

Select Committee on the European Union

Energy and Environment Sub-Committee

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

Wednesday 8 May 2019

10.25 am

Watch the meeting

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

Evidence Session No. 7

Heard in Public

Questions 64 - 72

Witnesses

[I](#): Barrie Deas, Chief Executive Officer, National Federation of Fishermen's Organisations; Bertie Armstrong, Chief Executive Officer, Scottish Fishermen's Federation; Jim Pettipher, Chief Executive Officer, Coastal Producer Organisation; Jeremy Percy, Executive Director, New Under Ten Fishermen's Association; Pete Bromley, Harbour Master at Sutton Harbour and member of the British Ports Association's Fishing Ports Group.

Examination of witnesses

Barrie Deas, Bertie Armstrong, Jim Pettipher, Jeremy Percy and Pete Bromley.

Q64 The Chairman: Panel, I welcome you to this session on the landing obligation which is all about the 'discard ban', as we sometimes know it. This is a follow-up to a report we did last year that looked forward to the final implementation on 1 January this year. We are trying to look at what has happened since then, and what should happen.

I remind Members to declare their interests, if they have any, when they first speak. I remind everybody that this is a public session. It is being recorded and broadcast. We will also be taking a transcript and if anybody sees something that is not correct, please come back to us.

To start things off, I'll ask how it has been for everybody so far. Indeed, has anybody noticed that anything has changed? First of all, I will go around the table for quick reactions on what effect the landing obligation has had on their members and the industry. Jeremy Percy, can I ask you to start? We will then go around clockwise.

Jeremy Percy: Good morning. Thank you for the invitation. I am the director of the New Under Ten Fishermen's Association.

With all due respect, I think you answered your own question. From an under-10 perspective, very little has changed. Obviously, in this position my role is to reflect the comments of our members and others. So far, overwhelmingly, the comments have been: "What landing obligation?"

Bertie Armstrong: We have been engaged in trying to make the landing obligation work for a very considerable period, from when the Green Paper for reform of the CFP appeared way back in 2007 and 2008. We place front and centre not discarding but sustainability. We have long since learned that, if we do not have sustainability of stocks and buoyant stocks, we will not have an industry, so there is the greatest self-interest in making it sustainable.

To pick out discarding as one symptom was always going to be difficult, because it is a symptom. It got more press and less academic inspection than it should have. We are not noticing any devastation now, but we have modified our behaviour quite considerably in the fleets that matter.

Discarding does not present itself as a problem in the crustacean fleet, because of survivability and the fact that it is a non-quota species, ergo it does not fall under the rules. The pelagic industry—the large-scale herring and mackerel industry—does not have a problem, because it does not catch mixed fisheries but single species. Between those two, a serious chunk of the UK industry is not beleaguered by the landing obligation. The problem is in mixed fisheries, as your last report indicated. We have done a great deal with regard to selectivity, both physically, in the gear, and spatially and temporally. We will continue to

do that. We are not on our knees yet, but there are definitely problems approaching, this side of Brexit.

Barrie Deas: Quite a lot has changed, but you need to see it as a continuum. There have been huge improvements in selectivity and the avoidance of unwanted catch, but those began before the landing obligation. Selectivity is the never-ending quest. We will always be making progress to make our gears more selective. That is a technical issue, but it is also an economic issue. Sometimes the technical ability to avoid a particular species or size is there, but the economics are against it.

My feeling is that it is very difficult to know what is happening at sea. We have known that there was going to be a big problem with the landing obligation. It is inherently difficult to monitor thousands of vessels at sea, by comparison with monitoring landings. My impression is that it is probably an uneven picture, but there has been considerable change to fishing practices with regard to both selectivity and avoidance, and that will continue as we move on. What I do not know, and I do not think anybody knows at this point, is where the pinch points are and where the problems are likely to arise.

The mitigation measures that have been put in place have been incredibly important. Without them, we would have seen fisheries close down in the first half of this year.

The Chairman: Could you remind us what those are? Could you go through them briefly?

Barrie Deas: Yes. There's 'de minimis', which allows vessels to continue discarding up to a certain percentage if selectivity is difficult or there are high costs associated with retaining the catch, and there are high survival exemptions. We should remember that even before we got to the start of this year, the Commission had removed the TAC for dab and there is high survival exemption for plaice. From memory, North Sea plaice and dab represented something like 75% of the discards in the European fleet. Those were the problem species. Both of them will continue to be discarded, because not to provide the mitigation measures would close down the fleet. Those decisions have been taken.

