



Select Committee on the European Union

Energy and Environment Sub-Committee

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

Wednesday 12 December 2018

10.05 am

Watch the meeting

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

Evidence Session No. 5

Heard in Public

Questions 41 - 49

Witnesses

[I](#): Michael Coyle, Head of Compliance and Control, Marine Management Organisation; Julian Roberts, Head of Future Fisheries, Marine Management Organisation; Allan Gibb, Head of Sea Fisheries Division, Marine Scotland.

Examination of witnesses

Michael Coyle, Julian Roberts and Allan Gibb.

Q41 The Chairman: I welcome our witnesses, and particularly thank them for coming at short notice to help us with our inquiry into the landing obligation.

I remind all members of the Committee, as well as those providing evidence to us, that this is a public session. It is being webcast live and will be made available subsequently to view on the parliamentary website. A transcript of the session will be sent to our witnesses to review before it is finally published so you will have a chance to comment. I remind members of the Committee to declare any relevant interests before they speak in this session. I act as an adviser to two food retailers, Marks & Spencer and Tesco.

As you know, this is an inquiry into the implementation and enforcement of the EU landing obligation, particularly bearing in mind the changes that will come in at the beginning of January in a few weeks' time. I will kick off with a very general question and other members of the Committee will follow up with particular points. What is the role of the Marine Management Organisation and Marine Scotland in implementing and enforcing the landing obligation? Before you answer that, could you briefly introduce yourselves?

Julian Roberts: I am head of future fisheries at the Marine Management Organisation.

Michael Coyle: I am head of control and compliance at the Marine Management Organisation.

Allan Gibb: I am the head of sea fisheries policy for Marine Scotland and the Scottish Government.

Q42 The Chairman: I am sorry about that brief interruption. Perhaps you would keep your answers fairly brief, because we have only 43 minutes to go and quite a few questions to get through. Would you like to kick off with your role in implementing and enforcing the landing obligation?

Michael Coyle: The role of the Marine Management Organisation is to support the sustainable exploitation of fish, and we do that by enforcing regulations that mostly stem from the Common Fisheries Policy Control Regulations and technical conservation measures. We enforce a raft of measures for fishers. The landing obligation is one of them, but it is a critical one and is a step change for both the industry and the regulators at this time.

The Chairman: What about the Scottish perspective?

Allan Gibb: The enforcement obligations are very similar. The point to note is that fisheries are a fully devolved area, so it falls exclusively to Marine Scotland to carry out the enforcement, control and management of fisheries activities as identified by Michael.

The Chairman: Does the MMO cover the other countries of the United Kingdom?

Michael Coyle: England.

The Chairman: Just England. It does not cover Wales or Northern Ireland?

Michael Coyle: No.

Q43 **Viscount Ullswater:** I declare an interest. I am a trustee of a landed estate in Cumbria that has fishing interests in the Solway Firth.

My question is about the recent history from 2015 onwards. How successfully has the landing obligation been implemented to date? What challenges have arisen, and how have you responded to them? Could you illustrate that by telling us of any cases of non-compliance with the landing obligation you have detected, and how many of those have been prosecuted?

Julian Roberts: The background is the phasing-in from 2015 of pelagic fisheries and then demersal fisheries, the ground fish, through to 2019. To date, a relatively small number of demersal fisheries have been picked by the regional groups as posing the fewest challenges in relation to a land-all policy, but in the process some of the higher-risk fisheries in the North Sea have been introduced; for example, cod, haddock and saithe have been subject to a land-all obligation for the last two to three years.

When we have discovered non-compliance, it has been confined largely to our Fully Documented Fisheries schemes where vessels with cameras have to abide by the landing obligation. We have had a couple of instances of non-compliance that have resulted in a total of 20 tonnes of cod quota being deducted through 2016 and 2017.

Michael Coyle: The phased implementation will mean a change of behaviours and culture, and has allowed the industry to start thinking more about selectivity and how to avoid unwanted catch. It has allowed us to undertake trials of cameras and on-board monitoring. In each year, we have provided guidance to the industry and tried to give people clarity. As many of your previous witnesses have said, it has been phased in and it may have hit the lower-risk fisheries so far, so 2019 is a step change for us.

The Chairman: What about the Scottish perspective?

