



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

11.05 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. 6

Heard in Public

Questions 50 - 63

Witnesses

[I](#): George Eustice MP, Member of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs; Nigel Gooding, Deputy Director for EU fisheries policy and negotiations, Department for Environment, Food and Rural Affairs.

Examination of witnesses

George Eustice and Nigel Gooding.

Q50 The Chairman: I welcome the Minister and Nigel Gooding, deputy director for EU fisheries policy in Defra. I know you have a very busy morning and have just come from a debate in Westminster Hall on fisheries. We are continuing with a fisheries theme as part of our inquiry on the implementation and enforcement of the EU landing obligation, with particular focus on the changes that will come in on 1 January. We very much appreciate, Minister, your giving us your precious time to help us with the inquiry.

For the record, this session is being broadcast and webcast live, and will subsequently be made available on the parliamentary website. A transcript will be made available, and there will be an opportunity for the witnesses to review it before it is finally published. Without further ado, I invite you to say briefly who you are.

George Eustice: I am George Eustice, the Minister of Agriculture, Fisheries and Food, and to my left is Nigel Gooding, our lead official and head of fisheries in Defra.

Q51 The Chairman: Thank you very much. I shall kick off with a very general question. Do you believe that the UK is ready fully to implement the landing obligation from January 2019?

George Eustice: The truth is that we have major challenges for 2019. The extent to which we can be ready will largely depend on what we are able to agree with the European Commission at the December Council next week.

To give you some context, a number of problems have emerged with the landing obligation over a period of years. The first is that the interspecies flexibility option that was always envisaged to be quite important to help make the landing obligation work has in practice not been particularly useful, because it can be used only when stocks are within safe biological limits. The paradox is that, when you most need that flexibility, you are least able to use it.

The other problem is that we have been slightly frustrated by the speed of progress of the working groups, although they have made some progress. Not every other Member State has been as committed to doing this as we have, so progress has not been as quick as we would like. There are certain things such as Remote Electronic Monitoring and cameras on boats that we have advocated as an important part of helping to enforce the discard ban, as well as giving data to inform discard uplifts, but they have been strongly resisted by some Member States.

Finally, because the discard uplift linked to the landing obligation has followed relative stability lines, it has meant that there has been almost an additional fishing opportunity for some parts of the EU fleet, while not necessarily addressing the choke species that other parts have problems

with, such as the UK, where we famously get a very bad deal under relative stability.

Recognising all that, in summer this year, in June, I went to Brussels and had a meeting with Commissioner Vella. We outlined there that, in our view, in addition to what the working groups had achieved—they had made some progress on survivability exemptions and other things—where there were still problems with choke species, they needed to be addressed through the TACs and quota regulations at the December Council.

We outlined a number of ideas, some of which are in our own domestic legislation for the future, including the idea of a national reserve and a super-levy for out-of-quota fish that are landed. Our officials discussed that with the Commission over a number of months, and the Commission is now proposing what it calls a Union pool, a topsliced pool of quota that could support a by-catch provision on species where we have a choke risk. If we can get something sensible in that space, we can make things work, but I suspect that we will probably have to review the progress of that at some point in 2019.

Q52 Viscount Ullswater: I would like to deal with the process from 2015 to 2019. From all the evidence we have heard, it seems that 1 January 2019 will come as a bit of a shock. How effectively do you believe that the UK has implemented the landing obligation to date? What challenges, if any, have arisen, and how have they been overcome? The implementation period has been quite long, and suddenly it sounds as though it has to accelerate at a huge rate to be in force by 1 January.

George Eustice: A period was set to get all species under a landing obligation; it was about getting the landing obligation wherever you could and as early as you could, but everywhere by 2019. For entirely understandable and legitimate reasons, people took the view, and the EU took the view, that where you could do it, you should do it early, and where there were challenges you needed more time to work through them. In some ways, it was always inevitable that the most challenging choke species problems would face us in the final year.

