

# Environment, Food and Rural Affairs Committee

## Oral evidence: Marine Mammals, HC 697

Tuesday 10 January 2023

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Members present: Sir Robert Goodwill (Chair); Steven Bonnar; Ian Byrne; Geraint Davies; Rosie Duffield; Barry Gardiner; Dr Neil Hudson; Robbie Moore; Mrs Sheryll Murray; Derek Thomas.

Questions 87 - 142

### Witnesses

I: Rt Hon Lord Benyon, Minister for Biosecurity, Marine and Rural Affairs, Defra; Rt Hon Lord Goldsmith, Minister for Overseas Territories, Commonwealth, Energy, Climate and Environment, FCDO; James Smith, Deputy Director of International Marine Environment, Defra; Lowri Griffiths, Acting Deputy Director of Ocean Policy, FCDO.

Written evidence from witnesses:

– [Defra](#)



## Examination of witnesses

Witnesses: Lord Benyon, Lord Goldsmith of Richmond Park, James Smith and Lowri Griffiths.

Q87 **Chair:** I bring this meeting to order for this session of the EFRA Committee, talking about marine mammals, which is a very interesting subject we have been doing some work on. We are very pleased to have joining us two of the most able Ministers, dare I say, in the Government, from the House of Lords, Lord Richard Benyon and Lord Zac Goldsmith. Would you like to introduce yourselves and say a little about what areas you cover? Would you like to introduce your officials who are supporting you or invite them to introduce themselves?

**Lord Goldsmith of Richmond Park:** Thanks for having us. I am Zac Goldsmith, Minister in the Foreign Office for climate, environment, ocean and energy. Lowri Griffiths here can introduce herself. She will be known to many of you.

**Lowri Griffiths:** Good afternoon. I am Lowri Griffiths. I head up the ocean policy unit in the Foreign Office and we deal with all matters ocean-related, including the environment, but also security issues.

**Lord Benyon:** I am Richard Benyon. I am the Defra Minister in the Lords and, among other things, I cover marine conservation and work with Zac on international marine issues. I have James Smith here, who will introduce himself.

**James Smith:** Good afternoon. I am James Smith. I am deputy director within Defra responsible for the international marine aspects, covering various issues on the environment, from biodiversity and climate change to plastics. I also cover some of the official development assistance programming that we do overseas.

**Lord Benyon:** I should say that he is also our commissioner to the International Whaling Commission.

Q88 **Chair:** Welcome, all. May I start the questions by asking a little bit about the good environmental status that many of these species require to thrive and flourish? I understand that the latest assessments conclude that good environmental status has not been achieved or is uncertain for most marine mammals in UK waters. What are the Government doing to protect these vital species? I suspect that, Richard, in our waters this is your area.

**Lord Benyon:** We are legally required to take measures to achieve or maintain the internationally accepted standard of good environmental status for our seas. We do this through the development of and implementation of the UK marine strategy. This is set out in the UK Marine Strategy Regulations. Achieving good environmental status is about so many different factors.



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In relation to the status of marine animals, the marine strategy is a framework for assessing and monitoring the status of our seas and putting in place the measures needed to achieve good environmental status. We evaluate cetaceans and seals, along with other descriptors, such as marine litter, contaminants and input of anthropogenic sound, which is an issue that I am sure we will come to.

In the most recent UK marine strategy assessment in 2018, good environmental status was achieved for some groups of coastal bottlenose dolphin, minke whale and grey seal. However, data is not sufficient to confidently understand the status of many other species. Therefore, it is currently difficult to say with confidence which species is doing the best and the worst. We have largely achieved GES for eutrophication, hydrographical conditions and contaminants in seafood. There is a mixed picture for marine mammals, as you say, Chair, also for fish populations, food webs and marine habitat. I just set that in context. Shall I go on to say how good environmental status for cetaceans and seals varies by location?

**Q89 Chair:** Harbour seals and grey seals breed on land and, therefore, it is about not just the water quality out at sea but the estuaries and mud flats on which they live. Is an assessment made of those as well as part of the overall picture for these mammals?

**Lord Benyon:** They are easier to monitor and assess for that very reason. Many of the other cetacean species are highly mobile and can be assessed only in relation to the whole north-east Atlantic and greater North sea areas. Our data on seals is that the grey seals are doing well. That is in terms of not just population but the demography. We have enough young ones coming on to sustain the population. Harbour seals are doing less well.

**James Smith:** Your question is exactly right in terms of the different pressures that we are considering through the UK marine strategy. There is a marine mammals descriptor. As part of that, as you may have seen under the assessment, there is a range of pressures that then go into understanding how that cetacean and seals descriptor is understood. There is input from other substances that are listed among the pressures, so agriculture, urban uses and industrial uses.

Exactly as you say, there is a whole bunch of information that we need that supports that assessment, alongside the raw data on population abundance. In the case of grey seals, for example, that is numbers of pups, for exactly the reason you give, and the haul-out and breeding sites as well. There is a whole mixture. We take a holistic approach within the UK marine strategy to understand what the information is telling us in order to build a picture of what that good environmental status is for the descriptor.

As Lord Benyon has said, for grey seals the environmental status has largely been achieved. That links in with the wider regional picture in OSPAR, so the regional body that looks at this in the north-east Atlantic



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marine area. For harbour seals, it is a bit more mixed. As I think you heard from the experts who were called in the previous session, there are areas, especially in the north-east, off the coast of Scotland, where there have been reductions in harbour seal numbers. Therefore—and we will come to some of the research and monitoring later in the session—we have put additional research and monitoring in there to try to understand why the declines are happening.

**Q90 Chair:** Are there various strands of marine strategy, in terms of at-sea development, wind farms, gravel extraction or fishing policy? Obviously many of these species rely on fish for their food. Is there a co-ordinated strategy to bring these strands together, or could we do better in making sure that every single aspect of our policy works together to achieve the aims we want?

**Lord Benyon:** As with any ecosystem, species higher up the food chain thrive when there is a greater biomass of feed fish for them to develop. Sorry, this is a really obvious thing to say, but it needs to be said in the context. So entirely yes, to your question. We are trying to co-ordinate everything, from our fisheries policy and our marine spatial conservation measures, which I am sure you will want to talk about, to some terrestrial issues both in terms of disturbance, particularly in relation to seals, and in how we assist the fishing industry in avoiding bycatch and how we locate and manage fixed structures in our seas, such as energy wind farms.

We have to think of this holistically. The Marine and Coastal Access Act 2009 set in train a system of marine planning and we are developing that in a much more, we hope, effective way to draw in all sea users, to make sure that conservation works hand in hand with other policies that allow for exploitation of marine resources, whether they are below the seabed, on it, or above it, up the water column. Through this marine strategy, we try to have a completely holistic approach. That allows us to tackle issues such as this, where we find that we are failing to achieve good environmental status in a particular species.

**Q91 Chair:** Are we there yet, in terms of this holistic approach, or is there more work to do?

**Lord Benyon:** There is always more work to do, because understanding of the oceans is increasing. For example, two years ago I did a report for the Government, before I was a Minister, on highly protected marine areas. There is a huge amount more information now on blue carbon and the ability of the seas to store and sequester carbon, particularly the seabed.

If I was doing that report now, I would be doing a lot more in relation to protecting areas of the seabed that might be particularly valuable for helping the Government reach their net-zero target by 2050. That would also have an effect on other activities in the sea, such as fishing, and would undoubtedly benefit species higher up the marine food chain.

**Chair:** We will come on to issues such as bycatch later in the session, I



hope.

Q92 **Geraint Davies:** Further to what you said, Lord Benyon, you mentioned that we need a holistic joined-up approach. How constructively are you working with the devolved Administrations, the Welsh Government, Scottish Government et cetera, on the dolphin and porpoise conservation strategy? Does that include the sorts of things you have just mentioned? That would include, for instance, dredging up possibly toxic metals and the like for prospective freeports, as well as offshore wind—in other words, manmade disturbance to the marine environment that might affect the food chain or marine mammals directly.

**Lord Benyon:** You are absolutely right. The species we are talking about know no boundaries, so, even though the management of them is a devolved issue, we have to work very closely with the devolved Governments to make it happen.

As James was saying earlier, there is a particular issue relating to one type of seal, which is not doing particularly well off the north-west coast of Scotland, but it is quite numerous in other parts of the UK. We are trying to make sure that we are dealing with the problem where it is. In Scotland, that is their responsibility. It is a devolved competence.

