

PARLIAMENTARY DEBATES

HOUSE OF COMMONS
OFFICIAL REPORT
GENERAL COMMITTEES

Public Bill Committee

FISHERIES BILL

Second Sitting

Tuesday 4 December 2018

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Thursday 6 December at half-past Eleven o'clock.

Written evidence reported to the House.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

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Saturday 8 December 2018

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The Committee consisted of the following Members:

Chairs: JAMES GRAY, † DAVID HANSON

- | | |
|---|---|
| † Aldous, Peter (<i>Waveney</i>) (Con) | † O'Hara, Brendan (<i>Argyll and Bute</i>) (SNP) |
| † Brown, Alan (<i>Kilmarnock and Loudoun</i>) (SNP) | Pennycook, Matthew (<i>Greenwich and Woolwich</i>) (Lab) |
| † Carmichael, Mr Alistair (<i>Orkney and Shetland</i>) (LD) | † Pollard, Luke (<i>Plymouth, Sutton and Devonport</i>) (Lab/Co-op) |
| † Debbonaire, Thangam (<i>Bristol West</i>) (Lab) | † Smith, Owen (<i>Pontypridd</i>) (Lab) |
| † Duguid, David (<i>Banff and Buchan</i>) (Con) | † Stewart, Iain (<i>Milton Keynes South</i>) (Con) |
| † Eustice, George (<i>Minister for Agriculture, Fisheries and Food</i>) | † Sweeney, Mr Paul (<i>Glasgow North East</i>) (Lab/Co-op) |
| † Grant, Bill (<i>Ayr, Carrick and Cumnock</i>) (Con) | † Tracey, Craig (<i>North Warwickshire</i>) (Con) |
| † Hill, Mike (<i>Hartlepool</i>) (Lab) | Gail Poulton, Lis Gerhold, <i>Committee Clerks</i> |
| † Hollinrake, Kevin (<i>Thirsk and Malton</i>) (Con) | |
| † Jones, Mr Marcus (<i>Nuneaton</i>) (Con) | |
| † Lefroy, Jeremy (<i>Stafford</i>) (Con) | |
| † Morris, James (<i>Halesowen and Rowley Regis</i>) (Con) | † attended the Committee |

Witnesses

Jerry Percy, Director, New Under Ten Fishermen's Association

Phil Haslam, Director of Operations, Marine Management Organisation

Dr Tom Appleby, Director, Blue Marine Foundation

Aaron Brown, Fishing for Leave

Public Bill Committee

Tuesday 4 December 2018

(Afternoon)

[DAVID HANSON *in the Chair*]

Fisheries Bill

Examination of Witness

Jerry Percy gave evidence.

2 pm

The Chair: In this afternoon's sitting we will first hear oral evidence from the New Under Ten Fishermen's Association. Will the witness please introduce himself?

Jerry Percy: Good afternoon. Thank you for inviting me. My name is Jeremy Percy. I am the director of the New Under Ten Fishermen's Association, the representative body for 80% of the UK fleet, which operates from vessels of less than 10 metres in length.

The Chair: I shall hand over to the Minister for the first questions.

Q60 The Minister for Agriculture, Fisheries and Food (George Eustice): This morning we heard in evidence that the principle of relative stability had served the inshore fleet particularly badly because of the data and the absences of data in the '70s and '80s when the track record was established. What are the key priorities of the inshore sector as we leave the European Union and set our own domestic policy?

Jerry Percy: We have long argued that relative stability needed to be reviewed, primarily because of the very bad deal that the under-10-metre sector has always had in the UK, not just because of relative stability but because of the way in which quota was allocated back in the '90s, when we did not have a seat at the table and therefore, despite being nearly 80% of the fleet, ended up with less than 2% of the overall UK quota. Relative stability really does need to change.

Our priorities are, overall, to ensure that the under-10-metre fleet—unquestionably, it has been massively disenfranchised over the past few decades—comes out of it with a significantly increased allocation. We have argued strongly that the current method for allocating quota is unfair and discriminates against the under-10s, and of course the myriad coastal communities they support. I have been in the fishing industry as a fisherman and in other roles off and on for over 40 years, and I have seen the demise of any number of coastal communities, the fleets that they supported and the people who supported them over that period. Our main aim is to ensure that the under-10s specifically get a fair deal come the new horizon.

Q61 George Eustice: On management, we outlined a number of ideas in the White Paper. Some have suggested that we should move away from a Marine Management Organisation-administered under-10-metre pool and towards a producer organisation for the inshore sector. What is your view of such an approach?

Jerry Percy: You will not be surprised to hear that I am very supportive of the idea, having written the initial paper back in 2012. There is absolutely no doubt about that. To put it into perspective, at the moment I gather that the UK has had infraction proceedings served upon it by the European Commission for failure to manage and regulate its producer organisations adequately. I have not seen the detail but I would have thought that the Commission was concerned that, despite the fact that the coastal PO—the producer organisation dedicated to the under-10-metre sector—has had official recognition by the UK Government and by the Commission for over a year, we are still refused the ability to manage the quota of our own members. This is particularly important with the run-up to the landings obligation, where the ability to acquire quota retrospectively will be vital.

With the greatest respect to the Marine Management Organisation, the disparity between the rationale for MMO management of quota and that by the producer organisations, which are very focused on the commercial benefits of their particular members, is huge. This has resulted in this year to date, for example, in only just over 50% of the under-10-metre quota actually being fished, although that is down to a number of issues. One of them is undoubtedly the inflexibility in the Government trying to manage the quota, so I am particularly supportive of the coastal PO.

I fail to understand why the Government have not permitted us to have exactly the same rights—no more; no fewer—as the existing POs. In fact, in your own words, Sir, in a letter earlier this year, you said that as soon as we had the correct infrastructure in place you would like to see us going ahead and doing this sort of management. We have had the infrastructure in place for a considerable amount of time, yet we are still refused the ability to manage for the benefit of our members.

Q62 George Eustice: But do you accept that there could be more than one PO covering the inshore sector?

Jerry Percy: I do not think so.

Q63 George Eustice: You shouldn't force everyone to join it if they don't want to.

Jerry Percy: No, there is always a choice about whether you join a producer organisation or not. To be honest, there is absolutely no reason why any under-10 metre vessel even slightly reliant on quota should not join the coastal PO. The membership fee is £1. More importantly, however, membership should give those vessels access to far more flexible and user-oriented management of their quota, rather than the current situation.

Q64 George Eustice: I have two other points that we raised in the White Paper that I want your views on. First, do you think that the under-10-metre category is still the right criteria to use, or should we look at other measures, such as engine capacity or the zone in which they fish, so that there would be a different way of defining the artisanal, small-scale fleet? Secondly, we have obviously had quite a lot of representations about the possibility of moving more to an effort-based regime for the inshore fleet rather than a quota system. What is your view of that?

Jerry Percy: In response to your first question, there is no doubt that the arbitrary under-10/over-10 metre divider has been an unnecessary nuisance, frankly, especially as time has gone on. Yes, 20 or 30 years there was a very significant difference between what was in the '90s a much more artisanal fleet and today's under-10 metre boats, which can be 9.99 metres and highly efficient. One of the purposes of developing the coastal PO initiative was that, rather like other examples one might think about in the current climate, you tend not to go to war with people you are trading with, and there has always been a difference of opinion between under-10s and over-10s and their POs.

Losing the 10-metre measure in the fullness of time would be a very positive step forward. Clearly, if you look at the breakdown of the under-10s, which are some thousands of vessels, you see that the vast majority are less than 8 metres in length, and again you can go down. So there is a strong argument for taking any boat up to 6 metres completely out of the quota system, whether or not you replace it with something like effort management. I can speak from experience. While a modern under-10 metre boat has a very significant fishing capacity, far in excess of what it would have been 20 or 30 years ago, it remains the case that boats that are less than 18 feet would really struggle to make any significant impact on stocks.

At the same time, we have said all the way along that although the effort management suggestion is ostensibly a fairer way of allocating access to the resource than quota, with all its issues and problems, we really need to have a proper, full-scale and focused trial before anybody could say unequivocally, "This would be the most effective and efficient way forward."

Q65 Luke Pollard (Plymouth, Sutton and Devonport) (Lab/Co-op): A real consensus is emerging around the Bill that there should be more focus on giving more quota—more fishing opportunities—to the smaller boats. The question is about how we do it. From your point of view, what would be the best way within the Bill, and within the powers it contains, to encourage more fishing opportunities to be held by smaller boats, which generally speaking are the least impactful on the environment and contribute more to their coastal communities?

Jerry Percy: There are two main answers to that question. At the moment, despite the claims that we are going to be an independent coastal state and take back control, nearly 50% of the UK's allocation of quota is held in foreign hands. Now, although a lot of that is the pelagic species, such as mackerel, herring and blue whiting, nevertheless fish quota, whether we like it or not—we do not—has become a commodity and gaining more access and a fairer balance post Brexit, when the Bill comes in, would be a particular opportunity.

There are opportunities. The Government have always been concerned that if you tried to repatriate quota, then you get a whole queue of people lining up for a judicial review, but it was clear from the judicial review in 2012 and from legal advice subsequently that that is entirely practical. In fact, the Faroe Islands has just instigated a similar sort of system. Rather than us arguing that one should rob Peter to pay Paul, it is at heart the allocation system that is at fault. It is based on historical rights.

As I said, I go back far too many years in this business. In the 1990s, the Government said to the over-10-metre vessels, "Go out and fish and record all your catches, and we will take a three-year average and provide you with your fixed quota allocation—your proportion of the overall UK cake." Not surprisingly—the larger-scale representatives admitted this in the judicial review I mentioned—they did ghost fishing. If you went out and caught 10 tonnes, you might put down 12 or 14 tonnes just to make sure that you had good opportunities. I dare say that if I had been in that position I might have thought the same. The whole thing was predicated on a lie, frankly, and it has gone on ever since. Historical rights are really not an effective method, for any number of reasons.

The answer to your question, which we put forward in our response to the Bill, is that clause 20 effectively takes in article 17 of the common fisheries policy. We suggest that should be amended so that quotas are allocated according to social and environmental criteria and economic benefit for coastal communities. Some 80% of the under-10 metre fleet use passive rather than mobile gear, so their environmental credentials are better, and their economic credentials are certainly more significant. We would take our chances with everybody else, but that would provide a level playing field, irrespective of size of vessel, and your allocation of the resource would be based on environmental, social and economic criteria.

Q66 Luke Pollard: This morning I asked about strengthening the economic link, so if you catch fish under a UK quota you should land at least half of it in a UK port. Can you explain where the under-10 fleet—the small boats—mainly land their fish? Do they land it in UK ports already, or is a sizeable portion landed in foreign countries?

Jerry Percy: No, it is almost exclusively landed into UK ports, although of course a very significant element is then exported to markets in France, where our European neighbours tend to pay far more for it. I think it is relevant to mention at this point that, with all due respect, we must not focus just on the quota issue, although that is vital because the quota has been so unfairly dealt out in the past. A very significant proportion of the under-10-metre fleet relies on non-quota species such as cuttlefish, shellfish, lobster and crab, and they in turn rely on direct export. About 90% gets exported, mainly to France and Spain, so the export market is key.