In year one, in 2015 in the North Sea, we had mackerel, herring, horse mackerel, blue whiting, boarfish, sprats, swordfish and bigeye tuna; all sorts of species were added because they could be added. The following year, we added haddock, hake, nephrops, northern prawn, plaice, saithe and sole. Once we got to 2017, it started to get harder, and we added cod and whiting. We are now at the final species, which are quite problematic. Coming up with some kind of Union pool for the EU that effectively underwrites a by-catch provision on those species is probably the only way to make a reality of the landing obligation.

The alternative is to do something closer to Norway, which would be effectively to resign yourself to the fact that some species will always be very problematic, and place them on what the EU would call the prohibited list. That is where you are not allowed to land them and not

supposed to catch them, and you definitely cannot target them, but if you inadvertently catch them it still allows some discarding. For understandable reasons, because the Commission does not want that kind of 'get out of jail' card on species that could be vulnerable, we have tried to work up the alternative of a mechanism to give a by-catch provision on difficult stocks.

The Chairman: May I ask for some slight clarification? Some witnesses have told us that there has not really been a strong effort to implement the landing obligation to date. Do you think that is fair, or do you have a different view?

George Eustice: I think that is unfair. Where we have been able to do so, we have been adding all the species as quickly as we can. I was critical earlier of the pace of things in the regional groups; it has been quite frustrating trying to get consensus with lots of other countries, some of which are not as enthusiastic about these things as we are. Nevertheless, the regional groups have made some progress. In particular, they have identified survivability exemptions on skates and rays, plaice and other flatfish, as well as some shellfish. They have been able to identify ways of getting more species on to the discard list as a result.

Q53 **Viscount Hanworth:** You implied that the issue of chokes was somewhat imponderable, but what analysis have you made of the prevalence of the choke problem in 2019 in consequence of the landing obligation? Indeed, in practice, what percentage of the fleet do you expect to be tied up before the end of the year?

George Eustice: The issues that cause us greatest concern are the ones where we have zero TAC, because by definition a zero TAC is incompatible with a discard ban. You are not allowed to land any fish, but you are not allowed to throw it back either, so as a fisherman there is a catch 22, and the only alternative is to tie up. The ones that will cause us the greatest issues are cod in the Celtic Sea around the coast of Devon and Cornwall, where a zero TAC for cod is proposed this year. That is in a mixed fishery, where haddock and whiting are targeted as well. We will also have a problem in the Irish Sea, with Irish Sea whiting, because whiting is a by-catch from the nephrops fishery for Northern Ireland. It is an incredibly important part of the value of the Northern Ireland catch. We will probably have a problem as well with west of Scotland cod and whiting as potential choke species.

Viscount Hanworth: Would it help if TACs were revised more readily and more rapidly, in consequence of what is being discovered in the sea?

George Eustice: They are reviewed every year; we have new ICES advice on those for which we have full stock assessments annually. The stock assessment for cod in the Celtic Sea, for instance, is for a zero TAC this year. It has been a problematic fishery for a very long time, because three species—haddock, whiting and cod—are in a mixed fishery and

targeted together. It is incredibly difficult to get gear types that are so selective that they catch only haddock and not cod.

Our inability to square the circle on that difficult conundrum is arguably what has put additional pressure on cod and led it to its current state. Equally, others would say that in the seas off Cornwall cod is probably at its most southerly range anyway; it tends to move further north, and Cornwall is getting bluefin tuna coming in, and other such things, with climate change.

Viscount Hanworth: So the annual review is immutable; we cannot do it more regularly or rapidly.

George Eustice: There are some species from what we call data-limited stocks, where we are unable to get adequate data, typically on assessing the age or size of fish. On those data-limited stocks, we can have a proxy approach to estimating what the catch should be. The ones of relevance to us are all those where we have full stock assessment and can assess MSY, and the position on all those is not great. They are caught as by-catch for other species that have been targeted.