There are plenty of examples where the UK and devolved Governments are working together on issues facing marine mammals. Last year, the UK and the devolved Administrations published the UK bycatch mitigation initiative. This sets out how we are working collaboratively, with the fishing industry and other stakeholders, right across these islands to tackle that particular issue.

The UK Cetacean Strandings Investigation Programme—CSIP—investigates the causes of death of stranded marine animals to understand the threats to marine mammals of this nature. The Scottish Marine Animal Stranding Scheme is their own version of it. We are working closely with them to share data, best practice and understanding.

The Scottish Government have been leading on the development of the UK dolphin and porpoise conservation strategy, considering new and emerging pressures affecting cetaceans in UK waters. The Administrations are planning to reconvene early this year to discuss next steps further to the public consultation that was held in 2021.

I could go on. There are other examples, for example the energy Bill. The Government tabled amendments to that this week to make provision for elements of something called the offshore wind environmental improvement package. We have been working closely with devolved Administrations to ensure that the package enables offshore wind expansion, while protecting the marine environment across the UK. We will continue to work collaboratively with them on this Bill.



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There are bodies, such as the JNCC, which have UK-wide competence. Defra, Marine Scotland, the Welsh Government and DAERA have their own responsibilities, but there are bodies that cover the whole UK.

- Q93 **Geraint Davies:** Can I ask you this directly? You will know that this Committee has taken evidence on the mass death of crabs and lobsters in the north-east, which is suspected by many, including Newcastle University, of being caused by dredging up pyridine, which is toxic to crabs. Is this on your radar when assessing, higher up the food chain, the interests of marine mammals? Are you talking directly with the Welsh Government, Scottish Government and others about whether there should be other tests or safeguards to manage that risk? To what extent do you have a strategy that is measurable and time bound in its targets, which is evolving with new risks as they emerge?

**Lord Benyon:** I do not want to pre-empt a conversation that the Secretary of State is having with our chief scientific adviser, possibly even now. It is imminent, because this is a matter of really great concern—the issue in the north-east of England. We have had conflicting evidence on the cause of this appalling environmental catastrophe in that part of our seas. First, before we talk about mitigation factors there, this is relevant to cetaceans and marine mammals because some of the species that have died are part of the food source. Anyway, for them to thrive, they need a good, vibrant ocean ecosystem.

I do not want to go out on a limb and say precisely what we think is the cause there, or is not the cause. You raised the point earlier about development of ports and other activities, dredging in particular. That requires licensing by the MMO. That is why the MMO was created, as a proper regulatory body that is evidence-based. There is a rigorous process that development companies, ports—whatever—have to go through in order to get that consent.

Sheryll Murray will be very well aware of the issues relating to Plymouth dredging and Whitsand bay. Trying to get to the bottom of what was causing issues down there was the thing that consumed me when I was a Minister in the coalition Government in the very early days. I think we resolved that one, but they crop up occasionally. Can you say more, James, in terms of the particular issues?

**James Smith:** Yes, I can. As you say, there is a lot of work going on there to understand the causes. In relation to marine mammals themselves, this demonstrates where we are actually trying to use the full evidence base. In respect of this incident, the UK Cetacean Strandings Investigation Programme, which Lord Benyon has mentioned already, is one of our key data sources. I think it is just over 4,000 marine mammals that a post-mortem has been conducted on since the programme was brought in, in about 1990. It is a really valuable, excellent programme that we are doing.

On the back of the north-east mortality incident, we asked them to look at whether we are seeing any trends, from 2018 and onwards to 2019, in



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terms of those strandings and all those different parts that they work through on the post-mortem, to understand whether it is entanglement and bycatch-related, or whether polychlorinated chemicals are the problem. In the north-east area in particular, since 2018 there have been, on average, about 34 harbour porpoises and 12 other cetacean species, so dolphins and porpoises, stranded in the north-east of England. In 2022, up to 9 December, there were about 33 harbour porpoises and 10 other species.

In what we are seeing from that programme, there does not appear to be any trend of increase in that area. That does not mean that Lord Benyon and the CSA are not working to understand what the cause is, because there is obviously something going on there.

**Q94 Geraint Davies:** I know, Lord Benyon, you said, in essence, that the jury is out about what the cause of the mass death of crabs and lobsters is. Is it toxic pyridine, is it an algae bloom or whatever? It is quite likely that we are going to get a probabilistic verdict, where somebody says, "On the balance of scientific probability, it is this as opposed to this". If it is "this as opposed to that", it does not mean that it is not "that" at all and we should not have risk management about "that", as it were.

Where there are other sites for deep dredging, whether it is for freeports or other things, such as a tidal lagoon, indeed, in Swansea, where there is a history of industrial activity and there is reason to believe that there may be various metals and chemicals under the seabed that have been undisturbed, do you think that a risk management precautionary approach might be adopted by the Government? Even if we have not conclusively seen mass death, should we have an eye towards that and maybe do more testing of the seabed before doing major engineering works, with a view to protecting fish and shell life and marine mammals downstream?

**Lord Benyon:** There is a lower risk from what one might call repeat dredging that happens year after year. Where there are new developments that require the seabed or parts of the seafloor to be moved for the first time for many years, it is possible that there are elements of toxic chemicals and substances that could come from way back in our industrial past. That is definitely a factor that will be considered in licensing programmes. I would be shocked if I found that they were being consented to without any work to carry out an assessment of what is down there first. I do not have any ready examples of such things but we could look at developments in the south and east of England in recent years.

**Chair:** We might be straying a little from the cetaceans.

**Q95 Geraint Davies:** The strategy only focuses on nine species. I am talking about porpoises and dolphins now. Defra's written evidence cites 28 species found in UK waters, with 12 regularly seen. Why are certain dolphins not being protected, as it were? There are 28 species that have been identified but you are not recognising them all in the strategy. Is



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that right?

**Chair:** We might need to include walrus in this, because we had a visitor in Scarborough.

**James Smith:** These are highly mobile species, so the key thing here is that there is a layered approach to how we look at the abundance and populations and then how we implement the strategy. That goes right up to, as I say, the Oslo-Paris agreement—OSPAR—where we share a lot of the data on population and abundance, especially the larger cetaceans.

Within the UK, you are exactly right. We have about 28 species that have been effectively recorded. Of those, there are about 13 that we regularly see. There are another—let me get the numbers right—eight that are occasionally seen. Those include things such as the sei whale and the blue whale, which is absolutely fantastic. Then there are another seven that we call vagrant, so you rarely see them but they have popped up every now and again.

The UK dolphin and porpoise strategy focuses on the nine that are most regularly seen of those 13. That is where we are trying to focus the management actions that you will see have come out in the consultation—so they cover things such as bycatch and the additional research and monitoring that is needed—and get that shared vision across the UK, which is really important in terms of taking action to protect those. That is generally why we go down from the 28 species to the ones that we know most about and then try to increase the data and monitoring, which hopefully we will come on to in a little more detail later.

Q96 **Geraint Davies:** In a nutshell, is the view that, if you protect the nine species, in all probability the 28 will be protected, or not?

**James Smith:** There are going to be measures, such as bycatch and what we are doing in the UK marine strategy—for example, contaminants is one descriptor in the UK marine strategy—that are going to benefit the healthy ocean, and therefore across all species. Especially when we are talking about bycatch, it is quite a complex area and different species react differently to some of the bycatch mitigations that were in place. To your question, generally speaking, yes, but it is quite a complicated landscape. That is why we have such funding and effort going into things such as the monitoring, the bycatch mitigation approaches and trialling to understand how different species are reacting.

Q97 **Geraint Davies:** If you do not protect the rarest, namely the fewest, presumably we might be missing out the reason they are rare, which might be a manmade problem.

**James Smith:** There is a difference between rare and vagrant. Of those 28, there are vagrant species that will have distribution ranges that pop up. It is quite a complicated landscape. We are not saying that they are all very critically endangered because they are vagrant. It is a slightly different terminology that we are using, which is that their range states





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might mean that they only appear in our UK waters very infrequently, if that makes sense. Also, some of these, such as the sperm whale, are hugely at-depth species, so it is very difficult to see these and track them as well.

Q98 **Geraint Davies:** You are committed to work collaboratively and consult with the devolved Administrations as you move forward, rather than telling them what you decided—"Like it or lump it". Is that right?

**Lord Benyon:** It is vital that we do. The latter would not work, for us or for them. There is one other thing that we are noticing. There is work done by, I think, the National Oceanography Centre on the warm fronts. The fronts in the sea, which are full of life, are moving and climate change is undoubtedly having an effect on this. Just as the cetaceans are not static, neither must be our policy. We must be using all data sources. It is very often fishermen. It is a variety of people, citizen science as well, identifying new species or new quantities of existing species. We have to be fleet of foot in what we are doing to protect them.