Q67 Luke Pollard: Finally, I have a question that is not about quotas—it is about marine safety. The Bill talks about our potentially being able to allocate quota that is drawn down from our EU friends in a slightly different manner from the FQA system we have at the moment, and to apply different conditions to that. You mentioned social, economic and environmental criteria potentially being some of those conditions. Marine safety is an issue for many small boats because of the pressures on those boats and the fact that the 10-metre limit has led to lots of dumpy boats with strength rather than stability. Would you give us a sense of the implications for the sector of amendments to the Bill that introduced a requirement for marine safety to be such a condition, to ensure that people who go out to catch our fish are safe, and tell us what the current safety levels are in the sector?

Jerry Percy: Fishing, unfortunately, still carries the record as the most dangerous occupation in the world. I sit here having lost any number of friends and colleagues over the years in pursuit of fish. I do not think having to carry more fish should be a significant safety issue. It is going to be more relevant in terms of the forthcoming landings obligation, under which we can no longer discard any fish so we have to keep it all aboard. There are of course safety issues in that respect.

The Sea Fish Industry Authority monitors and measures, and ensures that vessels are safe to go to sea. We are effectively talking about capsizing as a result of overloading, which is actually quite rare. It is perhaps more common in the pelagic fisheries, where a great bulk of fish is landed. For most small-scale fish fleets, I think fishermen and the authorities would ensure that there was no safety issue. Even in my wildest dreams, safety has never come to mind as being an issue if we had significantly more quota. I have never thought, “Oh, I’m going to catch too much fish and put myself at risk.” It does happen—even now, with non-quota species, you never throw it back.

Q68 Luke Pollard: On that point, there seems to be universal agreement that personal locator beacons attached to lifejackets are a good thing, but we know there is a cost to fishermen of buying new lifejackets with PLBs and registering them. Do you think that, if there were a specified improvement on marine safety in the Bill, lifejackets with PLBs could be one area that might make a big improvement in marine safety?

Jerry Percy: Yes. Under the International Labour Organisation’s convention 188, it is now mandatory for fishermen to wear lifejackets unless the owner and/or skipper of the vessel can prove that he has sufficient guards in place to ensure that fishermen do not go over the side.

I still go to sea quite often. I have a personal locator beacon that I bought myself for about £170. It will tell the rescue people where I am in the water anywhere in the world. It is cheap. As far as I understand it, European funding would probably cover it because it is not a mandatory requirement, but surely, in terms of safety, it is a few pounds and it makes all the difference in the world.

Q69 Peter Aldous (Waveney) (Con): My question is a variation on the Opposition spokesman’s point. It is commonly recognised that the inshore fleet—the under-10s—has had a raw deal as far as access to quota and fishing opportunities is concerned. The Bill is largely based on the assumption that an increase in opportunities, as a result of taking back control of our waters, will give us an uplift that will provide additional fishing opportunities for the inshore fleet. Do you think that goes far enough, or do we need to look at something bolder and more radical in terms of quota allocation or fishing opportunities?

Jerry Percy: Our main concern is that the Bill is predicated on a successful fisheries Brexit, if I may call it that, with a significant windfall of quota. Again, with the greatest respect, that would get the Government out of the hole that successive Governments have painted themselves into—if I may mix my metaphors—in that because there is only so much in the UK pie of quota, they are somewhat hamstrung, in their view, in their ability to reallocate more fairly and effectively. Not

surprisingly, we disagree with that version and there is legal argument that they could do so, albeit slowly—that was said by the judge in a judicial review in 2012.

I gave an answer earlier about moving the method of allocation to become genuinely reliant on the social, environmental and economic criteria, but I do say genuinely because the UK Government are also already subject to article 17 of the common fisheries policy, which says something similar about allocating quota on those three criteria. The Government have argued that they meet those criteria. I personally do not think that they even remotely reach them in many respects. If we are going to have a revised method of allocation, we need an undertaking or to ensure that the Bill does what it says on the tin.

Q70 Brendan O’Hara (Argyll and Bute) (SNP): Thank you for coming along, Mr Percy. We have heard a lot about control of our own waters, but that has to be set against access to markets, particularly for your members. How confident are you that the interests of your members are fully understood and fully protected by what is in the Bill?

Jerry Percy: I do not think it goes far enough in some respects. Again, going back to the common fisheries point, the European maritime funding document says that member states shall produce an action plan for the development of their small-scale fleets. To date, we have not really seen anything to that extent, and there is nothing specific in the Bill in that respect.

Our main concern is that, from a non-quota, shellfish perspective—this is particularly reflected in our members and colleagues in the Scottish Creel Fishermen’s Federation, who asked me to mention it, which I am more than happy to do—the whole business of hundreds, if not well over 1,000, boats around the west coast especially, and the east coast of Scotland to some extent, as well as Wales and the rest of the UK, is based on seamless transport across the channel to our markets in France and Spain. Their main concern, of course, is that if any issues come up in a post-Brexit scenario where we seek to take back control, not only will we get tariffs, which will make a big difference, but what is more, there will be non-tariff barriers in terms of the requirement for veterinary inspections of live shellfish. At the moment, the only two ports with those facilities are Dunkirk and Rotterdam, neither of which we use and neither of which, effectively, is a Channel port. To date, the French have not exactly been quick off the mark in building new facilities in time for next year.

We are equally concerned about the fact that French fishermen, like French farmers, are renowned for taking very direct action should they feel that something has upset them. You will remember that when the French farmers got upset about some aspect of Welsh lamb exports, they actually burned the lorries as they came off the ferry in France. We are very concerned that if we do have an independent coastal state, and so on and so forth, it would kill that transport overnight. We only need a few hours’ delay for it to make all the difference in the world.

Q71 Brendan O’Hara: As the Member for Argyll and Bute, I take on board what you are saying. We are absolutely dependent on speed of access to market. What should we in this Committee be looking at over the next few weeks to ensure that vital shellfish market

remains open and there is that speed of delivery from Loch Fyne to Madrid, for example? How do we ensure that that is as seamless as possible, and that we keep those vitally important markets?

Jerry Percy: There has to be a balance in the negotiations, permitting some level of access to our waters—although much less than currently—to ensure that we do not have those non-tariff barriers, and that the facilities, including on the French side, permit us to have that seamless transport and that there are no road blocks in the meantime.

Q72 David Duguid (Banff and Buchan) (Con): On access to market versus access to waters, I think you mentioned that there would be some exchange of access for quota in any future arrangement. I presume you would agree that it is important that, as an independent coastal state, we have full control of that access so that we can use it as leverage. I hesitate to use the phrase “bargaining chip”, but when we go into future annual negotiations, that has to be the leverage that we have.

Jerry Percy: Absolutely. We should start with a clean sheet: “We are an independent coastal state. That’s that.” We have a clean sheet and nobody has the right of access. Then there will inevitably be negotiations and bargaining, and that balance is going to be extremely difficult, because Mr Macron, the Commission and others have already made clear that they want the status quo to be the basis of any further negotiation. The Government will have their work cut out to try to sort that out.

Q73 David Duguid: Is there anything in this Bill that you think we should focus on, in order to add more power to our elbow in those future negotiations?

Jerry Percy: Our concern about the Bill is that there are a lot of phrases in it like “intend to”, “will consider”, “could include”, “aim to”, or “DEFRA intends to be”. There is not a great deal of certainty about some elements on which we would have liked to have seen more certainty and absolutely unequivocal statements: “We will do this.” The Government have made it clear to date that they want an unequivocally clean sheet start. Whether we actually achieve that, of course, is open to significant debate.

Q74 David Duguid: One more question, if I may. Going back to what you were saying earlier, I think your exact words were along the lines of “Unfortunately, quotas have become a commodity.” With quotas being sellable and buyable, they are an asset, at least. If quotas were to be more fairly distributed among the smaller vessels in future, how would you avoid them just becoming sellable commodities, bought up by others?

Jerry Percy: There are a number of global examples where you can retain quota as a national resource without allowing its sale. There obviously needs to be flexibility in-year to move quota about, to ensure that those people benefit from it. It is not an easy situation to resolve, but there are global examples of what can be done to ensure that almost half of our national resource is not in foreign hands, as has happened here.

Q75 Mike Hill (Hartlepool) (Lab): I represent Hartlepool, which is one of those coastal communities affected long ago by unfair quotas for under-10s. There is an argument

that our industry could be revived if fairer quotas were allocated. In your opinion, how many ports would benefit from an uplift in quotas?

Jerry Percy: It is not just ports; there are harbours, coves, small areas and small coastal communities. It would be dozens, if not hundreds. Going back 40-odd years, I can remember fishing out of Lowestoft as a boy fisherman. There were myriad groups of small boats all the way up and down the coast, all providing a significant benefit to those local communities. They may not show up on an economist’s spreadsheet, but those people are nevertheless paying their mortgage, taking their kids to school and keeping the local infrastructure going. I am not exaggerating; it could certainly be in the hundreds that we could revive and have some level of renaissance. There is no doubt whatever.

Q76 Mike Hill: I get the impression from representatives from the larger fleets that they would oppose quota redistribution. What arguments are there against that?

Jerry Percy: Well, why should they get more? To an extent, it is based on greed. They already have approximately 98% of access to the quota, 50% of which is in foreign hands, and a very significant proportion is in the hands of the five richest families in this country. It has become a fundamental nonsense and is grossly unfair socially, environmentally and economically that nearly 80% of the fleet in the UK has access to only 2% of the quota. The idea or argument that any additional quota should be allocated according to the existing fixed quota allocations frankly is just grossly unfair. There is no sensible economic or social reason why that should be the case.

The Chair: Does any other Government Member wish to ask a question?

Q77 Jeremy Lefroy (Stafford) (Con): Thank you very much, Mr Hanson. I am very interested in what you said about 50% of the quota being in foreign hands. Is there an example, as far as you are aware, of any EU coastal state that makes better use of the common fisheries policy for under-10 metres or smaller boats, or is it just universal that it is dominated by large vessels?

Jerry Percy: You could say that across Europe the scene is dominated by the larger scale vessels. They have more resources, more PR companies and more paid lobbyists; they were at the table when the rules were set, and we were not. It is only in recent times—NUTFA was created in 2006—that we have had actually had a voice, and it takes time to build up. Hopefully with the Fisheries Bill we are now on an equal footing with a seat at the table to ensure that the 80% of the fleet gets a fair deal.

Q78 Mr Alistair Carmichael (Orkney and Shetland) (LD): Briefly, I want to explore with you how we get from here to there. As you say, there is a case for the redistribution of quota. I am very interested in your thoughts about how you stop quota or other management tools from becoming a tradeable commodity. As you say, some of these interests are big and well resourced. Rich people have good lawyers and a legitimate expectation in their property rights. How do you get to the point where you can change the nature of quota?