Q54 **Lord Selkirk of Douglas:** If a transition period is agreed, what opportunity will the United Kingdom have to influence the quotas set for 2020? What opportunity will the United Kingdom have to influence exemptions to the landing obligation during the transition period? My understanding is that undersize fish sometimes go into fishmeal. What is the general practice, and what is our policy on that subject?

George Eustice: On your first point, if as part of the Withdrawal Agreement there is an implementation period, it means that, in the December Council for 2019, the UK will not be politically represented. We will not sit around the big room in the Council of Ministers. Where we will exercise influence is through what you might call the soft power of our scientific expertise.

I cannot exaggerate enough the strength of Cefas, our sea fisheries science agency, renowned as probably the best in the world. It is the only one in an EU state that has the wherewithal to pick up errors that the European Commission makes in its calculations, or identify where it has got something wrong. Indeed, our officials from Cefas came with me to meet Commissioner Vella and subsequently took forward the working proposals. Even in the transition period, we would still be able to have an influence in that way, through the strength of our technical expertise. What we would not be able to do is to try to vote down the deal in some haggling match, at December Council.

Obviously, there is an undertaking that relative stability will stay for the implementation period, so things will not get better, but there is a commitment that they will not get worse. It is a moot point as to how influential it is to be able to threaten that you might end up being in a minority with a qualified majority vote against you. We have influence at the December Council, but most of our influence, if I am honest, is in

what we deploy and the science we deploy in the run-up to shaping the Commission's proposal.

The Chairman: Although there was a question about fishmeal, I suggest that in the interests of time we move on to the Duke of Montrose.

Q55 **The Duke of Montrose:** At the next Fisheries Council, do you expect there to be pressure to set TACs at a level higher than recommended by scientific advice, and to allow additional exemptions to the landing obligation to reduce the choke risk that the landing obligation poses to fisheries?

George Eustice: The short answer is probably yes. If I am honest, there is always pressure from some Member States, although not from the UK, to deviate from the science for what they would call socioeconomic reasons, and that their fishing industry cannot accept a cut of a certain level. The UK's view has always been that, if you really want to protect the socioeconomic position of your coastal communities, you will look after fish stocks and show restraint when you need to, so that there are fishing opportunities tomorrow.

The arguments that we always deploy are scientific ones around how you should manage mixed fisheries and use MSY ranges to try to square the circle when you have difficult conundrums such as that in the Celtic Sea mixed fishery, in the West Country; where there are gaps in the science or problems in the science, we can highlight or flag them. Other Member States often put on pressure to set quotas at a level that is towards the higher end of the MSY range.

There will be something more legitimate this time, because the risk of choke, as a consequence of which major parts of the fleet could be tied up and would not be able to access other fishing opportunities, is genuinely a very difficult problem. If the only answer is to make a more generous by-catch provision on those stocks, or even consider in some cases adding them to the prohibited list, we would have to consider it, to make the obligation work.

The Duke of Montrose: I understand that during the run-up period a phased approach was taken, which has now been abolished under the new regulation coming in. Do you see no room for a bit of targeting?

George Eustice: The Basic Regulation is what it is. The last CFP reform set the timescales we have. The process for changing a Basic Regulation through the EU is not an easy one; it is not like a simple delegated Act, whereby it could simply change that legal requirement. Where we are at, it is very difficult to change the Basic Regulation; we have to use all the tools available to us to try to make it work in practice.

Q56 **Lord Cameron of Dillington:** One way to deal with the whole choke problem is to have greater flexibility in the quota allocation system, with swapping and so on. First, will we be able to swap quota with other Member States during the transition period? Secondly, do you envisage changing the quota-swapping system, particularly for the under 10-metre

boats, which currently do not have a Producer Organisation within which they could swap? Is there any way we could make it more flexible?