Q99 **Chair:** To be clear, we are hearing that these occasional visitors are not limited by the environmental conditions that would allow them to thrive here if it was different. It is just that they are occasional visitors, as you described them. We could not change something to have the walrus in every coastal resort round the country. It is just something that happens occasionally.

**Lord Benyon:** He may tell his friends that there is good reason to come to UK waters and we may see more of them in the future.

Q100 **Dr Hudson:** Thank you to all of you, our witnesses, for being before us today. We touched on this earlier in the session. We have heard that UK legislation currently, as it applies to marine mammal protection, is not adequately coherent. It is the message that you were talking about of having a more holistic approach. Some of the measures to protect marine mammals are sometimes using legislation not really related to them but related to, say, the fishing industry and things like that. Do you feel, as Ministers and officials, that new consolidated legislation is required in order for us to better protect marine mammals?

**Lord Benyon:** To use an overused phrase, I am not sure you would have started from here. You would probably start with a bespoke piece of legislation that covered all of this, but actually it is not bad. The legislation is not bad at covering the real issues at hand.

I am sure you have this information already, but it includes the Wildlife and Countryside Act 1981, Conservation of Habitats and Species Regulations 2017, Conservation of Offshore Marine Habitats and Species Regulations 2017 and the Conservation of Seals Act 1970, and equivalent legislation in the devolved Administrations. Alongside a coherent and dynamic document such as the UK marine strategy, that is an effective way.



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If we had an abundance of time for legislation, if there was ever a slack moment in any Government ever, you might want to consolidate this. Perhaps we should have done that in the marine Act in 2009, which is a very good piece of legislation. That had 330 clauses in, which is probably enough for any Bill. I would argue that, with the range of legislative measures and regulations, we sort of cover it but, in a perfect world, you would draw it together in one piece.

**Q101 Dr Hudson:** If we are not in a perfect world, but we are then looking at going into individual pieces of legislation to close loopholes and tighten up that, that is something that we could do. I will give you a couple of examples from the current legislation. The intentional or reckless disturbance of seals is not an offence, whereas that is an offence for cetaceans. Is that a loophole that could be easily sorted? The Chair has referred to the visiting walrus as well that became a star in those ports. People disturb, intentionally or unintentionally, seals that are hauled out with their pups when they are walking their dogs and so on. Is that something that would be an easy win then, to go into that legislation and say, "Yes, let us tighten that up"?

**Lord Benyon:** Yes, that is an area where there is a loophole. We tightened up legislation on disturbing seals in that we now prevent people from shooting them. That was brought in two years ago.

**James Smith:** It was 2021, I think.

**Q102 Chair:** That was the American salmon trade deal, was it not? They insisted on us doing that to protect seals, as they do.

**Lord Benyon:** There were very few that were licensed. It was around salmon farms in Scotland mainly, I think. There is another area where there is possibly work that can be done. The JNCC has submitted to Environment Ministers across GB, so not Northern Ireland, its recommendations for changes to protect the species listed on schedule 5 of the Wildlife and Countryside Act, which includes seals. We are currently carrying out an analysis of its proposals with a look to possibly making some changes there.

In areas where a threatened seal population is coming onshore to either breed or just lay up, disturbance can have a damaging effect. We protect rare bird nesting areas and perhaps we should look at this as an alternative as well.

**Q103 Dr Hudson:** Is that something that could be done quickly and easily, then? I do not think there would be any contention that this is not a good thing to do. Is that something that we could just crack on with?

**James Smith:** Lord Benyon has covered it extremely well. Just to emphasise, there is a strong legislative framework here; it may be piecemeal but actually, it has killing, injuring, taking, and all of the regulations on imports.

You are exactly right: seals disturbance is not covered under schedule 5 of the Wildlife and Countryside Act. That quinquennial review by JNCC



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has a raft of recommendations in it, in terms of additional species that could be added. We are going through the work now, at the moment, to work through all those species, including seals, to then put recommendations on whether you add those to schedule 5. That is the process that we are working through at the moment.

As Lord Benyon said, in the meantime there are things we are doing. The marine and coastal wildlife code of conduct has been put in place. We did a "Give Seals Space" campaign last year as well to get the message out there. While it is not a legal requirement under the WCA, how many members of the public have read that? This is about getting the message out there in the codes of conduct and the campaigns to say, "This is happening". Actually, the walrus events have probably helped us in that respect, because it brings to life some of the differences in approaches. "Leave them be" is the kind of message that we are trying to get out.

**Q104 Dr Hudson:** That is very helpful. There is another loophole and it might come more to the Foreign Office side. I know that we are going to cover whaling later in the session. Another loophole is that cetacean products, such as whale meat, can still transit through UK ports, potentially from Iceland and Norway going on to Japan. Is that not something, in terms of our values and ethics and this abhorrent practice of whaling, that we could stamp that out and say, "Let us not have any of these products transiting through our ports"? Is that going to be Defra or Foreign Office?

**Lord Goldsmith of Richmond Park:** It is probably neither. I suspect that it is trade. You are right. In my understanding—Richard or James will correct me—I do not think there have been any imports over the last two years, so you are talking very small numbers.

**Q105 Dr Hudson:** One is too many, is it not?

**Lord Goldsmith of Richmond Park:** I agree with you. The optics are really what this is about. It is symbolic and I do not think that there would be any pushback. I believe that you and I spoke about this two years ago as a potential private Member's Bill.

The issue is one of parliamentary time, as ever. I do not think that anyone would disagree that this is a loophole that ought to be closed. The issue is that, almost certainly, there would be other more important, more pressing issues that would demand the limited parliamentary time that exists. If a clever way can be found to lock this on to an existing piece of legislation or if you have any ideas on how this might come through, I have no doubt that the Government would want to be supportive. Do you agree with that?

**Lord Benyon:** Yes, definitely. We banned the import of whale meat, but there is a small amount that can occasionally be passing through. To ban an international trade of this nature would require primary legislation. In the meantime, our position is clear that whale meat trade is not welcome to transit through UK ports. The cases of it doing so are very small indeed.



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Q106 **Dr Hudson:** You have touched on how this is cross-Government, in terms of Defra, Foreign Office and potentially the Department for International Trade. I think we talked about this in a previous session, and about our values. On these points where Britain is struggling with what is going on in the rest of the world, they can come into these dialogues and discussions to say, “We are not happy with this. We need to have this on the table”. Is that something that can work cross-Government?

**Lord Benyon:** We do that on trade deals in terms of animal welfare. We have ongoing discussions, multilaterally, through the IWC, but also bilaterally. These things are raised between Ministers of the very few countries that still carry out whaling. All of them are our friends, in so many ways. It is actually easier to talk to your friends about these issues where you disagree.

**Dr Hudson:** We are going to get on to whaling and trade.

Q107 **Mrs Murray:** Can I turn to highly protected marine areas? Before I ask a question, Lord Benyon, the disposal site in my constituency that we were talking about was where the dredged material was being disposed of. It was subject to both maintenance and a capital licence. All of that dredged material was subjected to very stringent tests before it was approved for disposal at sea. We successfully got that disposal site moved because it was the dredged material, if you remember, that was washing in to pollute the beaches.

**Lord Benyon:** There was a dive reef, HMS Scylla. I remember.

Q108 **Mrs Murray:** Absolutely, and that was next to a marine protected area, so that is why I thought it would be appropriate to raise that now, when I came to my questions. In terms of highly protected marine areas, how will they be monitored, enforced and evaluated to ensure that they are successful in practice? How will this activity be funded?

**Lord Benyon:** Where we are at the moment is the development of five pilot sites. That may be extended and they will be evaluated as pilot sites to see how they are working. There are inshore sites and offshore sites. Work was done to back this up by a panel that I chaired, and a report was produced in 2020 or 2021—I cannot remember. Time flies when you are having fun. The basis of this was learning from two small domestic sites, one in Scotland, Lamlash bay, and one in the Bristol channel around Lundy, and from abroad, where the marine environment recovers very quickly, if you allow it to.

As part of our suite of marine protection, MCZs, MPAs, SACs, SSSIs—the whole range of alphabet soup that we have in our seas—there should be some elements that are no-take zones and managed to an internationally accepted standard of what is a highly protected marine area. When it is done right, the greatest supporters of them tend to be the fishermen, because out of them comes an enormous biomass of fish that they can exploit. Not only can they exploit it, but it can be of benefit to the wider marine ecosystem and to cetaceans and marine mammals.