Allan Gibb: There were challenges for our policy, which was introduced four years ago without clarity as to how it would be implemented. It was the biggest one and did not find much favour with the fishing industry, so buy-in by the industry, the stakeholders, was challenging, but the phasing was important to allow them to adjust. The Scottish Government and I have been active in the regional groups with other Member States to try to work through collectively in the various sea basins how it should work.

The ultimate challenge, apart from pelagic fisheries where you catch just one fish at a time, is that in the mixed fisheries you cannot dictate exactly what is going to come up in your net. In mixed fisheries, with cod, haddock, whiting or saithe, it is hard to say that you must catch a precise amount, and the rules could unintentionally make people behave illegally when they have no intention or desire to do so.

We have a Scottish Discard Steering Group. We try to take a co-management, consensual approach with our industry. We work with industry to agree solutions, avoidance techniques, selectivity and closed areas to try to reduce all of the problems. We have a Gear Technology Group, and we use various funding streams to support fishers to try to avoid the unwanted parts of a catch with highly selective gear.

The Chairman: Viscount Ullswater asked about the challenges. One question we have discussed in previous witness sessions is the challenge of choke species, to which I think Allan was alluding. Has that been a challenge? I think you said that two boats had been identified as breaking the rules. Is that because you had limited monitoring, or can you convince us that two is the actual number of breaches?

Michael Coyle: No. I think in England there have been seven¹ cases of infringements leading to verbal rebriefs. They were minor offences that were being witnessed at the time, so they were relatively low risk. The cases Julian talked about were where we had cameras on board vessels in the North Sea and could be a lot more confident in identifying breaches by those vessels.

Allan Gibb: We regularly talk about categories of choke. In Scotland, if it is a category 1 species, there is potentially enough fish in the system and people should be able to get access to it. If it is category 2, there is enough fish in the sea basin and they should be able to get access, even if it means swapping with other countries internationally. If it is category 3, it does not matter what happens domestically or internationally; there is not enough fish allocated in the international arena to cover expected catches. If you drop down to that level of catch, you forgo catches of other species and there is a significant economic impact. That is the key challenge.

On enforcement, in Scotland, to detect the offence you have to see it; it is an observation point. We have detected three cases: two minor ones and one where there was an administrative penalty, a fine, which was paid by the master.

Q44 **Lord Cameron of Dillington:** So far in this inquiry we have gained the impression from other witnesses that most people, including fishermen, the Government and others, seem to be unprepared for 1 January. Are your two organisations confident that the landing obligation can be fully implemented from January 2019? How do you expect to be able to do that with only a few weeks remaining?

¹ The witness subsequently confirmed that there were eight

Michael Coyle: As regards preparation and awareness, we have had the landing obligation since 2015. Clearly, 2019 is a step change. We have written to every single fisherman over the last three years to provide them with guidance. This year, with full implementation, it is a lot more complex, so we have upped our communication. We are providing not just generic guidance but very specific guidance relating to gears, areas and fisheries. We have used social and digital media. We started campaigning in August, and we have implemented a communications plan. We published articles in *Fishing News* and on the website in August to say that we would send out guidance. We prepared guidance in September and consulted with many in the industry and devolved colleagues. We issued that guidance in November.

In addition to using all the digital media outlets we could—Twitter, LinkedIn and the like—we have about 50 active warranted officers in our 16 MMO coastal offices. We have been going around talking to the industry. We have had sessions tailored to specific fisheries in Whitehaven, North Shields, Poole, Plymouth and various offices.

We appreciate that the technical rules are complicated, but we have gone a long way in delivering the message and getting across awareness of what the rules will entail. I do not think the job is done by far, but our approach to enforcement and implementation is to carry on with that education period. We realise that the industry will take time to adjust, and we need continually to educate in the first part of January 2019, to make sure that when we come into contact with fishermen, as we do on a regular basis, we keep endorsing the rules and regulations.

I think we are ready with information. Our staff are ready and are aware of what they need to do. We are adapting some of our inspection techniques. We have an enforcement strategy, but it will take time to be fully compliant with the landing obligation, given the problems and challenges we face.

Lord Cameron of Dillington: Have you been working with the port authorities, because there seems to be lack of awareness of the urgency to some extent?

