



Select Committee on the European Union

Energy and Environment Sub-Committee

Corrected oral evidence: Implementation and enforcement of the EU landing obligation

Wednesday 28 November 2018

11.15 am

Watch the meeting

Members present: Lord Teverson (The Chairman); Lord Cameron of Dillington; Viscount Hanworth; Lord Krebs; The Duke of Montrose; Lord Rooker; Lord Selkirk of Douglas; Baroness Sheehan; The Earl of Stair; Viscount Ullswater; Baroness Wilcox.

Evidence Session No. 2

Heard in Public

Questions 21

Witnesses

[I:](#) Barrie Deas, Chief Executive, National Federation of Fishermen's Organisations; Mike Park OBE, Chief Executive, Scottish White Fish Producers Association Limited.

Examination of witnesses

Barrie Deas and Mike Park.

Q10 The Chairman: This is the second evidence session in our landing obligation inquiry in relation to the EU Regulations. I welcome Barrie and Mike. I have gone through all the notices before, so we will not do that. There is no need for anybody to declare interests, but I will as I am a board member of the Marine Management Organisation, which is particularly involved in this area.

For the benefit of our witnesses, the session is being recorded and a transcript will be provided to you. If anything there is incorrect, please let us know. Before we go through the Committee's questions, would you introduce yourselves?

Barrie Deas: I am the Chief Executive of the National Federation of Fishermen's Organisations, the body representing fishermen and vessel operators in England, Wales and Northern Ireland.

Mike Park: I am the Chief Executive of the Scottish White Fish Producers Association, which is the largest constituent member of the SFF. I fished commercially with my own vessels for 30 years.

Q11 The Chairman: You are both very welcome. My first question could take half an hour to answer or it could be one word, but I shall try it anyway. How significant a change in policy and practice is the landing obligation for your members? I am very aware that the Scottish and English industries are different in many ways.

Barrie Deas: It is the biggest change to the Common Fisheries Policy since its inception. The requirement to land all quota species brings with it an incentive to reduce unwanted catch, which is highly desirable, but it also brings the problems you heard about in the earlier session, particularly the problem of chokes. The legislation was not well designed; it was perhaps responding to public concern, a certain amount of opportunism and a campaign, and we are now having to deal with the consequences. Until Brexit came along, about 80% of my time was spent trying to work out a workable approach to the landing obligation. I worked heavily with the Regional Advisory Councils and other fishing industries in Europe, and with Member States, (which are now organised in regional groupings, such as the North Sea and the North Western Waters Advisory groups). It is a very profound change.

We are not in a very good position. We have not been able to resolve the problem of chokes, although there are ways to mitigate them to some degree, including with the swaps and transfers that have been discussed. At the moment, there is a lack of coherence in the rules. The landings obligation was agreed as part of the reformed Common Fisheries Policy, but the technical conservation rules and Control Regulation have not caught up with it. We have a multiannual plan for the North Sea that allows fishing mortality ranges, which helps a bit in setting quotas, but that is not in place yet for the Western Waters.

There is regulatory incoherence, so when the MMO issued its guidance, which it did only a few weeks ago, for the biggest change in the Common Fisheries Policy since its inception, there were great big holes in it. Some of them may be fixed by the December Council that is coming up, but our fear is that they will not be, so our fear is that we are moving into a fairly chaotic situation.

Mike Park: The old system was significantly different from the new system. We landed to the market the fish that were commercially viable to us. It was not perfect, but it worked because everything was in equilibrium. We had worked and operated in that system for a number of years and had managed to rebuild stocks. The effort level of the fleets had come down, and the biomass of many North Sea stocks and other stocks around the UK coast had gone up. There was equilibrium, and everything was moving in the right direction, and then we woke up one morning to find that someone had flipped the regulations.

The industry is having difficulty in dealing with that. As Barrie says, there seems to be no pathway to compliance, or little obvious pathway, in the meantime. The discussion earlier was interesting, because our main focus now is on the marketplace and how it will respond to the uncertainty. As an industry, we are doing as much as we can to re-energise the fleet to make the necessary amendments, but, as you can understand, the whole of the legislation has been flipped on its head.

We went through a period from the turn of the century up to 2006 when we saw off the black fish issue. We resolved that problem and fitted into the system. Selectivity was moving on and people were becoming more spatially aware of where they could catch fish at certain points of the year. We put in seasonal closures to protect some of the stocks. We were doing all the right things, and then there was a change of legislation in the EU, largely driven by a TV campaign, that was a political solution to a practical problem. Fishermen are left trying to pick up the pieces. I would not suggest anything other than that it is difficult for us.