George Eustice: The short answer is, yes, during an implementation period those swaps could take place. Probably too much reliance has been placed on that. I made the point about the problem that the discard uplift followed relative stability lines rather than being targeted at the parts of the fleet that needed it because they had a discard problem. That has been an issue, because it means that in some ways the discard uplift has given extra fishing opportunities to those who did not have much of a discard problem, but it has still not solved the issue for those with very low shares of quota, such as parts of our fleet.

The thought at the time was that lots of trading would be going on and, if there was scarcity of cod quota, the price would go up, so fishermen would be disincentivised to catch it, and there would be international swaps that could oil the wheels and make sure quota was moved to where you needed it. In practice, because the market in quota, internationally and nationally, is far from perfect—a few players exercise a lot of control over it—that kind of movement of quota has probably not happened as well as we would have liked.

The under-10 pool is a separate issue. We have already top-sliced some of the discard uplift to give an extra bonus of quota to the under-10 pool. We have been clear that, as we depart from relative stability over time, we will probably want to use some of that additional fishing opportunity to top up the under-10 pool to give them greater opportunities.

Nigel Gooding: We have worked very closely with Producer Organisations over the past year to encourage swapping—for example, where quota in one part of the UK is needed in another part of the UK. We have been encouraging a spirit of co-operation within Producer Organisations to increase the movement and liquidity of fish around the UK. That has been accepted very well. They are joined together by a code of conduct and a memorandum of understanding to try to develop that for the future, particularly to address some of the choke risks in 2019.

Q57 **The Chairman:** Turning to enforcement, what plans do you have to increase monitoring at sea, ahead of the landing obligation coming fully into force in January? Does the MMO and its equivalent in the devolved administrations have sufficient resource to monitor compliance effectively?

George Eustice: On enforcement, it does already. We have a network of MMO offices around all the ports. There are cameras on some vessels, but it is not a statutory requirement, so, to manage it at the moment, in the absence of cameras, MMO officers largely look at landing data from individual vessels. Because they know where those vessels have been fishing, they do a comparative analysis of a range of vessels; if one of them looks widely out of kilter, because something funny has been going on, it gives them the intelligence-based ability to pick up a problem. At the moment, my conclusion would be that they are largely enforcing it by

looking at catch and landings data, but they exist, and they are there to do those things.

In the context of leaving the EU, we have been looking at enforcement over the last 18 months. We have taken the decision to delay the decommissioning of the three current fisheries patrol vessels. In addition, four new ones are about to come on stream, the first being in service probably early in the new year. We have done some joint working with the UK Border Force and retrained its staff, and it has four vessels capable of doing fisheries protection work. Taken together, whereas normally we would have had two vessels to draw on, should they be needed for fisheries protection, we will shortly be able to draw on 10 fisheries patrol vessels.

The Chairman: Does it follow from what you have said that you think that the MMO and its equivalent organisations in the devolveds have sufficient resource?

George Eustice: Yes, we are making available more resource in our preparation for leaving the European Union.

The Duke of Montrose: We understand from previous witnesses that the Government have provided cameras for those who volunteered for monitoring. Do the Government see themselves providing more cameras?

George Eustice: The short answer is yes. The Fisheries Bill in Committee in the Commons at the moment makes provision for us to do a number of things, including making it a requirement of a vessel licence, whether a British or a foreign vessel, to have certain equipment. It could require cameras on vessels as the price of access to our waters. It also has powers to introduce technical conservation measures. The powers in the new Bill will enable us to require cameras on vessels, should that be the decision of the Government at the time.

The Duke of Montrose: But the Government will not necessarily provide them.

George Eustice: Not necessarily, but we might. There is provision to make grant aid available. It would be quite possible to say that we require cameras but that we would help fishermen to purchase them.

Baroness Sheehan: We have heard from a number of witnesses that, before we get to the issue of enforcement, it would be better to put in place processes to avoid catching choke species. That obviously needs to be done at government level. Is it something you have given much thought to?