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That is what the Government are trying to do and we have five sites that are properly funded and where monitoring will take place. We hope that the benefits will accrue. Whether all five of those will go ahead, I am not sure at this stage. If they do not, we said in our report that there should be a bare minimum of five if you want to get an accurate pilot programme going, so we might have to look at alternatives if some of these do not work.

Q109 **Mrs Murray:** I am going to ask Lord Goldsmith if he wants to add anything there, because I know that you took a great interest in some highly protected areas around the world.

**Lord Goldsmith of Richmond Park:** I do not know if we are coming to this, but I believe that the Blue Belt programme, which my colleague on my left is responsible for managing, is one of the great conservation stories in the world in my lifetime. We protect fully, around our overseas territories, an area of around 4.5 million sq km—bigger than India. These are some of the most important areas in the sea from a biodiversity point of view. I do not know whether we are coming to the international bit later through the Blue Belt and Blue Planet fund. If we are, I will pause there, but I could talk for a long time about how wonderful this programme is if you allow me to.

**Chair:** We are going to come on to 30 by 30.

**Lord Goldsmith of Richmond Park:** That will be very relevant.

Q110 **Mrs Murray:** We will follow it up then. When will the first highly protected marine area be formally designated, Lord Benyon? Have you any idea?

**Lord Benyon:** I have a figure of July in my head. They are going through a consultation process. There is concern particularly about one of those sites. It is a genuine consultation and we are learning a lot from it.

The history of this is that this was the one great failure of the Marine and Coastal Access Act, which had these reference zones, which were effectively highly protected marine areas. They did not work because they did not have the level of support that they needed to have. We wanted to make sure that this was done differently, so the very basis of what we recommended in the embarrassingly named Benyon review was that there should be a real attempt to engage.

Of course, nobody is ever entirely supportive, particularly if people have been regularly doing an activity in that part of the sea and they might have to do that somewhere else, or they are sceptical of the benefits, which I feel very positive about. The point is that they are vital if we are going to do what is right for our seas and for the ecosystem they support, but also hold our heads up internationally when we are trying to persuade other countries, as Zac and I have been doing in places such as Montreal and Sharm el-Sheikh before that, in talking about nature alongside climate and carbon, that we are walking the talk.

Q111 **Mrs Murray:** That is excellent. How are you addressing the concerns



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from the fishing industry about the impact of HPMAs? I remember, long before I was elected to this place, I saw some presentations about no-take zones off the coast of Australia and New Zealand. The fishing industry here, when it saw them, was very sceptical. How are you addressing its concerns?

**Lord Benyon:** I repeat that we are running a very genuine consultation. One member of my panel was a fisher from your part of the world. We listened to him and the industry a lot. We consulted with them. Let us be honest: many people in the fishing industry are very sceptical of spatial measures at all. By 2024, we are seeking to have proper management plans. The vast majority of marine protected areas—I am talking not just about highly protected marine areas here—will have management measures in place. Many of them will have no bottom trawling, because that is the feature that is being protected. Highly protected marine areas will be completely pristine in those terms.

I hope that, in the consultation, they read what we are proposing and see that, for example, off the coasts of California and Mexico, the greatest supporters of highly protected marine areas, as I said earlier, are the fishermen. They are seeing a benefit to the adjacent seas. This is a point I have tried to make, only partially successfully, to some of your colleagues who are members of the all-party parliamentary group on angling, of which I am a member. They are equally sceptical about the need for highly protected marine areas. The sport angling fraternity will also benefit from that increased biomass that they deliver.

Q112 **Chair:** I attended, as a guest, the Scottish Affairs Committee. The concern raised by the fishermen there was that it was not just the protected areas, but the wind farms, the gravel dredging—lots of different things that meant that they were becoming limited in the areas that they could carry out their activities. That was the concern, rather than purely looking at these areas of protection.

**Lord Benyon:** In Scotland, I think the Government have said that they want to highly protect 10% of their seas, which is very ambitious. I am very interested to see how they are going to do that. The sea is a very complex place, as we are seeing with proper marine planning.

I think we now produce 17 GW or 18 GW of electricity, and the target is 50 MW, through offshore wind energy. That is a staggering increase. There are certain activities that you can co-locate with a wind farm and they can be places where cetaceans and marine mammals thrive. They are places where you cannot fish, for obvious reasons.

It is not just where the wind farm is; it is the cabling. If you look at a map of cabling off the east coast of England, it is like a cat's cradle of existing cables and that is all going to get more complex. We want to make sure that we are managing this properly.

I entirely understand when groups of people, such as fishermen, are saying, "This is going to squeeze our activities". If you can manage this



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holistically and increase the biomass of fish in the sea, everybody gains. As a country, we gain massively economically as well.

Q113 **Mrs Murray:** Are you consulting with the fishermen themselves when you are doing your consultation? I know that one of the criticisms they have has always been that they are not normally statutory consultees, particularly their organisations. Are you consulting with everybody?

**Lord Benyon:** Absolutely, and we do not give a friendlier ear to one sector than another. We are agnostic; we want as many people as possible. Some of the areas where we are proposing this have resulted in huge numbers of people: we have had letters from archbishops and monks from a monastery in one area, as well as MPs, obviously, all of whom have been talking to fishermen. We have been talking to them directly as well, not just through their organisations but to the actual individuals to whom this is of great concern.

Q114 **Mrs Murray:** That is good to hear. You wrote the independent review that you are now responsible for implementing. What issues does this create, in terms of perception, and how are you managing them?

**Lord Benyon:** That is a good question. I was asked by Michael Gove to do this because of the failure of the reference areas as part of the suite of marine conservation zones that were created under the Marine and Coastal Access Act. Britain was being rightly criticised for not having proper protections. A recent document published by some NGOs was unfair on what we are actually doing. We are determined that 30% of our seas will be in proper protection by 2030 and we will prove to people that they are. We are well on the path to achieving that.

One problem we had is that being part of the EU involved being taken to court and threatened with fines for creating some of the marine protected areas that we wanted to create. Now we are at liberty to do that, so this is a great moment, if you really mind about the health of our oceans, to be part of this.

As part of my deal with the then Secretary of State when I was appointed to this role, I said, "I am not going to stand up at the Dispatch Box and defend not following the recommendations of a report that I wrote". He said, "No, we are absolutely determined to implement the recommendations of your review". Covid and Brexit came, and there were all sorts of delays that meant that perhaps it has not happened quite as quickly as I would have liked, but I am certainly part of a Government that are determined to do this.

Q115 **Robbie Moore:** We are turning to the topic of bycatch, if that is okay. Lord Benyon, could you focus on how the Government will work with fishers to ensure bycatch mitigation is appropriately targeted and robust, while protecting the industry?

**Lord Benyon:** Accidental bycatch in fisheries is one of the greatest threats faced by sensitive marine species, such as cetaceans, and we are fully committed to tackling this. Last year, the UK Government and the



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devolved Administrations published the UK bycatch mitigation initiative. This sets out how we will work collaboratively with the fishing industry and other stakeholders to minimise and, where possible, eliminate the bycatch of sensitive marine species.

We are already taking action to address bycatch through funding Clean Catch UK in Cornwall, which is developing and trialling a range of bycatch monitoring and mitigation measures. These include pingers to put on, particularly, static gear, which scare cetaceans away, and lights. There are 10 over-12-metre vessels that now have ways of gathering and reporting data. We are expanding this, we think, very successful scheme this year.

Bycatch monitoring is key and there are some data holes we need to fill. We recently set a new contract for a pilot project worth over £1 million over three years to expand and diversify monitoring techniques used within the bycatch monitoring programme, trying to better inform us about what is actually happening.

Q116 **Robbie Moore:** Do you mind expanding on the financial incentives being offered to those wanting to take part in the trials? Do those financial incentives encourage enough uptake in the trials, or do you feel that the Government should be doing more to try to incentivise more people to get involved in the trial, so you can advance the data that is being collected?

**Lord Benyon:** There was the cod recovery programme. There was a lot of bad feeling in the fishing industry when we were forcing them to have cameras monitoring bycatch. Gradually, they came round to it and I think that it is actually quite accepted now. For smaller vessels there is still a bit of work to do. Do you want to talk about money?