The Chairman: That is a very good background.

Q12 **Viscount Ullswater:** I have a simple question. What has been the impact of the landing obligation on your members to date?

Barrie Deas: Not huge, it is true to say. I do not think that the phase-in period has been a success. In many regards, we have avoided the difficult issues. As was referred to earlier, we have gone for the low-hanging fruit—the easier ones. I do not particularly blame the Member States. There are some intractable problems: how do you achieve maximum sustainable yield and manage mixed fisheries in the context of a landing obligation that generates chokes? Those are really difficult questions. The joint recommendations that have been put forward by the regional groups contribute; the de minimis and high survival exemptions are important and necessary, not least in the latter case for the stocks, but in my estimation they will not be sufficient to solve the choke problem, and you heard about its magnitude.

Chokes are the really difficult issue that we confront. We have ducked the issue. Before the legislation was agreed, a lot more homework should have been done. The discard estimates on which the quota uplifts have been made are based on a number of assumptions that may or may not be valid. The feeling is that we are moving into an era of great uncertainty in data, compliance and the market, but the big one is chokes.

Put yourself in the position of the captain of a vessel who looks at his portfolio of quotas and can see that he will run out of one, which means that he will have to stop fishing for the other five, or 25, depending on the area. What is he going to do? His business, his crew and his house—everything—depends on what happens now. If he lands those fish, it will mean that he is put in a choke situation and will have to tie up for the rest of the year. It could be February, and that means the end of the business. The Regulation puts fishermen in an impossible situation, until we have a resolution to the choke problem.

Mike Park: We have difficulty at the top level about how to deal with this, but to say that the industry is not responding would be to fail to understand the complexity of all the issues that have to be pieced together. In Scotland and in other parts of the UK, we are engaging in a tremendous amount of gear trials. We have drawn down European funding to see what we can do to reduce unwanted catch. Unwanted catch is not just small fish; in a mixed fishery, it is large fish. It can be the result of regulation, so there are regulatory issues as well. We currently have the old technical conservation Regulation in place which related to the old CFP, not the new one. That constrains us, too.

There are loads of measures in the sector to try to solve the issues. We are engaging in Scotland in real-time reporting of everything we catch to try to illuminate hotspots of catches. If there is a hotspot of cod or hake and we make people aware of it, they can avoid it, and by default that helps with the problem. That is a similar approach to the one used in Norway, where they put in precautionary areas and advise vessels to stay out of them. Norway does not have the same regulatory burden as we have; there is a different approach, but it seems to work.

A lot is going on behind the scenes, but have we mastered it yet? We have not. The difficulty with gear selectivity and other selectivity is that fishing is like any other business; you can lose money many times, but you run out of cash once. If you get selectivity to the point that you remove every unwanted species of fish or crustacean in your net, the chances are that you are losing some of the commercial aspects of the catch that retain the economic integrity of the business. There is a fine line, and you reach a tipping point. We have to educate fishermen about why we need to move beyond that, but telling a business to adapt to losing money is not an easy thing to do.

Q13 **Lord Rooker:** You have more or less answered my question, which was about the impact on your members when the landing obligation is fully implemented. Can I ask two supplementaries? You referred to advice on

the landing obligation. I am looking at the *Landing Obligation General Requirements 2019* from the Marine Management Organisation, updated on 13 November 2018. When was it first published, if this is the update? It is your advice on this.

Barrie Deas: It is not my advice; it is from the Marine Management Organisation.

Lord Rooker: Yes, I know, but when did you get the advice from the Marine Management Organisation on the obligations?

Barrie Deas: It was about three or four weeks ago. It is important to appreciate that there are gaps in that advice. Some of the decisions are yet to be made, and will be made on 17, 18 and 19 December, at the Council.

Lord Rooker: My other question is about the market. You have used the magic word Brexit, so I think I have permission to follow that up. What are the rules about trade? This Committee's first report following Brexit was on fishing, in 2016. We export 80% of what we catch and we import 80% of what we eat, so exporting what is caught is pretty crucial. Is complying with the landing obligation by UK fishermen a requirement to export to the European Union market post Brexit?