George Eustice: Yes, and we try where we can to do it in agreement with the fishing industry, because it is a complex area. A large part of the EMFF funding that we have now, and, I suspect, grant funding in future, is geared towards investment in more selective gear types, better net technology that enables you to avoid certain species and certainly juvenile catch. We have powers in the new Bill to introduce technical

conservation measures, which would mean that we could ban or change gear types if we felt it necessary. We need to be able to do those things expeditiously, as we identify a problem, although sometimes it is complicated.

A few years ago, we had identified a way of avoiding juvenile haddock in the Celtic Sea fishery; it was a very effective way of allowing juvenile haddock to escape. The problem was that the fishermen were targeting squid and, unfortunately, it also let the squid escape. Squid is a non-quota species, but it is what they were targeting. Because squid is such an important part of the fishery, it was deemed too difficult to make the change. We get challenges, but we try wherever we can to work with fishermen to get the right types of solutions.

Baroness Sheehan: Equipment is one aspect; another is positioning, and getting information to fishermen about where it is best not to fish at a particular time, which would require co-ordination at a higher level.

George Eustice: Yes, obviously not in real time, but we are able to have closures. We do that now, and we will certainly be able to do so under the powers in the Bill. We could close areas to fishing to protect nursery grounds for young, juvenile fish. We already have a network of Marine Conservation Zones and can introduce by-laws to restrict certain types of fishing, or to prevent fishing altogether if there is a risk of damage to seabed habitats and features. We have a range of powers that we can put in place now to restrict where fishermen can catch. We have just introduced a requirement that takes effect next year for all vessels, including the inshore ones, to have vessel monitoring systems so that we can monitor exactly where they are fishing.

Q58 The Duke of Montrose: How many instances of non-compliance have been detected in UK waters since the landing obligation came into force, and how many of them were UK vessels?

George Eustice: I saw that figure when I read my briefing, but I shall have to ask Nigel to dig it out. I think the answer is a relatively small number; from memory, it was in single figures. I think it was eight.

Nigel Gooding: I cannot find it in the brief. A small number of vessels had infringed the Remote Electronic Monitoring guidance and had quota deductions as a result. A very small number were given verbal warnings for failing to comply with the landing obligation. That is the information I can remember off the top of my head. The number is very small, but what the enforcement authorities do is about encouraging compliance. That is where the phased introduction of the landing obligation has been quite helpful in building knowledge of the rules that relate to it. With the enforcement officers on the ground, as the Minister said, we are working with the industry to encourage compliance. It is through encouraging compliance that we will get the best results.

The Chairman: Perhaps you could write with the details.

George Eustice: Nigel might even be able to find them as we continue the session, but we will write otherwise.

- Q59 **The Chairman:** Linked to that, an audit conducted by the European Commission in 2017 showed that the majority of UK vessels were not subject to adequate controls. That raises the question that whatever numbers are produced on breaches and non-compliances may in part reflect inadequate monitoring. A much bigger number may be hidden because you are not checking. What do you say to that?

George Eustice: My understanding of that Commission audit is that there were some positive things in it as well. It talked favourably about how we were working towards a culture of compliance, working with fishermen to get them involved. It identified that we had done quite a lot to find outlets for undersize fish, for which there was no market.

The issue was that it said that there were no controls effectively to enforce the landing obligation at sea. REM is the answer to that, but, unless we can require other vessels coming into our waters to have cameras, it is not right to demand that of our fishermen. We have a number of very good voluntary schemes that we have provided for, but we have argued through the regional groups that we should have cameras on all vessels. I am sure that the Commission would have made the same, equal complaint of the French fleet, but, unlike the French, the UK at least says that we think we should all have cameras. The French are saying no, they do not want to do that.

Nigel Gooding: I have the numbers, if you would like me to give them, or we can write to you. For England, eight verbal rebriefs were issued to masters for non-compliance with the landing obligation. In the North Sea REM trial, four vessels had quota deducted for non-compliance with those rules. In Scotland, one fixed penalty notice was issued for breach of the landing obligation in 2016. There were none in Wales and Northern Ireland, but to date Wales and Northern Ireland have not been fully impacted by the landing obligation because of the phasing-in arrangements.