Jerry Percy: By negotiation, but our response to the Fisheries Bill was the first step. We are particularly concerned that there is a suggestion within the Bill that an element of the UK's fishing opportunities should be put up for auction. I struggle to understand the logic in that when the whole thrust is in terms of environmental, social and economic criteria. The Government Minister identified the fact that we need to support and enhance the small-scale fleet for all the very tangible benefits that are there to be taken. I struggle to understand why you would then take a piece and sell it off to what will inevitably be those who already have financial resources. If we are going to have flexibility in the quota, we need to bring in new entrants and we need to make it attractive. The cost of quota is one of those significant areas that keeps out new and young entrants.

Q79 Mr Carmichael: So the idea of auction does not recommend itself to you.

Jerry Percy: Anything but, sir.

The Chair: We have 35 seconds if anyone has a one-word question and a one-word answer. Is there anything else you wish to say to the Committee, Mr Percy?

Jerry Percy: Thank you for the inquiry. The Fisheries Bill gives us an opportunity. There are some failings in it, but we seriously look forward to conversations with Government and others in that respect. I am grateful for the opportunity to talk to you.

Examination of Witness

Phil Haslam gave evidence.

2.30 pm

The Chair: Good afternoon, Mr Haslam. For the benefit of the Committee, could you introduce yourself and your organisation?

Phil Haslam: Good afternoon. My name is Phil Haslam and I am the operations director of the Marine Management Organisation, which is an arm's length body of the Department for Environment, Food and Rural Affairs with the competence to deliver marine planning and licensing and, in this context, fisheries management, control and enforcement regulation.

Q80 George Eustice: I am sure that the Committee will have noticed from your biography that you have long experience in the fisheries protection fleet and the Royal Navy, and most recently at the MMO. Before getting on to the work we have done on future enforcement, I wonder whether you could describe to the Committee what the MMO control room in Newcastle does, how we monitor fishing vessels and how many fisheries protection vessels we currently have access to.

Phil Haslam: The mechanism we use to conduct fisheries control and enforcement is risk-based and intelligence-led. The mechanism by which we do that ashore is to have up to 75 warranted officers who can be deployed—routinely, circa 50 are able to be deployed—and we are situated at 14 offices around the coast of England. The MMO regulates only within English waters. That is one element of our business: shore-based inspections of landing, marketplace inspections and the like. The risk-based, intelligence-led description is basically what it

says. We understand where risk may arise and we have a level of intelligence that we apply to that, which can make our operations targeted.

At sea, our surveillance is conducted by vessels from the Royal Navy fishery protection squadron, which we contract on an annual basis for a set number of hours. They conduct patrol and inspection routines on our behalf on the direction of the Newcastle fisheries monitoring centre ops room. The way that works operationally is that we direct them to conduct a patrol in a certain area, we direct the outcomes we wish to see, and then it is down to the commanding officer in the vessel to deliver them. On the number of ships that are available to us, both because of budgetary restraint or constraint within the MMO and the availability of Royal Navy vessels, the Royal Navy is this year providing 2,000 hours of patrol time within English waters.

Q81 George Eustice: I understand that at the moment there are three offshore patrol vessels, two of which are normally on duty in English waters. Could you explain what has taken place, as part of your planning over the last year for enforcement after we leave the EU, to get additional offshore patrol vessels from the Royal Navy? What discussions have been had and what work has been done with Border Force on the ability to redeploy some of its assets? Could you explain anything you have done by way of procuring aerial surveillance from, say, the coastguard service?

Phil Haslam: As a result of the referendum and the fact that we will be becoming an independent coastal state and taking back control of our waters in the future, a risk-based analysis has been done of what could happen after that exit moment, and based on that analysis we have identified increased risk across the piece. Our work has driven us to look at our current surveillance levels and to judge what we will need to effectively enforce the integrity of the exclusive economic zone from the fisheries point of view. That has led us to bid for an uplift in surface surveillance and within that to move away from having all our eggs in one basket in relation to the Royal Navy, to come to a mixed economy of providers for both the inshore and the offshore element of the patrol requirement.

We have come up with a greater amount of surface surveillance that we need in the round, and the mechanism to deliver that will of course include the Royal Navy. We have dialogue with Border Force as well, to see what utility there is within its vessel fleet—it is predominantly its cutters. Similarly, the inshore fisheries and conservation authorities, which are the small English-based regional organisations that have a jurisdiction of the nought to 6 miles of inshore fisheries, have a fleet of vessels that we may be able to get some utility out of. Also, we are speaking with colleagues in the devolved Administrations to see what utilities are there. We are trying to get a blended provision of surface surveillance.

Aerial surveillance is a capability that is being reintroduced. The idea is to have routine overflight of our waters so that, should there be vessels that should not be there and are not discernible through remote location devices, we have, basically, a set of eyes in the air that can see them. In terms of monitoring vessels at sea at present, there is a system called the vessels monitoring system, which gives us the position statement of vessels of 12 metres or longer.

Q82 George Eustice: Finally, the Ministry of Defence recently announced that it had delayed the decommissioning of the existing three offshore patrol vessels, and it intends to introduce four new ones, I think. How much difference will having that extra capacity in reserve make, should it be needed?

Phil Haslam: It will make an enormous difference. As you stated earlier, at the moment the fishery protection squadron is relatively constrained in the number of vessels it can put to sea, and that matches our constraint in being able to contract them. Having more vessels available to us to police a very large EEZ gives us that flexibility to deploy ships to the right place at the right time. By keeping the batch one offshore patrol vessels in service for longer and introducing the batch twos incrementally, as they come off the build, there will be a larger hand of cards to be played with.

Q83 George Eustice: I have one other final point. Enforcement is obviously devolved, so what you have described is what is taking place and what is planned for in England. Could you describe how the challenge differs, for instance in Scotland, where we obviously have a large interest? What work do we do with Marine Scotland and its enforcement vessels?

Phil Haslam: Fisheries enforcement is devolved, as you state. The way the Scottish do it is to have three vessels that conduct enforcement up to 330 days a year within their waters. They contract two aircraft as well, to provide oversight. At this moment, they have the kind of surveillance capability and control and enforcement capability that we are building up to.

Q84 Luke Pollard: A moment ago you gave the figure of 2,000 hours of surveillance. Could you give us a sense of how the number of hours that have been deployed for enforcement has changed since 2010?

Phil Haslam: Yes. Royal Navy vessels used to be contracted on a 24-hour-day basis. That was always non-exclusive, so they were not passed to the MMO, where we would have command and control of them; they would conduct our business but always with the risk of higher priority national tasking taking them away. But we did have more of them in 2010, and over time, with reductions in the MMO budget, we have had to roll back the number of hours, or days, we can contract, moving from 24-hour days to 12-hour days and then to nine-hour days.

When I came into this job we were relatively constrained regarding where we could deploy them for that part of the day. The idea of going to hours was to give us the flexibility to deploy them where the need was, rather than where they were shackled. So there has been a reduction, but on the other side of that, with the vessel monitoring system we have an understanding of what is going on in our waters. We have a picture against which we can patrol. So it was risk-based.

Q85 Luke Pollard: The figures I have seen suggest that in 2010 there were 16,000 hours, and now we have 2,000. That trajectory, that path, that reduction of enforcement, at a time when we will probably, based on risk assessments, need to protect and enforce our waters to a greater extent than in the past, concerns me. It seems quite a challenge. What is your assessment of whether we will see more things like the scallop wars, not in French waters but in UK waters, after Brexit? Do

you think sufficient resource is provided to ensure that UK waters are kept safe and protected and that our regulations are properly enforced?

Phil Haslam: There is always a risk of tensions unearthing themselves within a fishing thing, but I must say that what we saw with the baie de Seine scallop wars was an expression of discontent based on using fishing vessel rather than on non-compliance with fisheries regulation, which is what the MMO does. There is a risk—that is the risk we have analysed—and against that risk we have built a bid for increased surveillance to meet and mitigate it.

Q86 Luke Pollard: The Batch 2 River class that you are getting as part of the fishery patrol vessels are very capable ships, and not having the Batch ones retired is a good move. That total fleet, though, relies on numbers of people to put them to sea and we know that there is huge pressure within the Royal Navy to provide people. Given your former experience with the Fishery Protection Squadron, could you enlighten us a little bit? Having more hulls is a good thing, but is there a sufficient number of people to man those hulls to ensure that we have the necessary enforcement capacity?

Phil Haslam: We have to be careful. The vessels the Royal Navy deploys to meet any MMO contract that is signed in the future is within its gift. It may be Batch 2s or Batch 1s, but that is the call of the commander of the squadron. In terms of manning the ships, it is similar. If the demand is there and it is required, the Royal Navy, being as innovative as it is, will come up with manning solutions to meet what it needs to do.

Q87 Luke Pollard: Finally, you mentioned the consultation on inshore vessel monitoring systems. It seems to be a good thing to switch from an automatic identification system. Anecdotal evidence suggests that fishermen turn their AIS off if they find fish so as not to alert their friends as to where there is a good catch, but I-VMS does not come with that switch. Is that right? Can you explain what difference that would make to vessel monitoring with regard to enforcement and safety?

Phil Haslam: The automatic information system, which is fitted to vessels of 300 gross tonnage and above is predominantly an anti-collision device. It is to create situational awareness at sea. It is an open-source mechanism by which you can find out information about any given ship, where it is going and what type it is. In fishing, a fisherman's mark of where he is fishing and what he is getting from it is commercially sensitive and we would not wish to openly display that. I-VMS—the inshore vessel monitoring system—is a similar system to the one on smaller vessels. It gives us a picture of what is going on within the fishery. To conduct a fishery, you need to know what the input is so that you can control the output. That is not something we have at the moment. Also, it covers off that commercial sensitivity. We are not transmitting where a fisherman is. There is a point-to-point transmission of that data, which we will take into a hub so that we have a picture of what is going on in our waters, but that is not widely accessible.

Q88 Jeremy Lefroy: Could you give us a brief insight into the kinds of enforcement actions you have to take now and whether they are likely in future to be different in type or in quantity, or in both?

Phil Haslam: The enforcement action we take now is that we enforce the requirements of the common fisheries policy. In a routine inspection, when you board a fishing vessel you check the paperwork. Is the vessel licensed, in the first instance? Does it have quota for its catch? Then you would go into the mechanics of, “What have you caught? How have you caught them? Which area have you caught them in?” Then you do an inspection to see whether what is reflected in the logbook is manifest within the fishing vessel. That is what we do at sea in terms of inspection. It is everything from paperwork, to gear inspection, through to the actual catch. Ashore it is similar: it is about taking data from the logbook and then inspecting to see whether what is being landed matches that, and then goes through to the marketplace as well. All of it is in pursuit of assuring sustainable practice, but also the traceability of fish. That underpins the sustainability.

Q89 Jeremy Lefroy: Would you envisage it to be similar in future or different in the nature or quantity of inspections?