Barrie Deas: When the UK becomes a third country, I imagine that exports to the EU will have to demonstrate that they are compliant with the EU regulation on illegal, unreported and unregulated fishing—IUU—so the simple answer is yes. If you export to the EU, you will have to demonstrate that you are compliant. Make no mistake, the European fleets are in just as bad a position with the landing obligation as we are, perhaps worse in some cases. Because Spain, for example, does not have by-catch quotas, although it has some principal quotas, there is no way for its fishermen to fish legally from 1 January. The resolution will lie at European level, given the fact that, certainly at the beginning of next year, we will be part of the EU. If are we in a transition period, we will be subject to the CFP rules for the 21 months.

Mike Park: It is not just about exporting to the EU, as regards the IUU and other people watching us. Recently, both Barrie and I met retailers and the Government to assess and understand the situation. Everyone is quite nervous about the IUU issue.

There is another issue. I head a group in Scotland called the SFSAG, the Scottish Fisheries Sustainable Accreditation Group. We try to assist our fishermen to rebuild stocks; once we get a stock to a certain level, we get it MSC certified under the gold standard. We are selling seven stocks in the retail network, of which North Sea cod is one; we have rebuilt it back up to that level. Once you start moving into the IUU, and you are not fulfilling the requirements of the management plans, it brings under scrutiny the whole gold standard certification you have for your stocks, which puts you in jeopardy in the market. Fishermen are aware of that

and are trying very hard to make sure that we do not get into that area. They understand the negatives of losing any of the marketplace.

Baroness Sheehan: We have a seemingly intractable issue looming on the horizon for fishermen. Have you seen a reduction in fishermen numbers? Are fishermen leaving the industry?

Mike Park: In Scotland, we have 4,000 fishermen. We are bucking the trend and building new vessels; we have 35 new state of the art vessels to catch demersal fish—cod, haddock and whiting—which is significant investment on our part. We are seeing our young men from the ports coming back to the vessels. There was a long period of a few decades when we lost them to the oil sector, when the fisheries collapsed. Back in the 1960s and 1970s, employment on vessels in Scotland was significantly higher, but over the last five, six or seven years we have stabilised the numbers of crew in the industry to a large extent, although we are dependent on non-EEA crew, which is a point we have made to the Immigration Minister.

Barrie Deas: Fishing is quite different from other industries in one sense. You cannot have infinite capacity; getting the capacity of the fleet in line with available resources is extremely important, so we are tightly licensed. Any new-built vessels have to obtain an existing licence, and it is important to understand that that is a core fundamental of successful fisheries management. You cannot have an expanding fleet unless the fishing opportunities are in balance.

Baroness Sheehan: What is happening in England, Wales and Northern Ireland? Are you seeing the same pattern as in Scotland?

Barrie Deas: Yes, although the building boom is more in Scotland. We have new vessels being built. There is a spirit of optimism and an expectation that, further down the line, there will be additional fishing opportunities, but that all takes place within licensing constraints, with an overall cap on capacity. That is quite important.

Mike Park: This week, while sitting in Bergen, at the EU-Norway negotiations, which I have just come from, I went through an exercise of trying to identify all the foreign, non-UK vessels operating in the Scottish zone. There are now twice as many non-Scottish or non-UK vessels operating in the Scottish zone as there are Scottish vessels.

Lord Cameron of Dillington: Is the optimism that seems to be going through the Scottish industry based on a sort of Brexit bonanza?

Mike Park: It is not, although some commentators suggest that it is. It is built on the rebuilding of the stocks, the viability of the fleet, and the revenue streams involved in fishing now at the top level, and, indeed, the profits flowing to the bottom level. Brexit just happened to come along at the same time.

We went through a boom and bust. There was a boom with the gadoid outburst in the 1970s, when all the stocks bloomed, and we built a fleet

on that; then we had to redirect that capacity to the scrapyards, because we could no longer maintain it. We decommissioned in 2001 and 2003. We hope not to revisit that bust in any shape or form. We built no vessels for a lot of years because of the downturn in stocks; because of the upturn we are starting to build again, but the landing obligation could put that in jeopardy.

Q14 **Lord Krebs:** I should declare that I act as an adviser to two food retailers, Marks & Spencer and Tesco.

Mike, you referred to Marine Stewardship Council accreditation. In future, will the MSC accreditation include compliance with the landing obligation?

Mike Park: It is not just compliance with the landing obligation; you have to comply with the management plans. The management plans and the landing obligation are linked in many ways and we have to fulfil the requirements of the law.

Q15 **The Duke of Montrose:** I declare that I am a member of a salmon fisheries trust in Scotland.