- Q60 **Lord Rooker:** We have had quite a bit of evidence in this inquiry that people in the fishing industry are concerned that the landing obligation will result in increased fish mortality, that there will be quota uplifts and that there might or might not be some discarding. Do you agree, therefore, that without strict enforcement the landing obligation has the potential inadvertently to lead to overfishing and damage to UK fish stocks? If you agree, what do you think the view of the retailers will be?

George Eustice: That is a fair comment. As I said, our preference would be to have cameras on vessels; that is the easiest way to enforce it and it gives you useful data to help to inform the discard uplift. If you are not able to enforce it, there is a danger that you give an uplift in the quota but still get discarding. The uplift is treated as an extra fishing opportunity, rather than as a way to mitigate a risk. Yes, that is a danger. The solution, in my view, is to put cameras on vessels, which is

why, once we leave the EU, we would be able to put conditions on foreign vessels entering our waters, and we have taken the powers to be able to do that.

Lord Rooker: Leaving aside the transition, it is 12 December today—a day we will remember—and we are talking about 1 January. What is the view of the retailers, who pride themselves on following the law with regard to the food they sell to the public, if the consequence of lack of enforcement leads to overfishing and damage to fish stocks? How are they going to put that case to their customers when they are selling the fish? Have you talked to the retailers? What is their view?

George Eustice: Obviously, a number of retailers will stock wherever they can, and some do so exclusively at MSC-accredited fisheries, buying fish only from areas that are MSC accredited. The challenge that we are talking about is slightly different. There are very real challenges with choke species for which we have to find solutions. In my view, we are not at the point of saying that we have a completely unsustainable fishery. We have made good progress in getting more stocks to MSY; of the 45 quota stocks relevant to us, 31 or 32 of them are now at MSY. We have made progress on the landing obligation, but we have those final residual problems.

Q61 **Lord Rooker:** I have two questions on a separate issue. There will be a lot of landing of undersize fish not fit for human consumption; it is inevitable. What advice and guidance has been issued to the ports on preparing for checking and recording it and for its storage and disposal? It is a massive change for many of them.

George Eustice: There were worries about that around three years ago. There was concern that we would have huge problems with infrastructure to handle the landing obligation. We set up something called the onshore task force, which included all the ports and fishing industry interests, to work out how to handle it. At the time, they identified that there is quite a bit of processing capacity to handle those issues. There was the infrastructure to deal with it, although it would mean some lorry movements to get fish from ports to processors; for instance, you would probably need to drive some fish from Newlyn up to Interfish in Plymouth, which has surplus processing capacity.

Subsequently, as we rolled out the landing obligation in those areas, we found fewer problems with undersize and juvenile fish than we thought, because there have been improvements in selectivity. We have been able to have more survivability exemptions. Some stocks have not needed to go into processing and could be returned. In some cases, there was a ready market for bait for lobster pots, for instance, or for recreational angling. I think I am right in saying that the problem has not presented itself as quite the challenge that was anticipated as recently as three years ago.

Nigel Gooding: The Marine Management Organisation has regularly issued guidance to the industry on all those issues during the phasing-in

period. The last set of guidance was issued earlier this year, in preparation for 2019. As the Minister said, we had the task force, but we have also been trying to provide guidance to the industry to help it through, if there are any issues in future.

Lord Rooker: The latest guidance was dated 13 November, for something starting on 1 January. It is a bit late.

Nigel Gooding: There was guidance earlier in the year as well.

Lord Rooker: But we have heard fishermen say that they did not even know about it.

Nigel Gooding: We have been talking to fishermen throughout the year, through the advisory committees and UK fisheries organisations. We have worked with them on the preparation of the joint recommendation in the delegated Act for 2019. As a consequence of the development of that legislation, guidance has been issued. We have been very clear, and the industry knows about the measures coming into force. There is further guidance to issue as the developments at the December Council take place.