Michael Coyle: Yes. Early on, Defra had a project to work more specifically with port authorities. We have written guidance for the port authorities as well.

Allan Gibb: In Scotland, the complexity that existed was probably self-inflicted by phasing it over four years with a little bit of this fishery and a little bit of that fishery. There is an element of simplicity facing us on 1 January in that everything is covered. If it has a catch limit, you are supposed to land it. It does not get much easier than that. There are some exemptions—de minimis and high survivability—but, broadly speaking, my industry is fully aware of what is required and what to do going forward.

On the point about the ports, including some of the remote ones, the challenges are around how you dispose of small amounts of undersize fish if you do not have the facilities. Are you going to pay for a big lorry to take half a box of fish 500 miles? There are economic elements and associated disproportionate costs. Those challenges have yet to come to fruition because we will not know until we see them, but the complexity has pretty much disappeared.

I have now narrowed it down. Across a vast number of stocks the landing obligation can be complied with, if chosen to be, certainly for the pelagic stocks and a number of other stocks. We have identified key stocks where there are challenges and there are not enough fish in the system. Where we have not done that, our strategy will be to ensure that there is no targeting, so we do not want to go after those stocks. West of Scotland cod and whiting, on which we are still negotiating with the European Commission, are a prime example where the policy we are adopting is no targeting, but we want fishing to continue because it is a mixed fishery and we want fishermen to be able to catch haddock, monkfish and megrim at the same time. They will catch some cod, even though they are not looking for it, at the same time, and we want to facilitate that. We are narrowing it down to a smaller list of species where the challenges have yet to be resolved, but avoiding the targeting of them is our primary objective.

Viscount Ullswater: Allan, I would like to ask about Peterhead because it is a big reception point for trawlers. Has any infrastructure been provided at Peterhead for the storage and disposal of unwanted fish?

Allan Gibb: Yes.

Viscount Ullswater: I do not know quite how to describe them.

Allan Gibb: Unwanted catch is the best way. It is almost exclusively undersize fish, but unwanted if you have quota. As you know, Peterhead is the largest market in Europe. It had a record-breaking week of landings at the end of November. It is breaking all known records. It has just moved into a brand-new fish market funded by Scottish Government and European Maritime and Fisheries Fund money. There are areas in the market where unwanted catch is kept away from the fish being auctioned. It goes into bins because the rules say it cannot go into the food chain, which is probably proper because we do not want to create a market for small fish. The bins are taken away and I think the fish are reduced to fishmeal. The closest fishmeal plant is in Aberdeen, which is 30 miles from Peterhead.

The Chairman: Lord Cameron asked whether you were confident that the landing obligation can be fully implemented from 1 January. You have talked about some of the difficulties and challenges. Briefly, in a sentence or so, are you confident, or not confident, that it can be fully implemented?

Allan Gibb: To be frank, I am not fully confident.

Michael Coyle: Not fully complied with.

The Chairman: It will be implemented but not fully complied with.

Michael Coyle: We can endeavour to implement it, and get across the rules and change our enforcement practices, but it will not be fully compliant.

Q45 **The Duke of Montrose:** I declare my interest as a member of a freshwater fisheries trust in Scotland with salmon interests.

Are the requirements of the landing obligation entirely clear, or do any aspects require further clarity from the EU?

Julian Roberts: To enable compliance with the landing obligation, you have to unlock all the tools in the box. The Regulation allows for quota flexibilities and trading by-catch against target stock quota, for example. That is similar to the way it is managed in New Zealand. Where you cannot avoid catching something, to enable that by-catch to be landed you start counting it against the quota of another stock.

The Regulation is a blank sheet of paper when it comes to how you implement what is called interspecies flexibility. We have been working with Cefas, and with Defra colleagues, who have been working internationally to try to establish a level playing field for exactly how that works. For example, it can lay claim to a challenge to relative stability. You have to decide to what extent you can overfish a by-catch within sustainable limits and so on. We are working on flexibility and hoping to start rolling it out to help to enable compliance with the land-all policy.

The Duke of Montrose: My question is about the landing obligation but what evidence do you have of the monitoring of other countries' fishing boats in our areas? Is there compliance by any of them?