To what extent are your members clear about what they are required to do to comply with the landing obligation? You have explained that in some ways it is very difficult.

Barrie Deas: They are not clear, because we do not know what the rules will be on 1 January; some of those decisions have yet to be made. Some general guidance has been issued. For example, only in the last few weeks has it been confirmed that bass, a very valuable species, will not be included in the landing obligation, due to technical legal interpretations. Back in September, we first heard that that would be the case, and now we have had it confirmed. Bass fishermen have been extremely concerned about how they would manage the catch limits and the landing obligation together, and we have only just learned that bass will not be included. That is an example of the lack of clarity throughout the industry.

We are all in this together. There is a responsibility on fishermen to reduce unwanted catch and on producer organisations to deal with chokes, as far as they can, through swaps and transfers. There is a responsibility on Member States, individually and working collectively. There is also a responsibility on regulators to provide what Mike referred to earlier as a pathway to compliance. If a fisherman wants to be compliant with the law, he needs to be able to see how to do it, and we do not have that at the moment. There is responsibility right through the supply chain, and through the industry to the regulators, to resolve this, which has to be the focus now.

The Duke of Montrose: Who is handing down the regulation on bass?

Barrie Deas: It is an understanding between the European Commission and the Member States that the catch limits that apply to bass are not the same as quotas. You do not have the same quota flexibilities with bass. It is rather a technical issue, but the interpretation being made now

is different from that being made the beginning of the year, and the most recent MMO advice that has been circulated said that bass will not be included.

Lord Rooker: That is because it is not subject to the total allowable catch. That is the reason given.

Barrie Deas: Yes, but it is under catch limits in the landing obligation. Article 15 of the Regulation talks about species being under catch limits. The decision has been made that those catch limits are not the kind to which the landing obligation would apply.

The Earl of Stair: To pick up on what you have been saying so far, 1 January is clearly a critical date. Mr Park, I think you said that 50% of the vessels fishing in the Scottish sector were non-UK. Is that correct?

Mike Park: No. I said that there are twice as many non-UK vessels fishing in Scottish waters.

The Earl of Stair: We heard earlier that the Spanish will be completely non-compliant from 1 January. What will happen after 1 January to all the non-UK fishing vessels in our waters at the moment?

Mike Park: Nothing. Who knows? As it stands, we live under the *acquis* until the end of 2020, which means that the current rules will continue to apply until that point.

The Earl of Stair: But there will be a lot of potentially non-compliant vessels fishing.

Mike Park: They fish with different methods, in some cases. Some of them fish with gill nets, some with lines; others trawl and others twin trawl. There is competition for space, because there are so many vessels up there. There is just not enough space. It would be fair to assume that, if we are having difficulty fitting into the landing obligation, although we are getting there, other Member States are having the same difficulty.

The Chairman: I presume that a number of those are Norwegian vessels. Do they have to comply with their own landing obligation or, once they are in our area, do they comply with our rules, or EU rules?

Mike Park: When they fish in EU waters, they have to follow EU law. I fished in Norwegian waters for 30 years and I had to follow Norwegian law.

Q16 **Lord Cameron of Dillington:** My question was about fishing gear, but to some extent it has already been covered. Mike, you mentioned that fishermen have drawn down EU money to get some of the new gear in place. Apart from quota swaps, which are for another question, what methods are available to fishermen to reduce their catch of choke species? What barriers are there to them implementing those options, if there are any options?

Mike Park: There are a number of choices. One is where you fish, because different fish appear in different areas at different times of the year. The first choice is where you fish. You look at your quota and you fish in the areas where you have quota, but nothing is ideal and we are talking about catching something we cannot see. Inadvertently, at times you catch fish that you do not want, and that is what causes the issues.

In 2003, we moved up in mesh size to 120 millimetres in the North Sea. Our small mesh trawlers now catch nephrops, using big square panels in the top of the nets. They now fish with a net that is only 2 feet high so that they avoid some of the fish. That gear was introduced during the years of the cod management recovery plan, from 2007 onwards. We did a tremendous amount of work there.

It was mentioned earlier that we now have vessels fishing with one net with two selectivity devices, where the nephrops go into the bottom and the big white fish go in the top, and selectivity is different at the top and the bottom. We are working on selectivity to reduce the number of small fish that we catch, and we are managing to develop nets that reduce it significantly. Our big problem is getting too much fish of a particular species in a mixed fishery. We set TACs on a single species basis, yet in any given haul in my members' nets there could be as many as 37 species, and most of them will be regulated, and all those that are regulated will have TACs set for them. It is the skipper's goal to make sure that he catches in the right proportion so that he gets to the end of the year. That is a real skill, and it is very difficult to do.