**James Smith:** What we have in place is a mixture of the monitoring and the bycatch. There is a common thread throughout the sections that we have covered here, in terms of, in the legislation, in the Fisheries Act, having bycatch as part of one of the objectives that goes right through into the monitoring. As Lord Benyon has said, the bycatch monitoring programme is working with fishers, putting observers on those vessels to help and understand.

Of course, fishers themselves do not want bycatch. It does not help them, so this is a collaborative effort. The bycatch monitoring programme is a wide monitoring programme where we are trying to get the understanding of how much is out there. That then joins to the strandings investigation committee, which is showing about 20% entanglement and bycatch-induced mortality through those post-mortems that I mentioned.

As we say, one of the real gems that we have at the moment is that Clean Catch UK programme in Cornwall. That is trying to work with exactly these local fishers, as Lord Benyon has said, so understanding how effective the vessels trialling new technologies are. In terms of the





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harbour porpoise, a really big reduction has been seen through Clean Catch. It was 83% or something over a period of, I think, 2007 to 2015.

There are some really good stories that come out, but it is a complicated picture. There is that sort of local knowledge, Cornwall being a hotspot. We look at where we want to target and that is why Clean Catch is down there, because it is a hotspot of the gear that is being used and the sensitive species. As Lord Benyon says, we are looking at the future—Clean Catch 2—and how we scale, expand and look at the geographical scope. This is all about working with the fishers for that joint benefit.

**Q117 Robbie Moore:** Picking up on the financial incentive piece, is that being pushed enough from the Government's perspective?

**James Smith:** The bycatch monitoring programme overall has that £1 million envelope, of which there is the pilot that we are trying to do on top of that as part of that £1 million over the three-year period. That is around the technologies, such as how we get things like—we will probably mention it—the remote electronic monitoring. That will probably be a question that comes up and we can go into.

It is difficult: putting an observer on a vessel takes effort. On smaller vessels, it takes a member of the crew off, so we have to work through Clean Catch and work with the fishers to understand what is best. Remote electronic monitoring is something we are looking at. Huge amounts of data are obviously created from that, so where do we go from there? There is the Insight360 project, which is about AI, but this has to work for the fishers as well.

**Q118 Robbie Moore:** On that point, it might be that Lord Benyon wants to come back in here. If proposals are made that all UK vessels should have monitoring on board in order to tackle bycatch, what is your view on this? In particular, what is your view on the impact in terms of competitiveness if that was applied to all UK vessels?

**Lord Benyon:** It would certainly be fair if every vessel was required to do it in one sense, but it would be unfair in terms of the financial load on the smaller vessels. For the big pelagic vessels, it is money down the back of the sofa. For a small under-10 metre inshore potter, it would be a massive cost. We have done this in the past. We might have to find some differential assistance that allows the smaller fishers and artisanal vessels some access to some innovation fund.

We have plenty of areas of funding for sustainability in the fishing sector. That may be something we want to explore. If we are going to require every vessel to do it, we need to make sure we are being fair by those whose income is least.

**James Smith:** It comes back to that technology approach. Our bycatch monitoring programme at the moment is putting observers on vessels; it is certainly not putting observers on all the vessels by any means. We are targeting; we are looking; we are projecting upwards. That is where



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some of the technology, such as remote electronic monitoring, may help us. That is why the engagement is going on.

There is a formal consultation that will come out. It is looking at what is proportionate to put out there and the phased approach for doing so because of the complexity of this and, as Lord Benyon says, the impacts on fishers. We have to get this right rather than rushing it out and doing it wholesale across everything. That is our approach.

**Q119 Robbie Moore:** I want to expand on what you have said, James—I do not know whether Lord Benyon wants to answer this—about the targeted approach. Witnesses to the inquiry, as far as the Committee is aware, have cited known and well-researched fleets where bycatch mitigation has been a bigger issue. If the data proves that, will the targeted approach relate to those particular fleets where the priority lies? Just expand on the targeted measures the Government will be taking around this.

**Lord Benyon:** One of them will be spatial protection measures. The most difficult to prevent bycatch is static gear. For example, we phased out T&J nets off the north-east coast of England. That will have had a considerably beneficial effect because a lot of the bycatch in those was particularly seals and some birds as well.

**Chair:** The seals would rip the livers out of the salmon already caught in the nets. That was the attraction of those T&J nets.

**Lord Benyon:** That drew them there. There are other measures that we can and must take. One of the reasons is that we need more data. In 2019, we estimated between 502 and 1,560 harbour porpoises, which is quite a wide band. We want to know more accurately what that is. We want to know where it happened and which particular part of the fishing fleet we need to work with. There were 165 to 662 common dolphins and 375 to 872 seals, grey and harbour, captured as bycatch in UK fisheries that year.

We really need to continue to spend money, work with the industry, have proper monitoring schemes and build on the scheme we have running down in Cornwall. That is Clean Catch UK. We can build on the experience we are having there. Then we will have more of an understanding of precisely the question you ask as to which fleets we need to work with.

**Q120 Derek Thomas:** First, my understanding is that both inshore and offshore fleets have to report catch anyway at the moment. What new information are you trying to get?

Secondly, going back to the point about competitiveness, are you suggesting that all fishing vessels licensed to fish in UK waters would have to have the monitoring equipment? Would it just be UK vessels?

**James Smith:** On your first point, yes, in 2021 we did introduce that licence condition. For wild-capture commercial fisheries in UK EEZs, there is a requirement to report bycatch so we can increase the monitoring.



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Your separate question splits into two, probably. There is a monitoring level here. We have to increase the level of data. That is what we were talking to just then in terms of how we change observers to remote electronic monitoring or something else to get that data up. Then there is the second bit: what are the measures we need to take to reduce the bycatch in those fisheries, locations or hotspots? This is not one-size-fits-all, which is why we are having to do all the trials.

The scientists have come in with evidence. You have mentioned it there. There is evidence that some of the mitigation measures we have used have really drastically cut bycatch, but there are also adverse things. Some of the pingers or the lights have essentially been a dinner bell. Species have been coming to attack what is in the nets.

It is a really complex area. Our focus has been on those trials. What works and what does not for different species? Is it passive acoustic monitoring? Is it pingers? Is it reflectors? I am not going to get into the science; I am not a scientist working on these. For what species and what gear types does it work? How do we pull together that evidence and work with fishers to say, "Okay, this is what we are hearing"?

We did workshops down in Cornwall through Clean Catch UK. The workshop was called "Hauling Up Solutions 2". We are looking at alternative gear types to the static and working with fishers to ask, "What are the possibilities? What are the recommendations that we do?"

We are working with the UK vessels down there. They are the ones that are trialling this. Where we go next is an open question in terms of what the evidence is telling us and how we work with fishers to ask, "What is the benefit for you as well of where we put these things? What is working in what sorts of sectors?" At the moment, the focus is on trying to trial these and work with the fishers.

Q121 **Derek Thomas:** Whatever you do decide, will it apply to all vessels in UK waters?

**James Smith:** We would be working with UK vessels. We are doing that through things like the bycatch monitoring programme. One benefit of this is that scalability, which is why we are going out to Clean Catch UK.

The wider bit in terms of foreign vessels is via our work through international organisations such as the International Whaling Commission, which has a bycatch working group and shares best practice through OSPAR, which I have mentioned before, the regional forum. That is where we share best practice; that is where we get some of the learning that other nations are applying to their vessel fleets, if that makes sense.

Q122 **Derek Thomas:** Under the UK Fisheries Act now, anyone who fishes in UK waters has to subscribe to our rules. That is what we choose. If you insist on vessels having monitoring equipment on them, would that include a French vessel coming into UK waters? That goes back to the competitiveness bit that Robbie was asking about.



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**James Smith:** We are not in a position to say we are going to mandate all of that. I guess that is the point.

Your point is well made. Anything has to not impact on the competition rules. As you say, the Fisheries Act itself already has the obligation to reduce and, where possible, eliminate bycatch. That obligation already applies. We are trying to understand how we work with fishers to do that.

**Lord Benyon:** We understand your point. Your concern is that we are policing our own fleet very hard, and other countries that still benefit from fishing in our EEZ do not.

I am going to have to give you a written word on this. I am sure we required Norwegian vessels under the cod recovery scheme to provide similar data as we required.

Q123 **Derek Thomas:** We have the powers to do it now. It is so unfair on Newlyn fishermen, if they see Spanish trawlers six or seven miles off following a separate set of rules. There is no need for it now.