Allan Gibb: In Scotland, we inspect all vessels in our area. The analogy I use is that, if it is an offence to litter and a police officer is walking behind you, you probably will not drop your Mars bar wrapper on the ground. When you board vessels, they tend not to discard in front of you, so it is very difficult in that sense. Fishermen are probably the same whether they are Danish, French, Irish, English, Welsh or Scottish. They are hunters. We talk about an industry, but it is not; they are individual businesses and they are very competitive and secretive. My expectation is that fishermen will behave similarly regardless of nationality, and it is important to recognise that whatever is happening in the UK industry is almost certainly mirrored to some extent in the EU and worldwide, even in countries that claim to have a successful total discard ban in place.

The Chairman: We were told by other witnesses that there are some areas where there is lack of clarity from the EU. For example, catch composition rules for species with a zero TAC are part of existing regulations but make no sense in relation to the landing obligation. What do you think are the areas where we need greater clarity from the EU effectively to implement the landing obligation from 1 January?

Julian Roberts: There are a couple of areas. In relation to catch composition, it is true that the landing obligation turns the regulatory regime on its head, because prior to that regime, complying with the rules required fish to be discarded dead. There is a very thick rulebook of legislation saying, "If you don't meet these specific rules, chuck it over the side". That is the bit that has been turned on its head. Regardless of your catch composition, you now have to land the catch. All of that has been amended. I do not think it needs clarification from the Commission, but it takes a while to explain because the system has been in the regime for a long time.

Other areas do need clarification—for example, the suggestion to fish a by-catch against a Union pool. That could mean French, Irish and UK vessels, for example, fishing a by-catch of cod in the South-West Approaches. Is that going to cause a race to fish? Under that system, Member States are not allocated a by-catch quota; they simply fish directly from an open pool. At the December Council, we need to clarify that and potentially negotiate a different position.

Although it is a Member State competence to use the flexibilities, we need to establish a level playing field. That may involve agreeing with the Commission and Member States exactly how we apply flexibilities. It will be an ongoing process in 2019. No guillotine will come down on 1 January 2019. The regional groups will continue to work. We have already identified a couple of very small-scale fisheries that may be eligible for exemptions but are not catered for in the rules now, so that will require further scientific assessment, in order to go back to the Commission and potentially amend the discard regulations.

Allan Gibb: From my perspective, there is little left that the EU needs to clarify. After 1 January, the landing obligation is in. We need to recognise that there is a split. The EU has now clarified that, if you use some of the exemptions, such as high survivability and de minimis, it is not free fish; it will be taken off at the start, so it has been accounted for. People understand that now. As Julian mentioned, there is a role for managers to use some of the other things, such as interspecies flexibility, avoidance techniques and gear selectivity. In Scotland, we will work with our Discard Steering Group to do that.

The challenge I have is introducing things in Scotland when there is no equivalence. For example, a Scottish vessel is fishing alongside a Danish or French vessel and I tell my vessel, "You can't fish in this area; you must avoid it", because the fish are spawning at the time and it is good to avoid them. That vessel leaves the area because it does not want to target those fish, but the French or Danish vessel is still fishing there. That is a hard sell. The way I look at it is that, if it is demonstrably beneficial to the stock and Scottish industry, it is something we should consider, but equivalence is very difficult in that sense.

Zero TAC species are incompatible with the landing obligation. There are five species: Irish Sea, Celtic Sea and west of Scotland cod, and haddock and whiting. The regional group I attend, along with my UK colleague, is

meeting again tomorrow in Brussels to try to resolve those issues ahead of the December Council. They will have to be resolved ahead of the Council in some manner. My fear is that the resolution will be unnecessarily complex, and that may be the area of clarification that is most urgent before 1 January.

The Chairman: I was very interested in your comment about telling Scottish fishermen to keep out of a spawning area but then vessels from other EU countries come in. Is there no system under which you are allowed to tell vessels from other Member States to avoid a spawning area?

Allan Gibb: No. We can work with the European Union and collectively try to agree. That takes a bit of time. Sometimes we do not get agreement; their need is different from ours and they do not see a need to do it. The rules I introduce in Scotland will apply only to a Scottish registered and licensed vessel. My English colleagues, helpfully, nearly always reciprocate on their licences and vice versa, so UK vessels all behave as expected, but it is a frustration.