We had a situation recently when a zero TAC was set for west of Scotland cod. The fishermen in our larger vessels—about 15 operate off the shelf edge—wondered how they would manage to fish there. There was a zero TAC for cod, and if they do not set a TAC for cod they are shut down in that area. Immediately, those 15 vessels would be decanted into other areas, putting pressure on stocks there.

We are working away. We are trialling cameras on the headlines of our nets so that we can see the fish going into the net. The best way to reduce unwanted catches is not to catch the fish at all. Even if you improve selectivity, you do damage, and on occasions fish may die as a result. Avoiding catching the fish is the best way ahead, and that is what we are focusing on at the moment, through spatial and temporal awareness and getting fishermen to share information. Remember that the fishing industry is packed full of alpha males, and what they do not do well is share information. We are trying to get to the point where fishermen are sharing information so that we can avoid the areas that we know are contrary to the relationships and the catches for that vessel.

Lord Cameron of Dillington: It all sounds quite expensive, to have cameras, and so on. Are there economic barriers, and can fishermen get help? Or is the problem more that a mental change has to be made?

Mike Park: It is a mental change, but everyone wants to develop. As you can understand, undersea cameras are expensive. Until now, we have

had funding from Europe, from the EMFF, and we have drawn down significant amounts of funding over the years to assist us in the gear trials as well as the camera trials. It is in no one's interest to catch fish that they cannot sell; no one wants to do that. But you have to balance that with the comment I made earlier: it is a business and, if you go too far, you lose some of the species you want, and the economic integrity of the business starts to collapse. You lose your crew, and if you do not have your crew you cannot go to sea, and if you cannot go to sea you lose your business. It is all inextricably linked, but we are doing as much as we possibly can.

Barrie Deas: It is important to appreciate that solutions in one fishery will not necessarily work in another fishery. We have very diverse fleets, using different gears and target species. For example, there is the physiology of the fish. A Dover sole can go through the mesh of a net, whereas the physiology of a plaice will not let it do that. As a result, there are large discards of very small plaice. That is an example of a particularly difficult technical problem that we have not yet been able to resolve.

Selectivity is a never-ending journey; one day, we will get to optimum selectivity. We are where we are, with the technical constraints and the catch composition issues Mike mentioned. There are also economic limits at the moment. It is important to appreciate that there are technical and economic limitations or constraints on selectivity. If you had optimum selectivity, you would not have a choke problem, because you would have traffic lights, or something, to separate the species.

Lord Cameron of Dillington: Do you think the landing obligation will speed up the process you are talking about?

Barrie Deas: The one good thing that I can see on discards with the landing obligation is that it creates an incentive to reduce unwanted catch. Why would you land worthless fish that will burn up your quota? To that extent, the landing obligation is welcome. It has been badly designed in other regards.

Q17 **Lord Krebs:** We have already touched on quota swaps, but, to clarify matters, I would like to ask both of you to what extent there are clear systems in place to allow for quota to be swapped between vessels, producer organisations and Member States to mitigate the risk of chokes. To what extent do you expect quota swaps to alleviate the choke risks faced by your members?

Barrie Deas: Over 20 years, we have already developed a sophisticated system of swaps and transfers at domestic and international level. Very large tonnages of unutilised quota are swapped in return for quota that is more useful. Whether that is sufficient to address the choke issue is the \$100,000 question. At both international and domestic level there is concern about swapping away unutilised quota too early in the year. There is a liquidity problem; the signs are that fisheries managers may be

reluctant, in the context of the landing obligation, to swap away quota that they might need for themselves to avoid a choke situation.

What to do about it? At international level, the principle of relative stability is stoutly defended by Member States—some Member States in particular. That acts as a constraint on what can be done at European level. Whether there could be more understanding between Member States about the need to move quota around is something that has been put to the regional groupings of Member States. They have decided not to do anything at this stage but to see what the level of uptakes is early in the new year.

Given the potentially chaotic situation we are moving into after 1 January, it will be important to prepare for contingencies. The level of uncertainty is very high, and we need both to prepare in the realm of swaps and quotas and to look at whether we have set the TACs at the right level. We might need to make TAC adjustments mid-year, which is not unknown but does not happen frequently. We certainly cannot go into this without some preparation for dealing with what might turn out to be quite a chaotic situation.