**Lord Benyon:** We had better give you chapter and verse on it.

Q124 **Mrs Murray:** Most of my question has already been answered. That is not a problem, but there are a couple of things. First of all, if a vessel was from another European country and it was fishing seven miles off our coast, we would surely be issuing licences to allow it access, which means it would have to be subjected to the same terms as UK vessels that fish in the six to 12-mile limit. I am pretty sure, from a conservation point of view, they have to comply with the same conditions as UK vessels.

**Lord Benyon:** There are requirements for the VMS. You can sit in the ops room in Newcastle at the MMO and watch what every vessel is doing. I cannot say quite where we are in terms of data capturing on the vessel around bycatch.

Q125 **Mrs Murray:** Secondly, I know that cetacean bycatch—I know this from the response my own late husband would have had, if he caught a dead porpoise or a dead dolphin in his trawl—often contaminates the catch. It is not something fishermen would want.

Are you going to introduce rules that are general and that apply to everybody, or are you going to look at different methods of fishing in different areas and perhaps tailor the rules or break them down with regard to this? Very clearly, there is a big difference between a trawler operating and static gear, for instance.

You will very often find that cetaceans will destroy the catch of a static net because they will bite the tails off fish and things like that without getting caught. It is very easy to say “clean catch”, but I hope you are listening to all users of the sea as well as people from an animal welfare point of view.

**Lord Benyon:** That is why it is really important that we are collecting not just numbers such as the ones I quoted earlier, but data about where bycatch is taking place and what type of fishing activity was going on at



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the time, and building up a greater understanding of what effectively works.

Some pingers are effective, but, as James says, some cetaceans are seeing them as an attraction, particularly towards static gear. We will continue to build a better understanding, not just in our waters but by learning from abroad through other fora that we are members of. This is an absolutely key part of our strategy.

Q126 **Mrs Murray:** Have you spoken to other countries about the acoustics produced by sonar, for example? Very high frequency sonar, I believe, was attributed to some beachings of whales in the States some years back. We have Navy vessels and other vessels using sonar around our shores. We should be looking at that and taking it seriously as well, in my opinion. Do you do that?

**Lord Benyon:** Yes. There is a lot of international work going on on this. It is an issue that is raised from time to time at the IWC. There are also ship strikes. If it is a big ship, it is damaging to the whale. If it is a small vessel, it tends to be the vessel that comes off worse. There are a variety of ways of trying to minimise that risk.

There is conflicting evidence about whether sonar being used for whatever purpose is responsible for strandings. We are on the case.

**James Smith:** You are exactly right. At the international level, noise is one of the areas the International Whaling Commission is looking into. We will come on to it, but our UK experts and scientists there are phenomenal at influencing and providing evidence to that.

At the UK level, through our Joint Nature Conservation Committee we work with the Ministry of Defence to understand the impacts of sonar in particular. There are things like the sonar risk assessment and associated mitigation plans. We are working through those statutory consultation bodies with the Ministry of Defence in particular to understand and try to track where those sonar impacts might be, and then put mitigation in place.

You are right: it is a pressure. We recognise it, and we have international and UK measures that we are trying to implement.

Q127 **Barry Gardiner:** I am sure the Ministers will recall the Blue Marine Foundation report "What are you putting in your cat?", which looked at the issue of bycatch. One of the conclusions of that was that the labelling requirements in this country were just not strong enough. Indeed, the supermarkets had agreed that they were going to strengthen those by 2017 and still have not.

If you look at what is on a tin of cat food, which we spend £1.2 billion on a year, it often says "ocean fish". One of the requirements for better labelling that the supermarkets signed up to was to get specific details of the species that are going in. A study that was done in America was showing that shortfin mako and hammerhead sharks were in some of the



pet food.

Cat owners would be horrified to know their cats were eating that. I just wonder whether you could look at the labelling requirements and make sure the supermarkets and suppliers toughen those up.

**Lord Benyon:** Absolutely, and it is not a conversation I have had in the few weeks I have had this responsibility, but you raise something very important. I am very familiar with the Blue Marine Foundation and the work it does. I will definitely follow that one up.

This is about labelling, and it takes us on to international governance. We are in a position now to join RFMOs in a way we could not in the past. We have the ability to take a more ambitious stand in international fora. We can be as virtuous as we want, but if it is not happening globally, it is not happening.

**Chair:** We are talking about dolphin-friendly cat food, are we not?

Q128 **Rosie Duffield:** Can you give examples of how the UK is reflecting its strong stance against the hunting of cetaceans in international discussions?

**Lord Benyon:** The expert is sitting on my right. The IWC—International Whaling Commission—is the forum of first choice on this. It has been established for many decades now. Britain has been in a leading role.

I have attended three of them. They can be incredibly frustrating events. In the past I, and probably Barry as well, have sat for hours in the EU co-ordination meeting. As a relatively moderate remainder, I always came out feeling like Sir William Cash on crack. Our ambitions were always being reduced, and we can now form alliances with countries that share our ambitions and drive an effective agenda on cetacean conservation.

You have just come back from a recent one. Do you want to fill us in?

**James Smith:** Yes, the 68th meeting was held in October. As Lord Benyon said, that is the primary route through which our interventions on the floor at the International Whaling Commission resonate and get standing.

We pushed at every opportunity our strong opposition to commercial whaling. We were joined by like-minded nations as part of that meeting to strongly protect the moratorium, which we think should remain in place. As many may know, there are different views on that, in terms of pro-whaling nations, which are pitched through the International Whaling Commission.

We also press our position at every opportunity in terms of our opposition to small cetacean hunts and that side of things as well. Through our influence and engagement in the International Whaling Commission, small cetaceans are considered as part of the work of the conservation committee as well. That is really where we try to progress.



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There were some interesting parts of the 68th meeting, which were more process-driven in terms of the budget. Again, we showed our strong support for, especially on the conservation aspects, the International Whaling Commission as the forefront—the international body that looks at the management of whaling and conservation measures by providing, for example, funding to support the ongoing delivery of the commission’s functions.

We chair the conservation committee. We are part of numerous working groups underneath the commission’s responsibility as well. We are vice-chair of the scientific committee. It is fair to say that we demonstrate our strong voice.

Q129 **Rosie Duffield:** Victoria Prentis told us that this issue was raised constantly with Norway. Was it raised in the negotiations for the new deal that was announced in November? It is not mentioned once in that deal. Whaling, hunting and cetaceans generally are not referenced in the deal.

**Lord Benyon:** That meeting was mainly about quotas for fishing opportunity. Norway is well aware of our position on whaling. We discuss that with them in other fora. That was a bilateral agreement that happens every year on who exploits what fish stocks in each other’s waters. I am not sure that would have been the place to raise this, but we do raise it with Norway in other ways.

Q130 **Rosie Duffield:** If the public are watching this and thinking that the latest figures we have show that 577 minke whales were taken by Norway in 2021, can they be reassured that you raise that on their behalf?

**James Smith:** Absolutely, we raise it with Norway, Iceland and the Faroe Islands. Categorically, we do not agree with commercial whaling and the hunts of small cetaceans.

We recognise the requirement and recognition, under the International Whaling Commission, of aboriginal subsistence whaling, but that is very strictly managed according to the scientific procedures within the commission itself.

Again, at the 68th meeting of the commission, I was very clear in my interventions, which, now we are outside the EU, we can make with a bit more ambition and gusto, about our opposition to those hunts. We raise it bilaterally. We will probably come on to the other areas as well, because Lord Goldsmith, in his previous role, wrote to Fisheries Ministers. We raise it in other multilateral fora, as well as the trade.

**Lord Goldsmith of Richmond Park:** I was going to make the same point. I briefly did the part of the job that Richard Benyon does. As predecessors would have done, we made the UK position very clear to the Faroe Islands and we will continue to do so.

**Chair:** A couple years ago I was in Longyearbyen in Svalbard, which is in Norwegian territory. I was disappointed to see whale on the menu, but I



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was told, "It is only the older generation that eat this". I am hoping that this practice will die out with that generation.

**Q131 Steven Bonnar:** In a post-Brexit Britain, we are going to be looking to sign new trade deals across the world. What is being done to embed marine mammal protection and cetacean conservation and welfare in any new Government trade deals? Do you believe the Department for International Trade is on the same page as Defra on these matters?

**Lord Benyon:** We have very strict rules about the importation of whale meat, as we discussed earlier, and we are looking at the possibility of strengthening that to prevent UK ports being a thoroughfare of whale meat being transported elsewhere.

The Chair is absolutely right. This is an industry where there is a declining taste or demand for whale meat. It is a classic example of an industry that survives only with subsidy. There are optimistic signs about countries like Iceland, which may be reducing or even working towards an ending of their whaling, which is much appreciated.