Phil Haslam: I would expect it to be similar in future. We do controlled enforcement now. There may be a requirement to do much more of it in the future, and there may be additional complexity, such as different permissions to be able to access our waters and the like. All of that will just become another thing that we have to understand, inspect and ensure compliance with.

Q90 Jeremy Lefroy: Finally, what percentage of inspections result in you finding that rules have not been complied with?

Phil Haslam: At sea, it can be as much as one in three where you find some level of non-compliant behaviour. Not all of that ends up in a court room. Some of that can be covered off with a verbal re-brief, because it is a genuine misunderstanding. At the other end of the spectrum is known behaviours. That is where we will have prosecution.

Q91 Brendan O’Hara: Following on from what Mr Lefroy was saying, in planning for a no-deal Brexit or a much-changed situation, what analysis has been carried out by your department about the different nature of the increased threat post-Brexit? Based on that, what assessment has been made of how your capability is going to have to grow to meet that increased threat?

Phil Haslam: The project that I am driving has basically considered several options, one of which is no deal. Access would no longer be guaranteed; therefore, a risk that comes off that would be illegal incursion to the EEZ. There are others options where access is permitted and there is non-compliance with the conditions of that access, so something has to be done about that. The other thing is that there could be a risk of non-compliance from home fleet, based on difficulties with the outcome of the negotiations or whatever. However, from a purely regulatory enforcement perspective we have weighed those risks, and that is the way we have built the additional capability.

Q92 Brendan O’Hara: Do you have the capacity, the capability and the funding to meet the worst-case scenario that we have talked about?

Phil Haslam: That is where our judgment has been made, and that is where the bid has gone in. We are building that capability in order to be able to deploy it within the timescales, so by March.

Q93 David Duguid: Still on the subject of fisheries protection, you mentioned airborne surveillance earlier. One of the questions that fishermen in my constituency keep asking is: how does the eye in the sky seeing something wrong—somebody shooting their nets where they should not be shooting their nets, or whatever it is—turn into some kind of enforcement or some kind of actual protection, particularly in the future when there is no automatic equal access to our EEZ?

Phil Haslam: The intent of redeploying aerial surveillance on a more routine basis is to cover off any risk that we do not continue to receive data that we receive now through the vessel monitoring system and the like. We would need a mechanism to build a picture of what was happening in our waters. If it is not derived remotely from a location device on board a vessel, we will have to actively go out and build that picture.

What the aerial surveillance does in the first instance is build situational awareness of what is going on in the water. If, once you have that, you see in among it non-compliant behaviour, it can operate as a queuing platform. Either it can queue in a surface vessel to come and take subsequent action, or you can warrant the air crew so that they can issue lawful orders, whether it be, “You are required to recover your gear and exit our waters,” or whatever it is. That can be passed from the aircraft.

It is not an entire panacea. It cannot stop non-compliant activity, because it is clearly airborne, but it gives you, first and foremost, that picture. It has a very clear deterrent capability, and it can start a compliance regime by queuing.

Q94 Mr Paul Sweeney (Glasgow North East) (Lab/Co-op): Although it is encouraging that the Royal Navy is making contingency plans with the River class, there is still concern about the differential in policing standards to which foreign vessels will be held relative to domestic vessels. I am just looking at what the planning is for that and at how you address the 80% fall in boardings in the past six years, from 1,400 to 278. That indicates a clear reduction in capability. Would it be helpful if the Bill defined that the Royal Navy has to provide a statutory capability, along with the Scottish Fisheries Protection Agency, to deliver that enforcement in UK waters?

Phil Haslam: Taking the first point, we work, as I said, on a risk-based, intelligence-led basis, so refining where we deploy our assets is based on that outlook. That is how we would deploy it. In terms of the differential between inspection rates of foreign vessels and UK vessels, I think that comes under the same cover. Where we perceive that there is risk and intelligence, we will take action on where it needs to go.

I am sorry, but I missed the second point about including something in the Bill.

Q95 Mr Sweeney: I was asking whether there should be a specific capability defined in the Bill about what our asset should be for fisheries protection.

Phil Haslam: No, because I think it involves over time the introduction of technology that may come downstream. At the moment, the reason we do what we do in the manner that we do it is to get evidential quality, should we need to take compliance activity. We still need inspectors to step on board fishing vessels.

Q96 George Eustice: I want to come back to a couple of points that were raised earlier. Could you tell us what work has been done in terms of personnel to identify people who have recently served in the Fishery Protection Squadron and who, if you needed a surge in capacity, might be able to be deployed again and already have the required training?

Phil Haslam: We have spoken about increased surveillance as part of the package to deliver an enhanced control enforcement capability. People are central to that. In the first instance, we are recruiting additional people into the MMO, so I will go from the cadre of warranted officers I have now to an increased number. That is actively under way. Also, to provide contingency planning, we have looked within the Royal Navy at who is currently qualified to conduct warranted fisheries business and who has recently been qualified. There has to be a cut-off, because obviously you will time out. There is a cadre of people still within the Royal Navy who could, should the need arise, be deployable to carry a warrant and conduct the inspection capability.

Q97 George Eustice: Secondly, in terms of managing access, additional access is sometimes granted in fisheries agreements. We do this in Scotland now; for instance, we allow the Faroes to catch 30% of their mackerel in UK waters. Could you explain how that process works? How does Marine Scotland enforce that process of managing conditional access?

Phil Haslam: Basically, if you allow access to your waters you have to control who is coming in and who goes out. There is quite a sophisticated way of checking in and checking out: a vessel has to declare its catch on entering and its catch on exit. Indeed, the point of exit and point of entry is conditioned as well, so you can establish gates at sea where people have to actively come through, so you can understand who is in your waters at any given time. I know that within Scottish waters quite a dynamic mechanism has to be in place to manage the inflow and outflow of vessels.

Q98 Mr Carmichael: You have a tremendous range of experience. To what extent do you think that non-compliance can be driven in the mismatch between quota and stocks? Let me give you an idea of my thinking. Some 20 years ago I used to make modest sums of money in Banff sheriff court defending constituents of Mr Duguid who had caught their monkfish one side of the 4 degree line when all the quota was on the other, which led to misreporting. That was just a classic mismatch between where the quota was and where the stock was. To what extent do you think that that sort of mismatch drives non-compliance?

Phil Haslam: It provides an opportunity for non-compliance, provided you are minded to do that. I would not want to perceive something adversarial, with the regulator running around trying to catch fishermen out. The way this works best is that the rules work for the industry. We, as an enabling regulator, support them

in the pursuit but within the bounds of the regulation. As I understand it, that is what we are working towards—that is rather more of a strategic partnership.

Q99 Mr Carmichael: One proposal that has come from the NFFO is for the establishment of formal advisory councils, so that you would be bringing scientists, conservationists, industry representatives and perhaps even those responsible for enforcement around the table. Do you think that would be effective in terms of delivering a management system that would be less reliant on enforcement?

Phil Haslam: Personally speaking, yes, because anything that increases the dialogue between the cadre of people you have mentioned can only help. This has to be a process of shared understanding and pursuit of common objectives.

Q100 Mr Carmichael: So you get away from that adversarial approach to enforcement?

Phil Haslam: Yes.

Q101 Owen Smith (Pontypridd) (Lab): Good afternoon, Mr Haslam. You said earlier that the MMO budget has been cut. How much has it been cut by since 2010 in cash or percentage terms? Secondly, related to that, you put in a big bid for an increase in resources in order to deal with a no-deal scenario. How much extra have you asked for and has the Minister indicated that he is going to provide it?

Phil Haslam: The budget reduction since inception has been in the order of 60%, but that is counterweighted by the fact that the MMO can accrue income through services delivered. That has provided a relatively stable, if declining, budget. In terms of the bid for additional capability going forward, a bid has been made and we are just in the process of finessing that.

Q102 Owen Smith: Can you tell us how much more you have asked for?

Phil Haslam: How much more in terms of actual—

Owen Smith: Percentage versus current budgets, or in cash terms.

Phil Haslam: It is basically a doubling of the budget at the moment.

Q103 Owen Smith: Has the Minister indicated that might be forthcoming?

Phil Haslam: Support in delivering it, yes. I have not seen any resistance in terms of, “We need this capability.” The scale and volume is the bit, because it is based on judgments of risk, but nobody has said they have any doubt about the operational need.

Q104 Owen Smith: But hitherto, this Government have cut 60% of your funding.

Phil Haslam: Under austerity, in line with all Government spending, there has been a decline.

The Chair: We have five minutes left for any further questions from the Government side. If not, Luke Pollard.

Q105 Luke Pollard: I want to pick up on your earlier answer where you described the inshore vessel monitoring system. Will foreign boats fishing in UK waters have a

[*Luke Pollard*]

requirement to have IVMS on their boats, so you will be able to track where they are when they are in UK waters?

Phil Haslam: We have the latitude to make that a condition of the permit to enter.

Q106 Luke Pollard: So you have that power currently.

Phil Haslam: That is what we can do as an independent coastal state. Access to our waters will be granted by a permit, and the conditions we put on that permit are for the country to determine, so yes we can.

Q107 Luke Pollard: Just so I understand, you are saying that the UK will have that power in the future. Should that power be set out in the Bill—that this should be a requirement? My concern is that UK boats might have to have IVMS, but foreign boats might not, depending on what option we decide to put in the licence. There should be a level playing field between UK boats and foreign boats in UK waters, so should all boats not have to have IVMS on them?

Phil Haslam: The power in the Bill gives us the ability to regulate who comes into our waters by granting permission. I do not think the conditions of permission need to be explicit in the Bill, but they can be part of that, among other things that we would require any vessel within our waters to comply with.

Q108 Mike Hill: On the point you made about IVMS, would that extend to what I consider to be leisure fishing craft as well?

Phil Haslam: There will be a cut-off of who actually gets fitted with it, because the point is to try to develop a picture of what is the main input into the fishery in terms of effort on vessels out there. There will be some vessels—there will be a line below which we will not need to go. At the moment we are looking to catch—not catch, that is the wrong word—fit IVMS to the active fishing vessels.

Mike Hill: To commercial vessels.

Phil Haslam: To commercially active fishing vessels, yes.

Q109 Luke Pollard: The Bill includes provision for the Secretary of State to allocate fishing opportunities based on days at sea, as well as the fixed quota allocation. How does your enforcement action differ when you are looking at a boat using days at sea versus looking at a boat fishing against an FQA?

The Chair: Can you answer that question quickly, Mr Haslam, because one other Member wishes to ask a question?

Phil Haslam: Okay. In terms of an effort scheme, we would just need a data flow to track how often that vessel is put to sea, and whether it is in the bounds of the effort that is available. We have effort schemes that we run now.

Q110 Bill Grant (Ayr, Carrick and Cumnock) (Con): I was also thinking about the licensing of vessels for fishing. Licensing of vessels or permits to fish in our waters may go to vessels not from within the EU 27. I assume that they can come from elsewhere in the globe;

we are not confined to permitting vessels simply from Europe. My question is how do we ensure the seaworthiness of those vessels that may or may not receive a permit or licence to operate in our seas?