Mike Park: It might be useful for you to understand the limitations of quota swapping or the movement of quota. It decreases as you go up the choke categories. Category 1 is when you have enough fish in the Member State or in the UK, for instance; it may not be in the right places, but you can move it around. A category 2 choke means that there is enough in the sea basin but not enough in the UK, so you have to engage in the international element of the swap. Category 3 is when no amount of swapping will solve the problem, because there is not enough quota in the sea basin to solve the problem of choking; for instance, until recently, hake would have been a prime candidate.

We have to be aware that, for next year, a number of TACs for key stocks will come down. The impact will increase the cost of leasing the quota as you move it from one PO to another, or from one vessel to another in the UK. In many cases, the money returned at the market on the sale of the fish is less than you pay to lease it, so it makes no sense to lease it. There are a number of pressures that restrict the category and the size of the quota relative to the abundance of stock, which causes difficulties in moving quota around.

Lord Krebs: After we leave the Common Fisheries Policy, will we still be able to swap quotas with other Member States as we can now?

Barrie Deas: There is lack of certainty about that. If there is a transition period, that is one question that the Commission has declined to answer up to this point. The Commission said that it would be willing to discuss those kinds of details once the Withdrawal Agreement was made. It is an extremely important practical issue, and not the only one; there is also how the UK will fit into international negotiations and be consulted. There is a commitment to consultation, but what exactly does that mean? Those are outstanding issues.

Q18 The Earl of Stair: There seems to be a general expectation that illegal discards will increase after January, when the landing obligation becomes a requirement. Are you concerned about the impact that the landing obligation will have on levels of illegal discarding in future?

Barrie Deas: I am concerned, because we have done very well on the sustainability front over the last 15 years. Fishing pressure has been reduced and stocks have come up. Anything that destabilised that situation would be bad for the industry across the board. The fear is that the quota uplifts associated with setting TACs in the context of the landing obligation, plus illegal discards, will lead to a higher level of fish mortality than we expected. Those chickens will come back to roost, so, yes, there is concern about exactly the scenario you paint.

The Earl of Stair: There will be damage to stocks.

Barrie Deas: Yes.

Mike Park: Under the old regime, discards or unwanted catch were taken off at source, so ICES assumed what you would take out of the sea and assessed what part of it was not fit for market in terms of size. All that you were allocated to land to market was the wanted portion of the catch. Now it has been added together, and they have said, "There's the wanted catch plus the unwanted; go and apply that to your fishing regime". There is a threat that fishermen will land all of it to market and continue to discard, which means that more fish will be coming out of the sea than should be coming out. That is a discourse we are running; it is that sort of element that fishermen have to be aware of—that in the medium to long term you can damage a business. It is about getting that across in, I guess, an unpointing manner so that people understand the long-term harm.

The Earl of Stair: We heard in previous evidence that you can expect a 50% survival rate for fish returned to the sea, and we heard about nets being released if they have the wrong fish in them. I assume that that is a gentler method of returning fish to the water, which will be lost if we have to land everything. There could be significant damage to fish stocks as a result.

Barrie Deas: The high survival exemption is very important. If a significant proportion is being put back, and survives, it adds to the biomass, which is a good thing. It varies greatly by species and by fishing gear. The exemptions that have been agreed and the ones being worked on at the moment, notably for skates, rays and plaice, have a lot to contribute. The question is how they will be designed, which gears they will apply to and what conditionality will go along with them. For example, survival rates for skates and rays would be heavily influenced by how they are treated on deck, and whether they are kept wet and put back as quickly as possible. A code of conduct and practice is being developed. It will be closely monitored.

The Earl of Stair: But we will lose a lot of that with the landing

obligation, whereby everything has to come ashore.

Barrie Deas: I am talking about exemptions from the landing obligation. You will be allowed to put those back in the sea. What will go back into the sea are all the non-TAC species, of which there can be quite a few—and anything under the high survival or de minimis exemptions.

Mike Park: What Barrie says is exactly right, but with the gadoid fisheries—the cod, haddock, whiting, saithe, coley and hake—there is an assumption that they do not live when they are returned to the sea. We are both involved with advisory councils, with the North Western Waters Advisory Council and the North Sea Advisory Council, and that is a decision we took in the early days of discussing the issue, because it is unlikely that those fish will survive.

The Earl of Stair: Because they are being brought up from the depth to the surface.

Mike Park: Yes, because of their make-up, their swim bladder.