As far as trade deals are concerned, we have built into other trade deals issues such as animal welfare, but we are mindful also of World Trade Organisation rules, which sometimes make these things complicated. We are open to suggestions for how we can handle this. Sometimes trade deals are not the best place in which to make ethical or clear policy commitments. Is there anything you want to add on that?

**James Smith:** You have set it out. The fundamental point going into the deals is that environmental and animal welfare considerations continue to be central to our approach and to those discussions. The UK is proud that we are a world leader on environmental and animal welfare issues.

**Lord Goldsmith of Richmond Park:** If I could just add one point—it is slightly broader than the cetacean issue—there are discussions happening, about which I hope before long we will be able to talk more transparently and publicly, between the Foreign Office, with me being the Minister responsible in that part; Defra, through Richard Benyon; and the Department for International Trade about how we might further reconcile our approach to trade with what we are talking about now—the position the UK takes at, for example, COP 27, COP 15 in Montreal or COP 26 in Glasgow.

It would be dishonest to pretend there is full alignment at this point, but we want to move as much in that direction as we can, aligning our trade policy with our broader international aspirations. This is a work in progress. There are some really good discussions happening, which frankly we have struggled to have in the past. We are in a good place now. I hope this is something we will be able to talk about a bit more in due course.

**Q132 Ian Byrne:** Building on what you have just talked about, will we see the establishment of an animal welfare sector working group under the UK-Japan trade deal to specifically address the issue of whaling? If not, why





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not?

**Lord Benyon:** I am not on the frontline dealing with that trade deal. That would be my colleague Lord Johnson. I will have a discussion with him about whether this is being discussed as part of that, but, in terms of what he said yesterday in the House of Lords about the Australia and New Zealand deals, this is the first time any bilateral trade deal has had an animal welfare or environmental chapter so there is no reason why we should not have one with Japan.

Japan is a country we are very close to in so many ways, but we diverge on this one issue. They are no longer a signatory of the International Whaling Commission, which is a matter of regret because it was a very good way of leaning into them on this. We had a lot of allies like Australia, New Zealand and the United States in terms of doing that.

I cannot say at this stage on the Japan thing because I am not involved in it on a day-to-day basis.

Q133 **Chair:** It always used to be the scientific research loophole, did it not? Is that a genuine thing or is it a reason to catch a few whales?

**Lord Benyon:** It was to catch an awful lot of whales. It was a loophole around a moratorium that was put in place and now no longer exists. That moratorium is probably one of the single most successful pieces of environmental legislation. The populations of right whales and a whole range of very challenged species have increased dramatically. It is a matter of regret that some of them are now being hunted. We want to see an end to this.

Q134 **Barry Gardiner:** Chair, I was hoping to hear the other part of my colleague's question. Ian asked about the certification process the US has, the Marine Mammal Protection Act, and whether introducing something like that would be much more effective in this area.

It seems to me that this is an area where, if the conversations are not happening between Defra, the Department for International Trade and, indeed, the FCDO, they really need to be. That would be a very effective piece of legislation to adopt from the US, which could make a real impact in this area. I would be grateful for ministerial comment on that.

**James Smith:** What you are referring to is that the US has introduced equivalency—they call it "compatibility status"—on various imports. Through that process, as the UK, we have been looking through some of the changes we mentioned earlier in terms of the legislation on the shooting of seals. We have been submitting evidence to say that, in terms of the equivalence on marine mammal protection legislation and regulation, we have the same as the US. They can give a verdict, and then we can continue to export to the US.

What they have brought in is very new. The actual provisions themselves under that Act will not be implemented until 1 January 2024, as we understand it. It is fair to say we do not fully know the extent to which



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those sorts of obligations will have an impact on reducing marine mammal bycatch in particular.

Q135 **Barry Gardiner:** The US clearly does believe this is an effective measure. They would not have introduced it otherwise. Should we not therefore be looking to implement it also, on the assumption that our colleagues in the US have done their homework? They can certainly re-do their homework or mark it before we do it, but is it not something we should be looking at in this area, particularly because of the trade deal pending with Japan?

**Lord Benyon:** As James says, it does not become effective for a year's time. We will monitor it. There are opportunities to see how this kind of bilateral conditionality in terms of trade does work. There may be some quid pro quos in future trade deals with the United States, where we might be looking for similar things.

I am sure these are ongoing conversations. I would urge perhaps a discussion with the Department for International Trade on how it is handling this. You make a very good point.

Q136 **Barry Gardiner:** If that discussion happens, that would be super. I wanted to focus on 30 by 30. I am delighted, I have to say, by what was achieved at Montreal. Congratulations to all your officials, who I know worked extremely hard in achieving that. It is great that they did.

Of course, leadership on these areas internationally has to be backed up by action locally. Having the targets is great, but implementing them is what is more important. Minister Benyon, earlier you were referring to the Wildlife and Countryside Link's report suggesting that 3.22% of our land and 8% of the sea in English waters is effectively protected.

We have a long way to go on this. I would like to get your take on how progress on that is being made, but there is a much more fundamental issue. This is perhaps for Minister Goldsmith. What does it mean to declare a marine protected area on the high seas beyond exclusive economic areas and national jurisdiction? Who will enforce protection of a protected area where no country has any jurisdiction?

This is a profound philosophical question. You know as well as I do that even the US is not formally a part of UNCLOS. How are we going to solve that?

**Lord Goldsmith of Richmond Park:** It is a huge question. I want to start by echoing what you just said, Barry, about our officials. I was there. The CBD outcome did not just happen in Montreal; there were years of campaigning. I do believe the UK was probably the most proactive country in the world pushing for higher ambition. I also really do believe that, had the UK not been part of the process, we would not have secured the outcome we did.

Our negotiators were just superb. They worked 24 hours, around the clock, day after day, way beyond the call of duty. They are a source of



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pride for all of us. I am glad you said that. It was a good excuse for me to be able to say the same.

The separate but very closely connected discussions around regulations on the high seas is really at the heart of what you are asking. As you know, the shorthand is the BBNJ negotiations—biodiversity beyond national jurisdiction. We had IGC5 in August, which was not concluded, sadly, although progress was made—and in some respects more progress than people imagined. In February, we have the second part of the same IGC5, IGC5.2.

The reason this matters is partly as you have just said. Two thirds of the world's oceans are beyond national jurisdiction. We cannot achieve 30 by 30, no matter what was agreed in Montreal, without some mechanism for establishing marine protected areas in the high seas. They are two thirds of the ocean. There is a huge opportunity there for protection.

We know the importance of the ocean now much more than we did even two years ago in relation to climate change, both adaptation and mitigation. You have covered in previous parts of this discussion the importance of the ocean in terms of livelihoods. It just goes on and on and on. Securing an agreement that would allow us to protect very large portions of the ocean beyond national jurisdiction is a prerequisite for making real the stuff that was agreed in Montreal, not least 30 by 30.

The next round is in February. The UK has taken a very proactive stance. We are optimistic. I hope I will not regret saying that, but we are optimistic that in the final part of this IGC5 we will reach agreement. Progress was made on things like benefit sharing, which was one of the contentious issues.

Again, the UK played an important role in that. We convened a meeting at the UN Ocean Conference in Lisbon, Portugal. We brought together like-minded countries with which we had slight differences on this issue to try to create a consensus around what the mechanism for benefit sharing might look like. We secured an informal fluffy consensus, which translated into progress in the negotiations. It had an impact.

Lowri will know chapter and verse on this in much more granular detail than I do, but the general view is that we are close to unpicking that particular barrier. The bit that remains to be agreed, and is probably still thorniest for the next round of discussions, is around the remit of the international mechanism when it comes to environmental impact assessments.

I am going to ask Lowri, if you do not mind, to give us a little bit of the slightly nerdier detail on that, but the upshot is that we are very close now. We are very close to an agreement; we are closer than we have ever been. As long as enough Governments engage in good faith, we will get over the line.



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The last point I would make is about the US. You are right: they are not party to this agreement, but they are incredibly actively involved. Just like CBD, the US—

**Barry Gardiner:** They operate as if they are, but they are not actually ratifying it.

**Lord Benyon:** That is exactly right. I would also say that the interventions made by the US in the CBD at Montreal were absolutely critical, even though they are not a party to it. They take the same approach in relation to the BBNJ.