Phil Haslam: Taking what happens now for a UK vessel or an English vessel, the Maritime and Coastguard Agency issues a certificate of seaworthiness, and that is the first thing we need to see in granting a licence to fish.

Q111 Bill Grant: No matter where that vessel emanates from.

Phil Haslam: We would expect a similar behaviour. If that vessel was applying for a licence to fish in UK waters, one of the checks and balances you would have is asking, “Is it fit to conduct itself at sea? Is it seaworthy?” That would be the first check.

Bill Grant: Thank you.

The Chair: On behalf of the Committee, Mr Haslam, I thank you for your attendance and your evidence.

Examination of Witness

Dr Tom Appleby gave evidence.

3 pm

The Chair: We now move on to our sixth witness, from the Blue Marine Foundation. Would you please introduce yourself and your organisation?

Dr Appleby: I am Dr Tom Appleby. I am a non-practising solicitor but I have been in property law for about 20 years. I am also an associate professor of the University of the West of England, and I have been operating in this sphere—ports, marine conservation and fisheries—for about 15 years.

Q112 George Eustice: May I ask for your general impressions of the Bill? Does it do the things that you would expect a domestic fisheries policy to do, or are there other elements that you would like to see included?

Dr Appleby: First off, it has been drafted in short order to deal with the situation that we have. By and large, and given the constraints that the drafters had—you can see that it is drafted in different forms and it does not sit together very well; it is not very beautiful—it does what it says on the tin, but it could be improved. I was looking at some other legislation. The Australian Fisheries Management Act 1991 has 168 sections, the MACA—the Marine and Coastal Access Act 2009—has 325, but this has 43. You can see that more could have gone in here, but there were time constraints on the people who drafted it, and I think that they produced what they could in the timescale.

Q113 George Eustice: Are you happy that clause 1 broadly brings across the marine environment objectives from European legislation?

Dr Appleby: It does. Clause 1 leads you into the devolution minefield. One thing it has to try to deal with in drafting is repatriating legislation on the one hand, and then delegating it around the four nations of the UK on the other. It tries to do that. Given the constraints on the drafters, there are fisheries plans to bring these objectives in.

There are potentially some bits missing. We do not have marine planning in there, which we could possibly put in. Quota could possibly go in there. There could be a method of dealing with quota at that stage, on how, if and when quota comes back, what happens with climate change and fishing opportunities. That could be put into the plans as well.

However, I recognise that the drafters sat there not only having to operate from the UK perspective but also having to take the devolved Administrations with them, which inevitably is slow. The clause could be improved if we had a little more time.

Q114 George Eustice: We obviously have to look at marine planning in the context of the retained EU law coming across and that we have other bits of legislation. Some of those things are already provided for.

The second point I want to raise is on the fixed quota allocation—the FQA units—which has been the basis of quota allocation inside the UK, attached to individual vessels, as you know. We have been explicit in the White Paper, and we take the powers in the Bill to make a break from that, and to say that any additional fishing opportunities that come as we depart from relative stability could be allocated on a different basis. What is your view of the FQA units system?

Dr Appleby: What has happened is that the UK fishery has essentially been, for want of a better word, squatted. We gave it out free to two people, who then sold it and it became propertised. The UK Association of Fish Producer Organisations case held that unused FQA became a property right.

The White Paper talks about quota being a public asset, so we have to make a decision on whether the UK fishery—particularly if we are getting more back; it will be very expensively brought—starts off as a public asset. That means unwinding the FQA system. You can potentially do that under existing powers, or you can do it under some things in the Bill. When you actually look at the auction, I think you have probably constrained yourself a bit too much. If you auction off quota, you are looking at people who have the cash to buy the quota in the first place. A royalty, for instance, is the sort of thing that you would charge—I think we would call it turnover rent in the property sector. That would be a way of charging people and then not having to come up with the cash. Even in the Bill, it only says “may” use an auction. Without constraining yourself, you could expand your powers on what we do with repatriated quota and, indeed, what we do with FQA generally.

We went through some debate when first drafting our amendments. We thought that we needed to put a stop to FQA, but a legal argument will come back the other way that says quota is a property right. We thought, “Well, if you give eight years’ notice, that’s probably sufficient to deal with any compensation that would arise,” but even then, I did not feel comfortable putting that in the Bill, because you reify the situation as soon as you do that. We put it in to start with, then we took it back out again on the basis that there needs to be a proper conversation about what we do with quota. Given the time restraints, we will not be able to do that in the Bill, even with the best will in the world. We can reserve the powers in the Bill to ensure that whatever we decide to do with FQA in the long run

is settled, and that we can do some interesting things with it. I think that balance is there if you pull back just slightly on the prescriptive language about what you do with it.

Q115 George Eustice: Do you think a legal power is needed to do that? They passed legislation in the Faroes that effectively put people on notice, and said that after 10 years they would depart from an FQA system. Our view is that the Government could state that intention, at which point the clock would start ticking without the need to have a provision on the face of the Bill.

Dr Appleby: We reallocated quota last time—unused quota—without compensation or additional legislation, so I think we could do that. I think you have to be careful when you do that, because a lot of people borrow money by using their quota as collateral. One the one hand, there are some very rich people sitting on quota—the quota barons we read about—but on the other hand, there are people who use quota to support their running a business. You would need to think about what you will do, but I think you can do that under the current legislation.

What has happened here is that it has been beefed up. We have put some more suggestions forward. There are two things that you could do. You could vest the fishery so that it actually becomes public property. We have done a heck a lot of research at UWE on who owns it, and we reckon it was set up by some sort of implied Crown trust that goes back to the middle ages. One of my PhD students is working on this at the moment.

It would be easier just to state in the Bill that it is a public asset and put it in some sort of trust, and then you would get the kind of things that you would normally expect when disposing of a public asset to the commercial sector. That is the way I would approach it. I appreciate that we did not start there; we started with an open-access resource, which we have tried to deal with through legislation. We are in a transition.

Q116 Luke Pollard: You mention fisheries management and how that is missing from the Bill. In particular, fisheries management and how that fits with marine plans in the Marine and Coastal Access Act 2009 seems to be omitted. Can you just expand on what you think the Bill is missing in fisheries management?

Dr Appleby: I am not sure. In common with previous speakers, I liked the idea of a scientific adviser, which would be a lovely thing to have. Its constitution is probably the same size as the Act, so you can imagine the bunfight about who sits on the advisory panel, whether it is peer reviewed and whether it is devolved. That is a huge conversation to have, and it needs to be had in public. That is something I would like to see. If we had more time, I would like to see that go in the Bill.

There is a mirror piece of legislation, which is the Environmental Principles and Governance Bill. Does that apply to fishing or not? When we leave the EU, we will lose the right to infraction proceedings against recalcitrant UK—all parts of the UK. Should Scotland do something, it is the UK that gets infracted. We will lose that, and we have not quite been able to replace that kind of thing.

Those are just two examples: a good, robust, scientific, forward-looking body that looks at how to make the most of our resources, and some sort of regulatory regime to punish the hindmost, if you want to be quite so curt.

Q117 Luke Pollard: On the dispute resolution mechanism that you are talking about, the Government seem to think that they have the powers to resolve disputes between the devolved administrations and the UK Government at the moment. Is it your view that that is the case, or would an explicit dispute mechanism requirement in the Bill make that easier in the future?

Dr Appleby: I think you can put one in. I would love to, but given the timeframe to which we are working—having this Bill ready for March—it would almost be a wrecking amendment if we tried to put something like that in. You are going into devolution which is an enormously emotive topic, especially at the moment. In terms of the Government's position of being able to hit the devolved administrations with a stick: it is a devolved matter. I do not think the Government can do that.

When you look at most of the Act, it is consensual and they are consulting one another. That is how it should be, to be honest. The four nations should be able to work together and that is right. At some level we have lost the outside influence that we had. The way everything is drafted is, unfortunately, currently predicated on having a common fisheries policy that kept everything together. I am talking around the subject because were you to put a drafting pen in front of me and say, "Get on and draft that," it would be incredibly difficult. My sympathies go out to the Government for what they have done.

Q118 Luke Pollard: Finally, one of the areas that seems to be weaker in the Bill than in the common fisheries policy is the area around maximum sustainable yield and the removal of a commitment to achieve it by 2020. Where there are difficulties in achieving maximum sustainable yield by 2020, do you think that the MSY provisions in the Fisheries Bill are sufficiently robust to make sure that we are restoring stock levels in our oceans, especially as climate change seems to be missing as a theme from much of the Bill? Is that something that we could address?

Dr Appleby: What does maximum sustainable yield actually mean? The European Union defines it as something like the highest theoretical equilibrium yield. It says something like that in the basic regulation. You take a basket of theories and you use the highest one. It has been knocked around as a term for a long time. Our rights in our EEZ only go up to maximum sustainable yield and we do not have a right to fish beyond it. We can take the interest off our fish stock outside our territorial waters, but we cannot spend the capital. This is the way to look at it.

To some extent, that is all the rights we have. I have not explicitly looked at that, but my sense on the way this works is that we would be bound by MSY targets anyway. The other thing is that the UK has access to judicial review, whereas trying to review the European Commission is interesting. It is very difficult to get a standing in the European Court of Justice, particularly on maximum sustainable yield. A few years the World Wildlife Fund tried to get access on cod quotas, I think, and they failed. So the European Union is good at giving rules to other people, but not so good at looking

after itself. From an environmental charity point of view, we are not so concerned as long as there is something in there that does allow some conversation about moving to the right stocks that produce more fish, more jobs and a better environment. We could get hung up on this if we are not careful.

Q119 Peter Aldous: Tom, you were expressing concern at how a public asset might have inadvertently become a property right, and how that might constrain more radical reforms of the quota system. Could we go back to the court case of 2012-13 when Lord Justice Coulson put down his determination? I have heard some suggestions that the Secretary of State won that case against the POs, because what he was proposing was very reasonable and small-scale, and the POs were acting unreasonably. Is that a view that you would share, or would you say that Coulson allows one to go a step further?

Dr Appleby: An FQA is a possession under the European convention on human rights. There is a distinction. "Quota" is once it is distributed, and FQA units are about your expectation of how much of a share of the UK's TAC you are going to get every year. That was based on the historical landings data, traditionally. He said that unused FQA units could be reallocated without compensation. FQA units are a possession, so the corollary of that is that used FQA units—and most of them are used—would require some sort of compensation payment. I have not been privy to the subsequent legal advice, and I took a sharp intake of breath when he said that at the time. In fact, I went to court to watch some of the court proceedings—it was quite interesting; it was right up my field. It is inherent in the UK that we do not take assets off people without compensation. It is part of our culture—way before the European convention.

There is another point about that redistribution and the immediate way it would have ramifications on how the whole commercial sector is constructed, which you need to be mindful of. Once you put that whole lot into a bag and shake it up, you could design a scheme to reallocate quota, but it would need to be done in a sensible, crafted way.