Q19 **Lord Selkirk of Douglas:** I have the last question, and you have already answered it in very large measure, but for the sake of clarity I will go through it very quickly. What needs to be done to ensure compliance with the landing obligation? You mentioned a code of practice. If you could give us a summary, it would be very helpful.

Barrie Deas: The most important element in a successful enforcement regime is a culture of compliance, where fishermen want to comply with the rules because they see that the rules make sense and their livelihoods depend on them. Norway has developed a culture of compliance, and the Norwegians are very proud of their discard ban. It is seen as pragmatic and workable and fits into sustainable fishing strategies.

Modern information technology, and CCTV, will play a role in the future. It does in every other industry, so why would it not apply in fishing? There are a number of technical, legal and ethical issues still to be resolved; that kind of technology works best when it is seen by the skipper and the owner as desirable and maybe a cheaper option than having observers on board. For me, finding a pathway to compliance and developing a culture of compliance, which is about hearts and minds, is the core to a successful enforcement policy.

Mike Park: We also need to look at areas of high risk and apply certain measures to high-risk areas. Barrie is entirely right: it is about approach and cultural change. In allocating more fish to fishermen and making them custodians of that quota, the unwanted element comes with a degree of responsibility. That will hit home over time; we are only four years into it. Indeed, at the time when the Regulation was set, we spelled out to the Commission and the European Parliament, and to the rapporteur, Ulrike Rodust, the unintended consequences of the Regulation. We need to set about making people aware of the consequences of their actions, in the hope that, very soon, we can start

to fit into the Regulation. There is a need to look at high-risk areas and try to deal with them, to stop people gaming the system.

The Chairman: A basic question is whether it is actually enforceable.

Barrie Deas: It involves an enormous shift. Previously, control was focused at the point of landing, so it was like a gateway, especially where there were designated ports. Under the landings obligation, you are asking the enforcement authorities to monitor the activity of many thousands of vessels right across the marine area, which is an enormous task. Based on my conversations with enforcement authorities, I do not think they have a silver bullet, and at the moment I cannot see that they have in their hands a solution to the problem of enforcing the regulation.

The Chairman: I shall take that as a no, Barrie.

Mike Park: The answer is yes, but the consequence would be extreme harm to the fishing industry and communities. Article 2.2 of the Basic Regulation which holds the landing obligation states that it wants to retain economic and social fabric. If you apply the Regulation at its fullest degree, you put that under extreme stress.

There are three pillars. One is the landing obligation, the second is sustainable harvesting and the third is the socioeconomics. In a lot of cases, you cannot get all three. The system managers—those who set the rules—will have to choose which one they want to let go. You could be heavy-handed, but then you would undo all the good work that has been done by the UK fishing industry in the last two decades.

The Chairman: Would Marine Scotland have the resources to do that?

Mike Park: No one has the resources to do it at sea. As Barrie says, it took two decades to solve the problem onshore. We eventually solved it with the registration of buyers and sellers and linking up the paperwork. Once you move the problem offshore, there is an obvious consequence, which was spelt out very early in the creation of the Regulation.

Q20 **Viscount Ullswater:** This is really a practical question, perhaps addressed to Mike Park. What are you doing in your own boats to store the unwanted fish, or fish of low economic value, that you now have to land? Will you have to make provision for it alongside the other stock that you can sell?

Mike Park: As it stands, on our vessels we haul up our nets, take the fish, undo the cod-end and it goes into a big hopper. We have conveyer belts, where the men stand and gut for hours on end to take the stomachs out. They then wash the fish and ice them downstairs. All the unwanted catch has to be treated the same, because vessels can be out for six or eight days. You cannot store them without ice or store them on the deck, because that would become a stability and safety issue, so they are treated the same. You have to separate all the species as well. As I said, there are 37 species in any one trip, and all those species have to be separated into different boxes and stored separately. A number of

vessels physically do not have room for that, and that is the fourth category of choke. You fill up your fish room with fish you cannot sell, but you have to go home anyway because you are out of space and out of ice.

There are loads of issues and a lot of complexities on the vessel. You are asking the crew to do work for which they are not going to get paid, because the fishermen get a share of the catch. If you are not making money from the catch they do not get a wage, which does not seem to fit.

Lord Cameron of Dillington: Barrie, you mentioned that the Norwegian discard ban has developed a culture of compliance, even pride. Could you spell out the differences between the Norwegian discard ban and the European discard ban?