**Lowri Griffiths:** Minister, I am always happy to give nerdy detail. Just to pick up on the US position, we are very keen to make sure that the BBNJ agreement is open to those states that are not parties to the UN Convention on the Law of the Sea itself. While UNCLOS is the mother convention, the US is a party to the existing UN fish stocks agreement even though it is not a party to UNCLOS. The same approach, we would hope, will be taken in the end to BBNJ.

**Barry Gardiner:** Because the public listen to this, it is important that we do not use those acronyms. “BBNJ” means biodiversity beyond national jurisdiction. Sorry, please go on.

**Lowri Griffiths:** I apologise. In terms of enforcement of marine protected areas on the high seas, this is approached in several ways in the draft agreement we are negotiating.

First and foremost, it will be the responsibility of the states parties to the agreement to ensure that their nationals, the vessels under their jurisdiction, abide by the conservation measures adopted by the conference of the parties. For the UK, we would manage the UK merchant fleet and whatever new and wonderful uses of the high seas develop.

There is also the role that the existing sectoral bodies have to play in delivering the conservation measures. Whether that be the International Maritime Organisation with respect to maritime traffic or the regional fisheries management organisations when it comes to fisheries measures, those bodies will have a critical role to play in delivering the management measures and the enforcement powers against those states that do not comply with those management measures.

There is some concern that that leaves a bit of a gap between the role of the existing bodies and the role of a future BBNJ body. We recognise that concern. It is an area that we are still working on very closely with our partners and allies in the negotiations. James’s team in Defra are a critical part of the biodiversity beyond national jurisdiction UK delegation.

They have been looking at options for how the new conference of the parties might be able to take measures, if the existing bodies do not do what they should be doing. We are conscious that there is a possible enforcement and implementation gap. We are looking at options on that.



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Q137 **Barry Gardiner:** Could you just cash that out? This is important because it comes to enforcement and how you enforce. Yes, countries can take responsibility for their vessels in international waters, on the high seas, and whether they are observing the regulations set down in those protected areas, but it is when it comes back into port that enforcement has to happen. That means you have to track vessels back. How is that being addressed?

**Lowri Griffiths:** That is not addressed in specific detail in the text, but it would also use measures such as the existing port state measures agreement, where you can track fish catch from areas beyond national jurisdiction—from the high seas. States do check whether that has been lawfully caught.

Again, the conservation measures that would be brought in for these high seas protected areas could be tracked in that way. There are existing measures that we can take under the International Maritime Organisation as well. Again, it has powers that we have yet to see it necessarily use on the high seas, which we would be looking for it to do in that space as well.

**James Smith:** This is a whole new area, but the point Lowri made about the port state measures agreement is key. We cannot force states to sign up, but at every opportunity we are pressuring countries to join the 100 or so countries that have already signed up to it. It is a key international agreement.

**Lord Benyon:** Can I just respond to the point you made about domestic waters? In my office I have a whiteboard, and on it is 2030 and where we are going to hit terrestrially and in marine. Above it is a NASA quote: "Failure is not an option". We are going to hit 30 by 30. I think that NGO report was unfair.

Q138 **Barry Gardiner:** You would move from 4% to 8% according to them. What is it according to you?

**Lord Benyon:** I have seen this all over the world, as I am sure you have, when I have been at the Pacific Islands Forum and elsewhere. A lot of people talk about marine protection, and they are talking about lines on maps. What we are talking about is really meaningful protection.

We will have 38% of UK waters and 40% of English waters in protection. There are 178 sites. In terms of this report and your concerns, there are special areas of conservation across inshore and offshore UK waters. Of those, six have been designated for the presence of harbour porpoise, with the sites being either year round or on a seasonal basis. They are the Bristol channel, the Inner Hebrides and the Minches, north Anglesey, the North channel, the southern North sea and the west Wales marine.

There are also SACs for bottlenose dolphins, minke whales and Risso's dolphins. There are 16 SACs across England, Wales, Scotland and Northern Ireland that have been designated for their importance.



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**Barry Gardiner:** You are in danger of blinding us with data.

**Lord Benyon:** I wanted to make sure I got that on the record. In terms of getting to that, I sound like Bill Cash now, but we have been held back. We were not able to designate some areas that we wanted to. We have now been able to go ahead and do that.

Q139 **Barry Gardiner:** Minister, tell me this: at the moment, how much of English marine waters are effectively protected? You have disputed the figure of 8%. What is it? What are the staging posts that you have set to achieving those laudable targets by 2030?

**Lord Benyon:** Nearly 60% of our 178 English MPAs are already protected from damaging fishing activity, including byelaws last year in the first four offshore sites that banned bottom-towed gear over sensitive habitats. By the end of 2024, we will be able to say that we have more than complied with our 30% by 2030.

We will have six years to argue with anyone who wants to about that. You will not want me to go off on a red herring and talk about terrestrial, but that is equally important. It is important, as I said earlier, that we achieve it, not just because we want to but because we have committed internationally to do so. It makes for a harder conversation when you are trying to persuade 192 other countries to protect 30% of land and sea, if you are not doing it yourself or setting out that you are trying to do it.

We think we are setting that out. By 2024, we will have those proper protection measures in the 40% of seas where they do not already exist.

Q140 **Barry Gardiner:** I have one final very brief question. Why did you not accept the Committee's proposal for the Government to formally call an emergency session of UNCLOS to continue to work towards agreement on the high seas treaty?

**Lord Goldsmith of Richmond Park:** Why did we not call an emergency session?

**Barry Gardiner:** Yes. We recommended that that be done when we wrote the letter to you, and it was not. We just want to know why.

**Lord Goldsmith of Richmond Park:** The next session is February. The time we have had since the last session, and the remaining weeks between now and the session, have been priceless in getting difficult countries over the line. The schedule or agenda could not have been better organised. I do not think it should have been different. Our negotiators would agree with that. There has been masses of engagement. I have done it at a ministerial level. Colleagues in Government have also done so at our request.

At the official level, it has been really relentless. Lowri and her team are convening, co-funding and co-hosting a retreat to try to get a few more countries over the line. We are paying for some developing countries to be able to attend. There are a lot of informal discussions happening all



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designed to ensure that, when we get down to the business end of the negotiations, a lot of the red herring issues have already been dealt with.

We are really proactively pushing on this. The schedule that has been set is one that suits our agenda.

**Q141 Dr Hudson:** We are in the quickfire round now. We have heard that a lack of data is inhibiting our understanding of marine mammal populations. What are your priorities for data collection and monitoring of marine mammal populations that will improve our understanding in this policy area? What are your asks, so we can put them in our report?

**James Smith:** There is increasing data. That is about technology. We have brought in the marine natural capital and ecosystem assessment, if I can get the terminology right, which is our new flagship programme that looks at exactly this. It has some of the Dasgupta review of the benefits of natural capital, but it also has all of that monitoring in it as well.

That is a significant programme that will look at things like electronic DNA. Can you map the DNA that is in the water column to give you a different way of tracking abundance and telling whether a species that you cannot see is in the water? There are a variety of technologies that we are using. It is also about scaling up those monitoring programmes, as we have said before, and introducing competition.

There is a competition, again, through that marine natural capital and ecosystem assessment. It is £1.5 million, which gets the private sector involved to bring technologies and innovation through.

**Q142 Dr Hudson:** There is Government support for the monitoring of seal populations, but that is less evident in terms of monitoring cetacean populations. Is that something Government could move forward on to address that imbalance?

**Lord Benyon:** Perhaps we can put in writing a full summary of all the data-gathering measures we have—small cetacean abundance in European waters and the North sea; the UK Cetacean Strandings Investigation Programme, which is run alongside Scotland's one; bycatch and others.

**Lord Goldsmith of Richmond Park:** Can I give you one piece of data just to bring a smile to the Committee's face? The humpback populations around South Georgia and the South Sandwich Islands are very nearly back to their pre-commercial whaling levels. A big part of that is down to the work of the UK through its Blue Belt programme. I was not able to wax lyrical about that, but perhaps another time.

**Chair:** Thank you. It is good to finish on a positive note. There are a couple of loose ends that we will write to you about. One is about having some measurable time-bound targets for the dolphin and porpoise conservation strategy. Another is whether the bycatch mitigation initiative will be supported by measurable time-bound targets. We will



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write to you about those. Another one was Government funding for some of these new technologies and whether they are being sponsored.

Thank you very much indeed. I am sorry we have to break a little early.

**Mrs Murray:** Could we ask Lord Goldsmith to send us some details about anything he missed out?

**Lord Goldsmith of Richmond Park:** I would love to.

**Chair:** Yes, by all means. If there is anything you want to add, do write to us. Thank you very much indeed.