Q46 **Viscount Hanworth:** To what extent do you believe that you will be able to monitor compliance with the landing obligation? We have been told there will be difficulty in applying Remote Electronic Monitoring to vessels under 10 metres, and that 80% of the fleet—a number of vessels—is under 10 metres, although they account, so we are told, for only about 12% of the catch. What is the extent of compliance? What is the difficulty of monitoring?

Michael Coyle: There are additional checks and balances we can put in place, especially in 2019 when the obligation starts to affect the under 10-metre fleet to a greater extent. Those checks and balances include focusing on ensuring that the data is captured and any landings and discards are reported. They would include ensuring adherence to any technical requirements to change gear. We could change our inspection procedures. At the moment, when we undertake inspections at sea we do not have a last-haul analysis. We can start to introduce that; we could witness fishermen bringing up their nets to see what policies and procedures they have in place to deal with discards. Ultimately, there are checks and balances we can provide, but unless you witness the act and have some kind of on-board monitoring it is going to be very difficult, as Allan said earlier.

Viscount Hanworth: The issue is the difficulty of applying on-board monitoring to small vessels. Perhaps you could address that. Could you also tell us whether you consider your resources adequate to the task?

Julian Roberts: There are a large number of vessels in the inshore fleet, but a significant proportion fish for shellfish, which is a very low-risk fishery. The landing obligation does not really apply to them because they are not catching quota species. Where they are catching quota species, they are fishing in gillnet fisheries, for example, which are selective fisheries with low discard rates.²

It is practically possible to monitor small vessels. We have run trials with electronic monitoring on two under 10-metre boats in the north-west, because there may be merit in deploying that kind of technology where we want to gather better data, but the risk profile for compliance with the landing obligation shifts towards larger towed-gear vessels and the large towed-gear fisheries, the large-scale pelagic and demersal fisheries. Not only do those boats catch a large proportion of the quota, but towed-gear fisheries tend to be less selective than static-gear fisheries, so the discard rates tend to be higher. We work with the European Fisheries Control Agency on that. You can look at the risk profile and see which fleets are catching the most vulnerable stocks in a way that historically has led to high discard rates. Those are the kinds of fleets we would look to focus on first with electronic monitoring.

The Chairman: Is there anything from the Scottish perspective?

Allan Gibb: Our industries are very different in structure and make-up, but, to answer the question directly, we do not think it is proportionate or reasonable to put cameras on very small vessels. We do not think it is practical. As Julian says, in a risk-based approach, why would you? Lots of vessels are contributing relatively little impact on the overall catch of demersal species, and far less in Scotland because of the type of fisheries we have.

There should be some monitoring, possibly a reference fleet, so that you do not ignore them. In Scotland, we have already committed to the use of cameras on pelagic fisheries and high-risk vessels, or fleet segments as they are identified on a risk basis, but for us the overriding factor is that we will do that when the management system is in place and we can deliver equivalence, so that vessels fishing alongside each other are all treated the same. On the direct question about the small under-10s, I do not think it is either a realistic or a proportionate response.

Lord Cameron of Dillington: Are you both saying that you will be putting remote cameras on all over 10-metre vessels?

Allan Gibb: To clarify my position, we have stated that it would be our intention, if equivalence can be delivered, to put cameras on all our pelagic vessels and, therefore, identify high-risk vessels in towed-gear fleets, the trawlers. The high-risk ones require cameras. Without prejudging any of my future fisheries work, where we are about to have a national discussion, I imagine that we might want some reference fleets as well where you can sense-check the activities of the broader fleet.

Lord Cameron of Dillington: What percentage of your over 10-metre fleet will have remote electronic monitoring?

Allan Gibb: At this point, I am unclear; I do not know how many of them will fall into what we would class as high risk in that sense.

² The witness subsequently clarified that the inshore fleet also fish with other methods, such as trawls, which may be less selective and catch a wide mix of species

Julian Roberts: We have looked at that. As Allan says, there is an issue about having a level playing field. There are strong economic drivers to discard in some fisheries if you can land just the high-value catch and do not have to land smaller fish, even though you may have plenty of quota. There is a big economic driver to high-grade catch.