Q120 Owen Smith: Dr Appleby, you say that MSY is not necessary, and that hardwiring a greater onus on Ministers to adhere to MSY in terms of the allocation of future quotas is not necessarily the way to go. If we had more time—I take what you say about there being limited time—is there a way in which we could hardwire sustainability in respect of future fisheries management into this Bill?

Dr Appleby: That is a good question. There are things that you can do. The Australian legislation, for instance, makes it a legal duty to fish sustainably and according to the plans that they come up with. We could put that in. Our fisheries statements are a bit woolly. I notice that there is a bit in here that says that they do not have to adhere if relevant considerations are taken into account. What is a relevant consideration? I could not find a definition of that.

We have not nailed the Secretary of State to the floor in this Bill, and that could be done. Again, it would have to be done in the context of devolution, so we would have to nail everybody's feet to the floor around the UK, because we cannot have a situation in which one part of the UK can fish non-sustainably and the other

parts cannot. There are things that you can do. There are tweaks and modifications that can be made to harden up that duty.

Q121 Owen Smith: For clarification, you were saying that it is in Australian legislation that there are fisheries policies?

Dr Appleby: Yes, I think that their fisheries plans are statutory.

Q122 Owen Smith: And they are legally binding on Ministers to ensure those things are observed?

Dr Appleby: They have a management board. We are looking at the scientific advisory panel that has been put forward. Those scientific recommendations are binding in some way.

Q123 Owen Smith: I have one separate question. Do you take an environmental view of what the potential benefits might be of preserving certain fisheries or stocks for recreational fishing, as has happened elsewhere?

Dr Appleby: You are looking at a public resource, so how do we make the best of that public resource? Some of that is going to be to the commercial sector and some of it is undoubtedly going to be to the recreational sector. The whole thing is so political because we are trying to carve up this public resource through regulation. Undoubtedly, the recreational sector is an important part of this conversation, too. Historically, although it has recently been included in the common fisheries policy, it has come to the table late.

Q124 George Eustice: I want to come back to this point about some of the environmental criteria and potentially having a hard nib point for MSY, for instance, as a statutory target.

One unique thing about fisheries is that, in or out of the EU, they are subject to annual international fisheries negotiations. Norway, for instance, follows MSY but also follows lots of other scientific metrics that it thinks are superior to those that we use. In such a situation, do you think it is important to keep that flexibility, so that you can actually land an agreement with Norway, the Faroes, Iceland and the EU, or is it preferable to make it unlawful for the UK to reach such an agreement and just have everyone go off on their own and unilaterally set a tax?

Dr Appleby: That is an interesting question; theoretically, we cannot fish beyond MSY, because that is all we have. Under the United Nations convention on the law of the sea, our rights extend to MSY and that is it. You cannot have an agreement on what you do not have.

However, the question is: what is MSY? It comes down to the definition. The Norwegians would probably argue that, by taking a basket of different theories, we achieve MSY, because one stock can be plotted on a graph and another cannot. I am not a fisheries scientist—you would have to ask them—but it seems that you are essentially looking at something like a repairing obligation on a lease. How far can you go with this and do it in a sensible way?

The difficulty with going into, say, MSY or BMSY or all those things, which I have never completely got my head around, is that you define a particular scientific methodology in your Bill. I think that could come back to haunt the draftsman if stock does not behave in a

certain way or if you want some sort of flexibility. Again, it is interesting that, coming from a conservation point of view with my Blue hat on, I am not uncomfortable with just leaving it at MSY.

The Chair: I have Alistair Carmichael and then Mike Hill, unless anybody else wishes to contribute.

Q125 Mr Carmichael: May I just tease out for a second or two the question of property rights as they pertain to FQA? As I understand your evidence so far, if we were to get to somewhere sensible on this, we would not start from here. Is that a fair comment? I can understand why you would take the idea of eight years and then think no—if I came to you and said I will take your house away in eight years' time, you would not be very happy about that. At the same time, does the whole idea of quota auction not put beyond any doubt that this is a tradeable commodity?

Dr Appleby: You can write that into the legislation. The Americans, in the Magnuson–Stevens Fishery Conservation and Management Act, just write in that it is not a property right. You can make it terminable, so that it kind of becomes a contractual right.

Q126 Mr Carmichael: But that is what you could do with a blank sheet of paper. We do not have a blank sheet of paper; we have a history here of people borrowing large sums of money on the basis of their then having property rights that they can then offer up as security.

Dr Appleby: One way of dealing with that is to inflate your way out of it, so that you do not punish one individual. You could say that, this year, you are going to topslice 20%.

Q127 Mr Carmichael: So do you think that it would be possible for repatriated quota and existing quota to have different rights?

Dr Appleby: I think you could. We are straying into an area for which you need explicit legal advice, but I see no reason why not. You are not disappointing somebody. The other thing about doing this sort of thing with this sort of asset is that you cannot target one individual and say that you are going to take their quota off them and off they go. That really is compulsory purchase. When you water down the entire pot, it is much harder for somebody to make a claim, particularly if fish stocks start to come back and the inherent value of the asset has not really changed.

The price of quota pings around like anything, depending on how much fish has been landed that month. It is not a very stably priced asset anyway. Again, if in the Act you use robust wording about this, the first thing the courts will look at is the Act and ask what Parliament has said. It comes back to reasonableness, I think.

Q128 Mr Carmichael: You can slice it and dice it any way you like, but in essence you are talking about nationalising a private resource. You compensate for that, do you not?

Dr Appleby: The thing is that it was never privatised properly in the first place. Normal squatter's rights would be 12 years, but this is based on three years. It is a much shorter timeline that people have a track record for. We did the same thing with the milk quota—that

was wound down—and various other farm subsidy payments were wound down, too. This is not a sector where this sort of thing happens.

The duty of the public administrators is to make sure there is no undue shock on the fishing industry by pulling the rug out from everyone, and otherwise to make sure we safeguard what is, at least nominally, a public asset. Elsewhere, in the UK Association of Fish Producer Organisations case, which is a slightly funny case, Justice Cranston says that it is a public resource. There is some force in the intervenor's point that it is a public resource.

Q129 Mr Carmichael: Just 30 seconds on devolution, because I want to give colleagues some time. Is there not a conflict of interest where the United Kingdom is holding the reins but is *parti pris* in respect of the English interest as well?

Dr Appleby: That is a very good question. I put my amendments together in two parts. The Secretary of State is doing two roles; I am sitting here with two roles myself, so I appreciate that. One is being the Secretary of State on behalf of the UK—he is a trustee of the UK's public fishery—and the other one is being English Fisheries Minister. That is why I do not like the way clause 20 is drafted, because I thought you would split the functions. The trouble is that it goes into some very difficult water when we start to look at the different devolution settlements.

Q130 Mike Hill: I have two simple questions. In your opinion, does the Bill provide the requirement for the UK fisheries to be sustainable? Should the Secretary of State provide annual statements on stock levels?

Dr Appleby: I will take the second question first because the second one leads to the first. How can you define "sustainable" if you do not know what the stock levels are? There is a massive absence of science on this. If we get money back in from the fishery, I would like the commissioning of decent science so we can look ahead and plan forward. We seem to be navigating while looking behind us. We need to get better data to manage the stock. We also need to have a conversation about which stock we want to fish. What are the stocks that live best in our waters that we want to feed the country in the 21st century?

The Chair: Mr Aldous wants to ask a question and we have just less than a minute left.

Q131 Peter Aldous: The Secretary of State has to consult with Welsh and Scottish Ministers and the Northern Irish on this. Are the English put at a disadvantage?

Dr Appleby: There is an argument. If we were to try to stick an English Fisheries Minister into this Bill, which is kind of where you are going, that is the West Lothian question. I almost feel we should ask the Minister what he feels.

The Chair: The Minister will have several hours over the next few weeks to tell us what he thinks. Time is at a premium. On behalf of the Committee, I thank you Dr Appleby and the organisation for your submission. Watch the Bill with interest as it progresses.

Examination of witness

Aaron Brown gave evidence.

3.29 pm

The Chair: We now move to our final session of the day, which I remind colleagues must finish at 4 pm. The final witness is Aaron Brown of Fishing for Leave. Could you please introduce yourself as the witness?

Aaron Brown: I am Aaron Brown of Fishing for Leave; thank you to hon. Members for having me along today.

Q132 George Eustice: Thank you very much for joining us. I know you have long been an advocate of an effort-based regime, rather than a quota-based regime or potentially a hybrid model. You will be aware that the White Paper sets out a commitment to pilot that, particularly with the inshore mixed fisheries. Could you just set out what your thoughts are in that respect and why you think an effort-based regime would be better than a quota-based regime?

Aaron Brown: To start with, overall we were very happy with the White Paper. The Bill is somewhat disappointing, because a lot of what was good and gave a lot of hope to people has disappeared, and an effort pilot was one such thing. We have been staunch advocates of that, because over 30 years with increasing regulatory burden we have tried to go up a cul-de-sac and it has not worked. We have had black fish and discards, and now we are on to choke species.

We sat back and said, to use a phrase the Minister likes to coin himself, "What are the first principles of management?", and that is the ecosystem. You have to work with mother nature. Currently, all the problems, many of which Members have discussed today—whether that is enforcement, science or shares of resources—all stem from the current quota system. What we said is that the only way to manage a dynamic mixed fishery, where you catch a mix of species that fluctuate up and down and it is difficult to determine exact, quantitative, arbitrary figures such as quotas, is to say to vessels, "What is a sustainable level of time that vessels need to catch a sustainable amount of fish from an ecosystem? If in the North sea you can take 200,000 tonnes of biomass, combined, from that ecosystem, how long does it take your fleet collectively to do that?"

That allows vessels to land all catches. It means you see exactly what the fluctuations and dynamism in the marine environment are, which generates accurate science, and you are flowing along with the environment rather than what we are trying to do just now, which is to impose arbitrary theoretical targets and then try to hit them. That has been proved not to work.

Just to finish, before Mr Aldous asks a question, we quickly concluded that effort control alone does not work, and that is what we brought to the Department as a solution that answers most questions. Blunt time at sea, especially in a blunt measurement such as days at sea, does not work. What we have developed is a system where you adopt FQAs, so there is no contention about people losing their investment in that, and turn them into percentages that people should be aiming to catch. It is not an arbitrary weight that you are aiming for; what you are aiming for is a percentage-based mix of

what is deemed to be sustainable. If you catch outside that percentage, what happens is that you lose time in compensation.

Therefore, as a vessel is losing time for catching the wrong fish that he is able to land for that time penalty, his effort burden on the environment is coming back. Since the fish that has been landed has almost been time for the crime, scientists know that is a true representation of what is going on. I have worked on this for over two years; we have not asked for it to be dropped out of the sky, as some of the amendments to the Bill seem to be—for an enabling Bill, there are some clauses that seem to be a shopping list for DEFRA. What we are asking for is a trial, because we truly believe that for a unique system anywhere in the world, we have a system here that could get us away from poor science, solve the problem of FQAs and who owns them, and get us towards a far more sustainable fisheries management system.