As the Minister said, we recognise that this is late, but that is not of our doing; we have been negotiating quite hard in Europe to try to get early decisions, but it has not been possible to do that, hence the lateness of some of the guidance. We had to wait until we received some of the Commission proposals and the delegated Act before we could issue the last set of guidance.

The Chairman: On 1 January, what will happen to fish that is landed over quota that is fit for human consumption? Some by-catch that is landed over quota will be fit for human consumption.

Nigel Gooding: There are two opportunities or flexibilities. One is the interspecies flexibility that the Minister mentioned earlier. We would seek to anticipate that, working with the industry to try, where appropriate, to reduce scope for over-quota fish landings. Banking and borrowing, which is borrowing from one year and banking it in another year, is another mechanism that could be used to reduce the risks of over quota. If over-quota fish is landed, it cannot be sold for human consumption and would have to be sold for fishmeal. That is my understanding.

The Chairman: That seems to contradict what we were just told by the MMO, which was that it could be sold for human consumption. Who is right?

Nigel Gooding: Maybe I need to clarify that, because the MMO obviously has the technical experts, and I am not a technical expert. I am a policy official.

George Eustice: We should probably clarify that, if we have given you mixed messages. My view is that you would have to have the quota to land it. There are lots of other flexibilities; there is survivability flexibility,

you can borrow and bank and, potentially, use interspecies flexibility. The upshot of it is that you have to have quota to cover what you are landing for sale for human consumption.

The Chairman: Perhaps we could ask you to write to clarify what we appear to have heard as contradictory evidence from you and the MMO.

Baroness Sheehan: If fish are landed and there is no market for them, who is responsible for the fish, if nobody wants to buy them? Some of the fishermen expressed concerns that they might be left with fish that they do not know what to do with.

George Eustice: As I said, we had the onshore task force to look at all of that and at the infrastructure, at where you could move unmarketable fish to the fishmeal industry, where it could be processed and used either as feed in aquaculture or for other purposes.

Q62 **Lord Cameron of Dillington:** In the Government's Fisheries Bill, you talk about the gradual elimination of discards of fish on a case-by-case basis, which seems slightly incompatible with the landing obligation. Can you confirm that UK fishers will be expected to land all catches from 1 January, as required by the landing obligation?

George Eustice: Yes. To explain why that is worded as it is, we pretty much, with one exception, brought across the wording, or something as close as possible to the wording, from the European Union's Basic Regulation, and put it there as a sustainability objective in Clause 1. We have been clear that, although there are lots of problems with the CFP and how it works in practice, the sustainability objectives—fishing in a way that is consistent with the science, targeting maximum sustainable yield and abiding by the discard ban and the landing obligation—are right as a point of principle, so we simply brought them across. That is why it is worded as it is.

Viscount Hanworth: Do you believe that the survival of the under 10-metre boats is threatened in the era of the landing obligation? That is an assertion we have heard in evidence.

George Eustice: I think probably not. Although it is quite a mixed fishery, many of them are able to target the species that they are after quite well. We outlined in our White Paper a possibility for the future of maybe moving to something more like an effort-based regime for the smaller inshore fleet, and to manage their landings towards a national quota pool, rather than giving a small vessel 20 kilos of cod for one month, which is a bit of a sledgehammer to crack a nut. We are keen to explore slightly less bureaucratic ways of managing fishing effort in the under-10s. I do not think that the landing obligation causes specific individual problems for them over and above those they say they already have, which is that they do not have enough quota.

Q63 **The Chairman:** Minister, I would like to reflect on the evidence that we have heard not just in this session but through a number of other sessions. I have been involved in many inquiries, and this is one where

we have heard absolutely contradictory evidence from different witnesses. The fishing industry, from which we heard very eloquent evidence, said that many fishers were completely unaware of the landing obligation and the requirements that will be introduced from 1 January. We have had written evidence that stated categorically that to date there has been no impact from the landing obligation because it has not been enforced, that high grading is widespread despite the ban, that the obligation is unenforceable because it requires detection at sea, and so on.