The prohibition on high grading, which is responsible for a large proportion of discards, has been in force for 15 years or so. It has always been the same issue: how do you monitor compliance? You can evaluate the data for what you might think is a level of compliance or otherwise, but you cannot prove it. For that reason, we are keen to make sure that, if we introduce camera monitoring on UK vessels, it is only right that a level playing field is established with foreign vessels.

On that basis, we have been working with the European Fisheries Control Agency and other Member States to establish best practice guidelines for electronic monitoring. We have been making joint recommendations—for example, on the implementation of electronic monitoring of pelagic vessels. We were expecting that to be in place by now, but the problem is that monitoring the landing obligation is a Member State competence, so you have to establish agreement.

Lord Cameron of Dillington: But the only sure-fire way of ensuring that the obligation is adhered to is to have remote cameras. It sounds to me as though you will not be enforcing that very strongly.

Julian Roberts: We will be working towards it. The other important point is that, if you put cameras on a fleet where there is a category 3 choke risk and operation of the other flexibilities has not been resolved, you might shift compliance with the landing obligation to a problem with compliance with the need to keep the systems operational. We are working with the industry and scientists to look at how we can unlock some of those flexibilities and then, even on a unilateral basis, say that, if we use flexibility, we have to use it wisely and sustainably. Voluntary adoption of cameras will help with that, because we must have accountability in place in order to use those flexibilities. That is why in the North Sea we have only allowed the English quota uplift for cod to be given to vessels that have cameras on board.

Baroness Sheehan: We heard last week in evidence about the usefulness of preventing unwanted catch, which seems to be a reasonable way to overcome some of the difficulties. Mr Gibb, you talked about avoidance techniques. In written evidence, mention was made of the European Space Agency, together with an international consortium, developing a new fishing vessel electronic monitoring system. That development has recently been cancelled by the UK Space Agency as it did not see a use or market for technology in fisheries. Am I right in thinking that that would provide us with information in real time about where fishing vessels are, and we could use it to direct them away from areas where we do not want them to fish?

The Chairman: Could you keep the answers brief? Would it help, or not?

Allan Gibb: I do not know the details of that, but we already know where all the over 12-metre vessels are. They already have satellite monitoring on board. We can narrow that down to whatever frequency we want in terms of positions. We can use the information to direct them away. If a fisherman reports in real time that they have caught something that they know nobody else wants, or that will be a problem, we can tell everybody to avoid the area. There are a number of measures. I could not agree more that the challenges of the landing obligation begin once you have caught fish that you either do not have quota for or do not want, so let us try not to catch them in the first place and reduce the challenges. That will be a focus in Scotland.

Michael Coyle: The over-12s have a vessel monitoring system in place, and we are planning to introduce inshore vessel monitoring systems for the smaller vessels, so we will extend our coverage significantly.

Allan Gibb: As we are in Scotland.

The Chairman: Viscount Hanworth asked you about a point to which I did not hear an answer. In monitoring compliance, to what extent are you limited by the resources you have? Do you need more resources?

Michael Coyle: In England, we will have an expansion in monitoring resources.

The Chairman: Will it be enough?

Michael Coyle: It will be a significant increase, so that we can expand our checks and balances at the quayside and carry out at-sea monitoring, but we are still limited by the constraints of sea monitoring. As Allan pointed out, you can inspect a vessel, but it is likely to comply when you are there. The resources we are going to put in place and expand will not cover the requirement for on-board cameras for high-risk fisheries.

Allan Gibb: My compliance colleagues would shoot me if I said we had enough resource. They always want more, but, if there is equivalence and the management system in place can work, fishermen can live by it and not be made to act illegally unintentionally. Remote monitoring technology means you do not need people there, so you can do it in that sense. People tend to forget that you can have as many enforcement ships as you like, but you can only be aboard one fishing vessel at a time, and there are lots of them out there. You spend three or four hours aboard a vessel, and the fishermen will not do anything wrong when you are there, but then you go away. It is a massive financial commitment. I think the technology can be used in better ways for general enforcement.

The Duke of Montrose: Are you providing electronic monitoring to fishing vessels? Do they have to provide their own? Who puts the camera on a fishing vessel?

Julian Roberts: At the moment it is done on a voluntary basis.

The Duke of Montrose: By the fisherman.

