sustainable yield appears in a number of provisions in EU retained law. The statutory instruments have required different approaches for each target until we can set the UK future approach using the Fisheries Bill, which I have said I would like to get on the statute book as soon as possible, to make it a Fisheries Act.

With regards to article 2 of the basic regulation, we cannot make the maximum sustainable yield target in this provision operable because it depends on mutual

access across member state waters. The Secretary of State would be unable to achieve it unilaterally. Article 6 of the TACs and quota regulation is concerned with TACs to be determined by member states. It has been omitted because the Secretary of State will determine TACs under the powers in the Bill and common law powers, along with the criteria for setting quota. On the North sea multi-annual plan, the draft regulations detail specific targets that relate to certain species in certain areas. Amending the targets would be beyond the scope of the powers provided by the EU (Withdrawal) Act 2018, as the MSY target has already been implemented and we are staying in the multi-annual plan.

The hon. Gentleman mentioned article 6 of the TAC and quota regulation; that is to be determined by member states because we are still in the European Union. He mentioned that the SI removes article 15 of regulation 2019/124, which is about the submission of data to the Commission, and asked whether we will still record the quantity of stocks. That will continue to be collected. Article 33 of the control regulation, which is referred to in article 15 of EU regulation 2019/124, is amended by the third instrument to ensure that fisheries administrations must record all relevant data on fishing opportunities, as referred to in that regulation. However, it would be inappropriate to report the data to the Commission once the UK is no longer a member state.

The hon. Gentleman raised similar concerns to the ones he raised in the two preceding statutory instruments. I reassure him similarly that this is a business-as-usual measure and that further exciting changes to the way we manage our fisheries will be available to us when we are an independent coastal state, using the Fisheries Bill when it becomes an Act to do that. I look forward to debating the remaining stages of that Bill as soon as we can.

Question put and agreed to.

8.41 pm

Committee rose.