To draw it all together, it seems that many fishermen in mixed fisheries may, from 1 January, be forced to operate illegally, because they either do not know about the landing obligation or there is no way of getting around its requirements, or they may go out of business if the requirements are effectively enforced and choke species force them to tie up their boats in February, as we were told by some representatives of the fishing industry. We are trying to get a sense of what we should think is going to happen. What is your assessment?

George Eustice: That is why getting the right kind of solution on the TACs and quota regulations next week at the December Council is important. We could see that potential problem coming down the tracks, because of the lack of progress made by early summer by the regional groups, and that is why we went to meet the Commission and started to set out our thinking about how we could use the December Council to address the problem. If we can get a sensible proposal around a Union pool that does not follow relative stability lines in its allocation but is directed at the parts of the fleet that have the choke problem, and if we can have a by-catch provision for the choke species, it would give us a workable solution.

I am fairly certain that, whatever is agreed at the December Council, we will also have to have a point of review, which probably I would insist on having in the statement, and that these matters are reviewed in March or April so that we can see how it is working in practice. It might even be that the fallback position, if we had a really acute problem, would be to consider something more akin to placing some of the most problematic species on the prohibited list.

The Chairman: Some fishing industry representatives told us that boats could be tied up in February because of choke. Is that something you would envisage, and, if so, would steps be taken to prevent it happening?

George Eustice: Our expectation is that it would not present as early as February, but it is a very real problem, in that parts of the fleet could be choked and have to tie up half way through the year. If the fishing industry has a particular stock in a particular sector of the fleet that it thinks might be affected, I would certainly look into that. It is a very real problem—I am not taking away from that—but I anticipate it being a problem that presents itself in the middle of the year rather than as early as February.

The Chairman: We are now very close to the implementation of the new phase, and we have known about it since 2015, but there still seem to be a lot of uncertainties. You mentioned the December Council and uncertainties about fishermen who may have to tie up their boats. Would it be fair to say that we are underprepared?

George Eustice: As I made clear at the very outset, it is fair to say that we did not make as much progress through the regional working groups as quickly as we would have liked and hoped. We were pressing for earlier decisions, but trying to get a consensus with many other countries, some of which were less enthusiastic, has proved difficult. For the reasons I gave earlier, all the low-hanging fruit—the easy things to get on to a discard ban—were done early, so we are left at the end of the process with the most difficult and intractable of problems, and are relying on the December Council to come up with an answer to help us through those difficult problems.

The Chairman: Do other Member States see them as difficult problems, as we do?

George Eustice: Yes, they do, and they all have similar problems, although I am not sure that their problems are quite as acute. Relative stability means that parts of the UK fleet famously get a very unfair share of the quota, and there are notable problems in the south-west and the Celtic Sea on that front. It means that the issue of choke in the Celtic Sea, for instance, will present itself for our fishermen far sooner than for France or Ireland.

Lord Selkirk of Douglas: May I raise one issue? I do not know whether you will feel able to send a letter, because I am certainly ignorant on this. I have seen mounds of fishmeal and been told that it was from undersize fish, and that it went to feed farm animals. Are we quite sure that that process is satisfactory and working well, because I do not have a detailed picture?

George Eustice: I am not sure we can. In some cases, animal by-products, including from fish, can be used in some animal feeds, but I need to clarify that and get back to you. More typically, it tends to be used as feed for the aquaculture sector.

The Chairman: Thank you very much indeed. That draws the session to a close. We very much appreciate the evidence you have both given us, and we will no doubt feed it into the report that we draft shortly.

George Eustice: We will write to clarify the position about fish that are marketable or fit for human consumption.

The Chairman: That would be very helpful.