Julian Roberts: In England, the MMO or the Government have paid for the systems, so at the moment under the voluntary schemes there is no cost to the industry.

Q47 **Lord Selkirk of Douglas:** In your approach to enforcement of the landing obligation in 2019, to what extent do you intend to consider the economic impact on the fishing industry and/or the need to prevent over-fishing and illegal fishing?

Allan Gibb: That will be the overriding issue we concern ourselves with. Co-management groups, fisheries management and conservation groups and the Scottish Discard Steering Group will work together on that. Earlier, I said that our objective is that problem species are not targeted, but we will still allow fishing for others to continue. That is the economic element. We have genuine, plentiful opportunities in some fisheries that will deliver an economic return, and fishermen should be allowed to get that, while protecting the sustainability of more vulnerable stocks. By working together and using avoidance, gear selectivity and real-time information, we will try to do that, but it has to be a key element of both our management and enforcement considerations.

The Chairman: Your priority is sustainability of fish stocks. Is that what you are saying?

Allan Gibb: Absolutely.

Michael Coyle: For us, it is very similar. As a regulator, you always have to consider the socioeconomic impact and you have to be proportionate and balanced. We want to facilitate compliance. When we come across issues, whether it is a choke issue or unintended by-catch, we try to work with fishermen and the industry to see what can be done and what mitigations there are. We have been talking quite a lot to the NFFO, Producer Organisations and others about the steps we can take. In our decision-making we will be proportionate and we will talk to industry. It will be a partnership with industry to manage the whole process.

Viscount Hanworth: Is there a two-way flow of information? Do you intend to provide information to fishers in real time to assist their operations? At the moment, you tell them to stay away from things, but will you also encourage them to fish more effectively and rationally, or are you backing off from that kind of engagement?

Allan Gibb: In Scotland, we have one organisation that is very keen to do that. The challenge is that traditionally and historically fishermen are quite secretive; they do not want to tell people where they are and what they catch, but I think that in these technological days that needs to change.

Personally, I am very supportive of the real-time notification that is made available and is transparent to the wider industry. People can avoid an area if need be, even for a couple of weeks; or if they go somewhere and catch a lot of fish that everybody is struggling with, everybody knows, so, as well as that boat moving away, nobody else goes there without having

to regulate for it. It will be a voluntary exchange of information. If we do not have to regulate but we can communicate and work collectively with industry, that is a far better response. The short answer to your question is, yes, we intend to promote that.

- Q48 Lord Cameron of Dillington:** The biggest problem is with the choke species, and probably one of the best solutions can be found in the quota management system. Do you think the quota management system needs to be changed after 1 January, particularly the way under 10-metre quotas are dealt with, and international swaps? Can we look at that and see how it can work properly?

Julian Roberts: A lot of work has been done to date with the Producer Organisations and the inshore fleet. We already have inshore quota advisory group meetings. In the phasing-in of the landing obligation, you have the benefit of quota uplift for some stocks, which takes account of fish that were previously discarded. Government policy has been to reallocate for some of those stocks; 100 tonnes to the non-sector and inshore fleet, plus 10% of quota uplift.

That quota rebalancing exercise helps to mitigate choke problems for the inshore fleet, but, as it becomes more challenging for 2019, we are working with the Producer Organisations to make sure that choke stocks do not get swapped out, because ultimately a PO can do what it wants. We may even be in the position of having to prevent a swap if it increases the risk of choke.

The system needs to be more dynamic. We already have close engagement, but particularly for the inshore fleet we will need much more continuous dialogue with the industry when it starts to notice, for example, increases of cod in the grounds. It is a two-way flow of information. If we can keep information coming, we can adapt.

Lord Cameron of Dillington: Would you favour the under 10 metres having a Producer Organisation within which they can swap quota? At the moment, they are slightly stymied, first, by the monthly quota and, secondly, by the fact that it is difficult for them.

Michael Coyle: The key issue is that the Coastal Producer Organisation does not represent all the under-10 fishermen. There are about 300 members and 2,500 under-10 fishing vessels. We are not at a stage at the moment where they could manage the whole of the non-sector quota, but they could manage their own quota holdings. We are working very closely with people from the Coastal Producer Organisation to see what we can do to help them embed their Producer Organisation and get them to a status where they can take more control.