We implore hon. Members to put in a legislative requirement that a trial across the fleet, not just inshore, is enacted to give us an alternate solution. If it fails, it fails, and if it is proved right, we have lost nothing but gained a lot.

Q133 George Eustice: Just to clarify, there is a different purpose behind a White Paper, which sets out your policy and what you seek to do with the powers, and a Bill that establishes the legal powers you need to deliver your policy. We would not need a specific clause to say, “You must run a trial,” in order to be able to run a trial; the legal powers to run a trial are in the existing clauses of the Bill.

Coming back to the principle, the difficulty with fisheries is that, while you have said effort does not work, nothing quite works on fisheries. That is why it becomes a circular argument. You seem to be arguing for a return to catch composition rules, which themselves became slightly discredited so that people tried to move away from them. The challenge is that an effort regime works best in a mixed fishery where it is harder to segregate out the fish, but a tonnage system works best in, say, the pelagic.

Aaron Brown: Absolutely. We would say for pelagic species, where you are catching an individual bulk species and vessels can reasonably accurately target that, although at times you do get it wrong, a quota system is fine. The problem is that dynamic mixed fishery—the white fish; we include nephrops in that mixed fishery. What we are saying is catch compositions but not arbitrary limits, which, again, is a problem. It has flexibility.

To avoid a race to fish, to avoid giving people a blunt dollop of time and their going off and targeting the highest value species because the economic incentive is there, what you are effectively doing under this system is a buffer scheme, if you like. It is a trading scheme. “Okay, I’ve caught the wrong fish. It’s worth money”. Then, rather than discard it into the sea unrecorded and keep on fishing and killing more of that species while trying to find one you can keep, what you are moving towards is trading overall ceiling of effort for that wrong fish. So it is a compensation scheme, effectively, in which you get the financial benefit of that fish and your men get their pay—we will come on to that with the system that DEFRA proposes for discards—but, overall, your ceiling in the year comes down to meet you.

That would solve the bass problem. You could put in a zero catch composition for bass. Any catches would have a time penalty. Boats could be tied up on the Monday but they would have that bass landed, and the financial benefit of it. It would work for spurdogs. We really believe there is a system here that merits a good look, and proper scrutiny and trial. As we say, we lose nothing if it fails and we gain everything if it succeeds.

Q134 Luke Pollard: Do you think that fish should be a public asset and that that should be defined in the Bill?

Aaron Brown: I think that absolutely, yes. I think there has always been that case. I was very pleased to hear Dr Tom Appleby state that, and many of the other non-governmental organisations have said it, about the idea of privatisation. Even with the FQA system, it says in the paperwork that people get through, that it should not be bartered, sold or bought. It just happens to be that the industry has gone and done it.

Fish always has been a public resource. Various judicial hearings have defined that as well. Indeed, it probably stretches all the way back into Magna Carta, right back through our constitution. At the end of the day, we as fishermen, as the members of the public who catch, are only custodians of what is the nation’s; we look after it and husband it well for current generations and future ones. We would very much like to see a clause put in towards that.

Q135 Luke Pollard: One of the questions asked earlier was about auctioning additional fishing opportunities, and one of the key concerns that Fishing for Leave has raised when we have met has been about how auctioning could favour people who already have a quota, who already have cash, which would not support the small boats, on which there should probably be the greater focus. Do you have any concerns about where auctioning sits?

Aaron Brown: That is one of the main five things that are in the Bill. As I said at the start, one thing that disappointed us more was what was missing from the Bill rather than what was in it. But out of the five things we are deeply concerned about, that auctioning clause is one of them. It runs coach and horses through the principle of it being a public resource. Practically, it will end up in the hands of the highest bidders.

There is no tightening of the economic link in the Fisheries Bill, which is one of the things we really want to see included, so without that, combined with auctioning, you could have massive, multinational, hugely wealthy seafood companies saying, “British fishing is on the up so we’ll come in and wave our cheque book and outbid everyone else.” Even the biggest companies in Britain could not compete with some of those far eastern ones.

If we go down the auctioning route, we have an opportunity to draw a line, as I think the right hon. Member for Orkney and Shetland said, between the current quota resources—how it has been divvied out, not in the way we would have chosen—and this clean slate of what comes back. If we go down the auctioning route, where it is monopolised into the hands of a few big interests, with their financial firepower, it rides coach and horses through the Government’s objective of rebuilding coastal communities and supporting family-based fishing.

Q136 Luke Pollard: You mentioned effort, and you suggested a hybrid scheme between FQAs and days at sea. There are concerns that the Bill gives the Secretary of State powers to allocate fishing opportunities simply on days at sea, without any qualification after that. But the White Paper spoke about there being a series of trials to assess whether days at sea would deliver against the objectives. Do you think that the simple inclusion of days at sea without any qualification that comes afterwards could make that more problematic?

Aaron Brown: One of the amendments we put in was to amend it to hours at sea. It might seem contrary to Members that fishermen would want to tighten what could be perceived as a noose on themselves. That amendment was to get towards what we really need to get towards, which is some kind of catch-per-unit effort system of fisheries management.

Over the years, one of the clauses in the Bill we would like to see amended is right at the start: clause 1. It says that management will “ensure that...activities are”, which suggests that the Government kind of take a hammer and beats down the industry to meet their requirements. We would like to see that reversed so that policy requires management that delivers. In other words, the onus should be on the Government to say, “Okay, here are the objectives we want to meet. How do we move towards that?” We want it changed to hours of soak time at sea, because that is a far more accurate method of delivering catch-per-unit effort. You would be getting accurate data to deliver management that actually achieves objectives rather than just trying to take a hammer to the industry to make it comply.

Q137 Luke Pollard: Finally, we have heard today that the way fishing is conducted in UK waters has changed over many years, with new technologies and greater efficiency in catching fish. There is a new development called electronic pulse-beam fishing, which I have a lot of problems with. Although this level of detail might not be included in a framework Bill such as this one, we received representations—I tend to agree with them—that that practice should be banned. Do you have strong views about where electronic pulse-beam fishing sits within acceptable fishing practices?

Aaron Brown: Absolutely. We feel it should be banned outright immediately. You could put a sub-clause in that says it should be banned until it is proved that it is not responsible for the environmental degradation that has been reported by fishermen all around the southern North sea, where the derogation has happened. I certainly do not think anyone could say that the Dutch, who are primarily responsible for this, have not taken the Michael—that’s the polite word. It started as a derogation against the ban on electric fishing that the European Commission itself got—let us remember that it was a derogation against the EU’s own scientific advice—for a trial of the method. That trial has gone on for 10 years and has 100 boats on it. That is a commercial fishery masquerading as a trial. Even the Dutch now hold their hands up to that. We would like to see that banned.

We would also like to see sandeel fishing banned in the central North sea. For years and years, that has taken away a key component of the food chain—the base of the food chain—for sea birds, fish and obviously fishermen. Neither method—pulse fishing or sandeel

fishing—is of benefit to any UK vessels, and with sandeel fishing you have the double dunt that the sandeels are taken for pig feed, so the British bacon industry could see a competitor’s food costs go up.

There would be a massive environmental gain if we banned both practices. That would not affect any British industry. I am actually very surprised that a Government who extol their environmental credentials with plastic cups and wars on wet wipes have not taken the easy win of banning pulse fishing.

The Chair: There is considerable interest in asking questions in this session. We have to finish at 4 pm, so can I ask for short questions and shorter answers, please?

Q138 Peter Aldous: I will not comment on pulse fishing, because I agree with you, Mr Brown. I think the Minister said that the Government are happy to look at an effort-based pilot. I am conscious that there was a pilot in the past. What was the outcome of that? What shortcomings were there, and what lessons might we learn for future pilots?

Aaron Brown: That is one of the areas where, when we devised this system, we realised there had been a massive failing. The days at sea scheme was blunt and there was no effective monitoring. Generally, it was with smaller boats in south-east England. I think even the fishermen themselves would hold their hands up and say they really knocked the backside out of the pilot. There was mis-reporting going on—they just went out and kind of went Tonto on it.

We are advocating an hours-based system. You would obviously have vessel monitoring systems. We want to get towards a fully integrated monitoring/management system. Vessels would have sensors, which are not expensive to put on—vessels use a similar technology for gear telemetry and door sensors—and go on any type of fishing gear, to monitor soak time, so you would know the exact time a vessel’s gear was in the water. There would be a stipulation to monitor where vessels were through your inshore VMS or your full-on VMS, and also to fill out electronic logbooks, which are here now. You would get an up-to-date, haul-by-haul update on how much fishing effort was going in. You would know, “That boat towed six hours in this area and he caught x amount of fish for this size of gear. The chap over to the side towed similar gear and caught half the amount of fish.” You would start to know where the abundancies were.

The one main control to go for with a pilot is making sure it is rigorously enforced and it is an hours-based scheme. The other main thing is the catch composition thing. That really is the main control for regulating the industry. Rather than everybody going Tonto, like they did last time, and targeting Dover sole, cod or bass, you would say, “Yes guys, you can catch them and keep them, but be aware that if you do that, your ceiling of hours is going to come clattering down to meet you.”

Q139 Alan Brown (Kilmarnock and Loudoun) (SNP): I think you touched on this topic earlier on; you said you would probably come on to it. Do you have a view on the discard prevention charging scheme that is in the Bill and on how transparent it is and how it would actually work?

Aaron Brown: That is one of the things in the Bill that very much seems to ride coach and horses over the idea that the Bill is just an enabling Bill. Obviously, there is a bit of reticence—okay, you could say, “Understandably so”—to career on towards a different type of management on an effort-based system, yet somehow we have a scheme here that has dropped out of the air, with no prior piloting and no prior consultation, and that has just arrived on the table. We are vehemently against it, because we personally feel—and everybody who has read the Bill, both among our membership and in other organisations, feels—that only an idiot who could not understand the practical implications of such a scheme would propose it.

We feel that the scheme is there to administratively abrogate the failings of the current system. The Government are proposing to take all the repatriated resources and use them as headroom to avoid choke species, whereby, as of 2019, vessels have to cease fishing on the exhaustion of their lowest quota. What will happen is that you will have vessels going to sea. Many hon. Members are from the south-west, as the Minister is, and haddocks are a huge problem there—in the North sea, it is hakes. The Government then say, “We will honour the fish that would choke you or would tie you up. We will give you fish to keep fishing, but so that there is no economic incentive to target that species, you must land it for free.” That scheme effectively creates a giant shuttle service, where boats are going to have to run in and out, in and out of harbour, landing all this fish that they cannot profit from, to allow them to keep fishing.