Barrie Deas: The Norwegian discard ban is like the cherry at the top of the cake. The cake is made up of conservation strategies to reduce unwanted catch, particularly juveniles. There is a system of real-time closures, very large areas where you may be allowed to fish, but if the coastguard boards your ship and you have a higher percentage than permitted you are required to move on. It is a move-on strategy.

The Norwegians also have a contrasting approach to quotas. In the EU, there is a very hard stop approach to quotas. If you go over quota as an individual vessel, producer organisation or Member State, you have to pay compensation. If you go over by 2% or 3% you have to pay that back, and if you go more than 10% over you have to pay it back, plus a penalty; it is a system of hard stops. The Norwegians do not seem to have that system. There is a bit more give and flexibility, which lets them deal a bit better with chokes.

Norwegian waters are not the same as ours. Especially towards the south-west, we deal with many more species, so what works in Norway will not necessarily work in our waters. Working with the industry to develop solutions and having a bit of pragmatism and a collaborative approach between the industry and regulators seem to be the big ingredients that I can see.

Mike Park: One additional measure that Barrie did not mention is precautionary areas. If you are boarded and you have more than 10% of any one species below their sizes, which are bigger than our sizes, they move you on. If they board two vessels with similar breaches of the regulation, they shut down an area; on many occasions, it is 100 miles by 50 miles. They call it the precautionary area. You may enter it, but if they board you when you are fishing and you breach it again you will be arrested, because you have the ability to become more selective.

Lord Cameron of Dillington: But they have the 15 vessels.

Mike Park: Yes. In my day, before satellite and vessel monitoring, it was very much a needle in a haystack, and it was very difficult to find you. Nowadays everyone knows where you are.

Q21 **Lord Rooker:** On the point about storage, which I raised last week, do the undersized fish still go down the same conveyer belt? According to the advice that you have been given, they have to be stored separately. How do you deal with that?

Mike Park: It may be different on some of Barrie's vessels, but on our vessels, which are larger, they get treated the same. The catch goes down the conveyer belt, and we throw it into separate containers; it goes down to the fish room and is iced away like every other quality fish down there. We try to store it in a different part of the fish room, but the fish rooms are not big—they are not as big as this room—so it is very difficult to store everything separately. It is a real challenge. Those are the challenges that nobody thought about when they created the Regulation.

The Chairman: Can I round off with one observation and a question? At the beginning of this session, I very much got the view that the landing obligation was getting in the way of better conservation and that it would be very much better to stay on the path we are on to meet sustainability. I was interested in your comment, Barrie, about a pathway to compliance and the pride that the Norwegians have in being able to do what they do.

On the other side, part of the reason why we have public concern about the issue is that the level of discarding has been quite large. Given the whole topic of food waste, discarding, particularly when the fish are dead, is clearly something we would all think was the wrong solution.

How do we reconcile those things? Is it the fishing industry's view that we should stop the process now and carry on with what we are doing, because it is achieving what we need? Is the fishing industry's view that we should literally put it on ice, until we can find a way through?

Barrie Deas: The turning point was the year 2000, when there had been increasing fish mortality, with incremental increases until 2000. In the late 1990s, we had decommissioning schemes and fleets taken out; there was a dramatic reduction in fishing pressure, and the stocks came back up. It is that, rather than maximum sustainable yield or anything else, that underpins the positive situation we have had with stocks.

There is a feeling that that positive trajectory is now jeopardised by the landing obligation, but at the same time the public debate has moved on. In the industry, there is recognition that we will have a landing obligation or discard ban in some form; the challenge is to make it a workable discard ban. There are things in the Fisheries Bill to do with overage, providing a bit of flexibility to land by-catch species, in which the vessels would not receive the full economic value of the catch but it could be sold on the human consumption market. I do not think all the practical details of that have been worked out, but it is those sorts of things, and creative thinking, embedded in a collaborative approach, that will take us through.

We realise that it would be unrealistic to go back to a situation where there was no landing obligation, and we would not want to, but we have to make it workable.

Mike Park: Whether or not unwanted fish is landed to the market does not really matter. The main word is accountability. We have to be accountable for everything we do. There is a threat that accountability could be lost over the immediate period. Barrie and I and others in the industry—certainly the industry itself—are keen to ensure that accountability is not lost. That is what Barrie's work is focused on, and mine too, to make sure that we are accountable for whatever we take out of the sea, and people know what we are doing.

The Chairman: Thank you very much indeed. That was a very useful session.