The Chairman: Baroness Sheehan, I think quite a bit of your point has been covered.

- Q49 Baroness Sheehan:** On the issue of phased introduction, we have heard from some fishermen that they feel frustrated that their knowledge of what is in the oceans is better than in some of the rules they are asked to

adhere to, which are based on outdated data. Is there a case for collecting data and putting in REM, not from the point of view of sanctioning people but for collecting data so that you get better information and better allocations?

Julian Roberts: Data is already collected by Cefas and Marine Scotland scientists at sea. That is minimum coverage of the fleet activities. You are right: the ability to use electronic monitoring that gives you complete coverage over a long timeframe has advantages. We are working with Cefas at the moment to make sure that electronic monitoring can be used for scientific purposes.

Baroness Sheehan: We have had some written evidence that sometimes the Cefas collection of data is distorted.

Julian Roberts: The observer effect in some fisheries can be a problem. Fishermen can decide whether or not to take out observers. If they do not have quota at a given point in time, they might be reluctant to do that, so that is a risk. The fact that data is collected over a fishery collectively by the whole group of Member States that have an involvement in it at least helps to even that out to some extent, but you are right. After all, electronic monitoring is simply a replacement for a human observer, and greater coverage can improve the data. That is one of our priorities from a policy perspective.

Baroness Sheehan: Fishermen depend on the seas and oceans for their livelihood. The last thing they want to do is destroy it.

Julian Roberts: Yes.

Baroness Sheehan: If they could trust the data, there would be better compliance.

Julian Roberts: That is exactly what we have been doing over the last few years. We have been putting cameras on boats to allow the industry to demonstrate what is actually going on. For example, we have seen that the degree of haddock discard rates over the years is higher than it may be at European level because the UK has only 10% of the quota. We have had beam trawler skippers diligently recording their discards, which are verifiable with cameras, over the last three or four years.

Allan Gibb: We hear that very point: "We don't trust the data; it's not up to date". The obvious answer is that, if you can have increased data and it comes from cameras, brilliant. We have systems in place. We need to be careful about cameras because you cannot not see something once you have seen it. The camera might be there for a scientific purpose, but if you see something else you cannot pretend you have not seen it, so there is an issue about the parameters of its use.

The ability to react to changes in the marine environment is probably more important at the minute. Our structure is that we negotiate annually, and it might be a couple of years before we change something. Fishermen may report to us a change in the dynamic, with more fish or

less fish, and we need to be able to change and be reactive in real time. That would be a bigger win.

Lots more science and lots more observers do not mean there will be lots more fish; it could mean that there needs to be less fish because we have more information. It does not always mean there will be more. There is a perception that, if you have more science, it means more fish. Fish TACs go up and down. By its very nature, there is significant uncertainty in fishery science. Fish are under the water. If you are in charge of trees, you go to the forest and count them. You cannot do that with fish, so there will always be some uncertainty.

The Chairman: We are nearly out of time, but I have one final question on which we have heard some uncertainty from other witnesses. After 1 January, what will happen to fish that are landed over quota and are fit for human consumption?

Allan Gibb: If the fish landed are below what is called Minimum Conservation Reference Size, they cannot go into the food chain and they will be sent for fishmeal. If they are over quota and above the Minimum Conservation Reference Size, they can go into the food chain. There is nothing stopping that, as long as they are counted against quota. That is the black and white situation.

The Chairman: Michael, what is going to happen in England?

Michael Coyle: The same applies in England. I believe some witnesses suggested that the MMO was ready to charge. That is not the case. There is a policy discussion to be had in future about an incentive charge, but that is certainly not the case from January.

The Chairman: Fishermen will be able to sell over-quota fish that are fit for human consumption and will not be fined or charged for doing so.

Michael Coyle: Yes.

Allan Gibb: As long as it is counted against quota.

Julian Roberts: It can be sold. It does not mean that somebody might not exceed catch limits to an extent that warranted further action.

The Chairman: Thank you for very fully answering our questions. As I explained at the beginning, a draft transcript will be sent to you for you to review and make any small corrections. If there are any points that you did not have a chance to elaborate on during the session, you are very welcome to write in. With that, I draw the session to a close and thank you very much indeed for your help.