The first big problem with that scheme is retention of crew. Lads are not going to work to retain—well, just now it is a 40% discard rate, so if they have to retain that 40% for free, you are going to lose your crew very quick. The next problem is that there is no provision in the Bill as to what happens to this fish when it is landed: you cannot turn around and allow processors, hauliers, markets or shore-based people to profit from it, because that would disadvantage the fishermen. Really, the logical question about that clause is, “Are we going into some sort of Soviet system, where the fishing industry is going to work for free for the Government?” It is an ill-thought out thing, and I think it needs taking out of the Bill. It needs to come back once it has been properly tested and run in to see if it actually works, because we see such pitfalls in it, and it does not actually—

The Chair: We have to move on, sorry. We have to finish at 4 pm and we may have a Division in the House before then, so we have to be quick on questions, or all Members will not get in. Any further questions, Mr Brown?

Q140 Alan Brown: In terms of perverse incentives and the process of making money out of these fish, you said that they would be landed for free. Could there not be a risk of collusion, with fish being landed and processed so that some of that money is recouped?

Aaron Brown: To some extent, that would be difficult now. It would come back to black fish, which were really stamped out through the vessel monitoring system and designated ports legislation, whereby vessels now have to book in three hours in advance and declare their catch. Effectively, the only way to do it would be coming in and mis-declaring that you did not have those fish—because otherwise you would be declaring them, and the Government would know they were there—and

taking them up the road. Obviously at the ceiling, you could say, “Well, the tally was wrong.” There is some degree of openness to abuse.

However, the thing that disappoints us most, where our system works but this one allowing fish to come in does not, is that it does not address the fundamental flaw: arbitrary quotas do not work in mixed fisheries. All that happens is that we are now setting an arbitrary target that we try to hit, and all this scheme does is allow you to make it right up to that target. It does not actually tell you, “Is that more abundance of fish?”

In the south-west with haddock, say, or in the North sea with hake, you could lift the quota up—double it—and the fleet would still catch it. Does that tell you there is a greater abundance of species, or does it basically show that you have given more legislative headroom to bring fish ashore? The only way that scheme would work is if you increased the quota disproportionately high, which no one is going to agree to. Since there would be no economic incentive for the boats to go off and handle all these fish that they are not profiting from, you would see where the fleet came up to and what a natural abundance catch was. That might be 60,000 tonnes, but if you had set the quota at 100,000 tonnes, you would know that there was not that abundance. The scheme, effectively, does not work. It needs taking out.

Q141 Bill Grant: I noted that you were very much against the big boys, or the financially powerful, coming in on an auction system to buy up the quotas or the right to fish. Bearing in mind that skippers with smaller quotas or rights to fish sold them on to those people, what is your alternative to that system? How would you make it fair?

Aaron Brown: The way we want to see it is with the auction clause taken out and a direct replacement put in on what we call the 1 tonne to one boat principle, whereby the resource is seen as a national resource and legislated as such. What happens is that all the repatriated resource that we gain under zonal attachment—anything about that is missing from the Bill—that national pot of resources, gets allocated to all vessels in a sea area fairly, equally. For the west coast of Scotland, where we are both from, about 60,000 tonnes of mackerel could be repatriated—worth about £60 million—and about 100 vessels are left there with the capability to go to that fishery, so what you would turn around to say, therefore, is that each west coast fishing boat in the ICES sea area for that stock gets 600 tonnes. That applies across any stock.

What we would like to see with that is, instead of it just being administrated on a spreadsheet like the non-sector is, which ends up with DEFRA just saying that we get 12 tonnes for 12 months, spread out equally over the months, is that that fish can be held in a PO—not monetarily traded, rented, bought or sold, but held in a PO—as a kind of holding vessel to use it at the best time of year, when that fishery may be on, rather than trying to spread 600 tonnes over 10 months. Also, if you cannot use that resource, it goes back into the national pot. We believe that has a huge degree of simplicity to it, legislatively and operationally. It would provide the flexibility for vessels to use that fish at the best time of year and, obviously, it would allow it to be reabsorbed into the national pool. That is what we would like to see.

The Chair: I call Alistair Carmichael. We have nine minutes left, and four Members wish to speak.

Q142 Mr Carmichael: The NFFO and the SFF told us this morning that they wanted to see a commencement date on the face of the Bill, namely 31 December 2020. What advantages would there be to such an amendment?

Aaron Brown: We would agree with that. We have one—it is actually the first one that we have put together ourselves—and we are obviously aiming for 2019. The way that negotiations are going, it will probably end up being 2019—hopefully, if God is merciful. Yes, we would absolutely agree with that. Our big fear is that if there is not a commencement date, the Secretary of State has the powers to kick the can down the road—it depends on what Government is there. We very much agree with a commencement date, preferably 2019, when we actually are a fully independent coastal state.

We have made it clear—I would like to put it on the record—that the transition is an existential threat to the industry: we leave, but we then sign up to re-obey the CFP—we have to obey all EU law—and they can enforce any detrimental legislation that they please, which they have every incentive to do, because under UNCLOS article 62, paragraph 2, if a state cannot catch its own resources, it must give the surplus to its neighbours. The EU has absolutely every incentive—they have even mentioned it in their own studies by the PECH committees, that this could happen—to run a bulldozer over the top of the UK fleet.

We implore Members: fishing cannot be in a transition. Obviously, with the wider deal, the big problem is that the EU says that there must be a future relationship or we are into the backstop, and that future relationship for fisheries will be based on current access and quota. That is not conjecture; the EU has said quite clearly that Gibraltar and fisheries are getting it, in the words of Mr Macron—via my rusty French translation. There is a huge danger of fishing going into that, so as the right hon. Member for Orkney and Shetland said in the Chamber, given the current poor state of the negotiations as they have been conducted, every red line has been breached. If the Government truly had a commitment to fisheries not getting mangled again—bartered a second time—they would not have been in the transition in the first place.

The Chair: Thank you. I want to get Members in. I call David Duguid.

Q143 David Duguid: Thank you, Mr Hanson. Mr Brown, there has been a lot of talk today about the ownership of quotas. As Mr Carmichael said earlier, if we were to design this again from scratch, we would not start from where we are. A lot of what you describe sounds like it might work if you were starting from scratch, but I cannot help but feel a bit squeamish about the idea of taking something away from someone who owns something—I am a Conservative; I cannot help myself. I do not see that as being fair. Not only does it in essence involve taking ownership of an asset away from someone, even over time, but how fair do you think it is that the fishermen who benefit, the smaller fishermen who would get a bigger share of the quota, in some previous generations might have benefited financially from selling that quota to the larger fishermen in the first place?

Aaron Brown: I absolutely agree with you. That is why Fishing for Leave has been absolutely explicit right from the start that FQAs as they stand—the current quota and the current FQAs—should not be touched. We agree with you that it opens up a total legal and moral can of worms to turn round and say, “Okay, this shouldn’t have happened, but it has happened, but we’re going to take it off you.” I absolutely agree.

Our solution to preserving the FQAs, while moving to a more equitable system of management for both fisherman and the fish was to convert them into this flexible catch composition entitlement. That is very simple to do. It is legislatively no problem, because all you are doing is saying that your FQA is not an entitlement to a kilogram; it is an entitlement to a percentage. So the resources all come back, and the current resources go into a national pool; that is divided out as time and everybody gets an equal stake of time to reach their potential, but those biggest quota holders, both in the south-west and the north-east, which have heavily invested in FQAs, get the benefit of their investment, because when the fleet’s national average might work out at 5% cod in the North sea, those who have invested heavily in FQAs would get their 30% or 40% or whatever. We think that is a fair way to do it.

The Chair: Okay. I call Owen Smith.

Q144 Owen Smith: Are you disappointed that, two and a half years after Brexit, so little seems to be resolved in concrete terms for the future of the fisheries?

Aaron Brown: You have no idea the level of my disappointment.

Q145 Owen Smith: Perhaps you could tell us in a minute. Are you worried that several Cabinet members have warned that transition could go on for as long as four years?

Aaron Brown: Yes, absolutely. That makes it worse. It pours petrol on the bonfire that I have described to you. In the transition, the EU has every incentive to run a bulldozer over the top of us. They can abolish the 12-mile limit; they could fully enforce the discard ban in choke species and, obviously, we would not be able to implement policy to mitigate that, such as suggested in the Bill. They would be able to barter UK resources in international swaps, because we will not be party to international agreements but the EU will be making them on our behalf.

The other thing that is really devastating right round the country is that currently the UK relies on a lot of swaps in the EU, to get in fish that would otherwise probably be ours under a zonal attachment. We will not be able to do that because we will not actually be sitting at the table any more. So we will be trapped in this kind of halfway house, where the EU has every incentive to take a great big stick and beat us with it like a piñata. It is not a position that I think is equitable for the survival of the industry. To be brutally honest, by the time we get round to a new British policy, if we are not shovelled into the backstop, of which there is a high likelihood, there will not be a fleet left to take advantage of anyway.

Q146 Mr Sweeney: Whether it is the smaller under-10 shellfish boats working out of the west coast ports, such as Stornoway or Oban, or the pelagic and white fish

fleets running out of the big commercial ports, such as Fraserburgh and Peterhead, what benefit to Scottish ports would there be of introducing an economic link of landing at least 50% of all fish in Scottish ports?

Aaron Brown: I am fully supportive of that. We have gone further and said 60%, and not just for landings. There is a huge benefit from that. Currently just now, the flagship problem that Britain has, after the Factortame case, is that under freedom of establishment and freedom of movement, any EU national could come in and buy up British entitlement. Obviously, with the British fleet struggling with so much loss of its own resources, and regulatory ineptitude, many family fishermen felt compelled to sell. That is huge problem just now as we see on the west coast, in Lochinver. I think it was £30 million of fish went through Lochinver and there was not a single indigenous fishing boat. That needs to be tightened up on. There is a huge benefit, not just to the fisherman and their communities, but also to processors and market share.

Norway's crowning glory is not actually its fishing fleet. Norway's crowning glory is its dominance in processing and marketing globally. That is something that Britain could equally compete in with the resource we have got. We would like to see 60% landings into the UK, sold and processed, because otherwise people will

just put them on the back of a lorry and run them down the road. We want to see 60% beneficial ownership of any British vessel—that is no different from the other Nordic countries—to avoid foreign nationals or conglomerates buying out the UK fleet.

We would also like to see 60% British crew, but with a five-year or thereabouts dispensation for foreign crew, until we rebuild the future generation back into the industry to replace the one we have lost. The economic link absolutely needs to be there and we implore you to accept that that is an amendment that needs to go in. The Conservatives tried to do it in 1988 with the Merchant Shipping Act. I argue that if it is good enough for Mrs Thatcher, then it should be good enough for this Government as well.

The Chair: I think that brings us almost to the end of the session. It is good to hear Mrs Thatcher still being quoted 38 years after she gained office. On behalf of the Committee, thank you, Mr Brown, for your contribution.

Ordered. That further consideration be now adjourned.—(*George Eustice.*)

3.59 pm

Adjourned till Thursday 6 December at half-past Eleven o'clock.

**Written evidence to be reported to the
House**

FISH03 National Federation of Fishermen's Organisations

FISH01 Angling Trust

FISH02 Greenpeace UK