A combination of vessels avoiding unwanted catch in one way or another and the mitigation measures that have been taken has meant that up to now we have managed to avoid choke situations. We are in May, which is still the first half of the year, so you would not expect most quotas to be exhausted at this stage. Behind your question is really the issue of non-compliance.

The Chairman: We will come on to some of that. I was just looking for a summary, but it was useful to go through what the mitigation factors turned out to be, because a lot of that was unknown when we went through the issue. You said that the two species are plaice and dab.

Barrie Deas: For dab, the TAC was removed, but dab and plaice combined were a very high percentage of the total discards that the campaign was built on. They continue to be discarded.

Pete Bromley: I am probably not as familiar to people as these other gentlemen, so I will introduce myself first. I am the statutory harbour master of the Sutton Harbour company in Plymouth. We are the owner-operators of Plymouth Fisheries. We advertise as the second largest auction house in England—I have to say England, because Scotland has its own rankings. We are a company that owns and operates the infrastructure of the fish market. The auction sales themselves are run by a separate company, but we work very closely together. We have had the same company running our auction for the last 25 years.

I am also here on behalf of the British Ports Association, so I have the views of several other ports that have been canvassed on some of the questions we thought you might ask.

One of the big problems when this was first put forward was, “What are we going to do with all the fish that’s coming in?” I went to several meetings and sat on several committees to discuss the port infrastructure: how we would handle landings; what we would do with them; and how we would get rid of the fish, whether it could be sold on or whatever. I can honestly say that there has not been a problem. We have seen very few discards landed at Plymouth, and that is reflected throughout the other ports in the BPA.

The question we ask is: why not? Gear selectivity has been mentioned. Fishermen have put a great deal of work into protecting their own industry. No fisherman wants to kill all the fish. It does not work that way. A lot of credit has to go to the fishermen for the efforts they have put in. As always for fishermen, there is a double-edged sword: if you make your gear lighter, with bigger mesh and everything that goes with it, that also makes it easier to pull, with less fuel consumption and fewer expenses. That is very relevant, certainly to the south-west fleet, because the running costs of the boats mean that there is very little profitability.

The Chairman: I take that point. We will come back to some of those questions. What you are saying is that at the moment, for Plymouth and other ports, it is business as usual, generally, in this area.

Pete Bromley: Very much so.

The Chairman: Thank you, Pete. That is fine.

Jim Pettipher: I am the chief executive of the Coastal Producer Organisation. We have about 260 fish producers as members. They have about 280 boats between them. Most of them are on the south coast of England, because that is where most of the under-10s are, but we also have members in Shetland, Cornwall and all over the place.

Knowing that I was coming today, I asked them whether they wanted me to raise anything or if they were having any problems. There was nothing—not a dicky bird. Since I was here in December, none of the fishermen has raised it with me as a problem, certainly since it came in in January. I have had various meetings with the MMO, with which we now have co-management meetings, and it has not been raised by the MMO either. As far as I know, it is business as normal.

The Chairman: That is very useful. Thank you, everybody. Can I say how the rest of the meeting will work? If you want to ask a question or to comment, could you indicate that to the Clerk or to me? We will go from there. Do any Members want to follow up on any of those answers?

Q65 **Lord Krebs:** I declare two interests. I act as an adviser to two food retailers, M&S and Tesco.

It was very helpful to get that snapshot response from each of you. Could I press you a bit further? Barrie said that we simply do not know, but is there any way of knowing what proportion of fishermen are ignoring the new rules that came in at the beginning of January, or is it simply unknowable?

Barrie Deas: You could look at catch compositions. That might give you an idea if there is a missing cohort or species compared with what you might expect. We need to be a bit careful, because we are talking about a marine environment and abundances that are changeable. The MMO and other agencies undertake that kind of risk analysis. You could say that in vessels targeting a certain kind of species, particularly mixed-fisheries, or with a certain kind of gear, there is a higher risk of non-compliance than with other gears.

My problem with that is that there is a temporal dimension that is not really being taken into account. If a vessel or group of vessels is heading for a choke situation, there must be more pressure on them to discard than at other times of the year. That means that non-compliance could arise. It would not be at the beginning of the year, but as it became clear that a choke situation was arising you would find indications that the fish was being returned to the sea, rather than landed.

It is extremely difficult to do. We knew right from the outset that there would be monitoring and surveillance challenges, and no doubt we will come on to how you address them. At this stage, five months into the landing obligation, my assessment would be that it is patchy, it is difficult to know and it is probably uneven. In some parts of the fleet, maybe the kinds of fisheries Pete Bromley talked about, there are very few stocks that present a problem, whereas at other times of the year and in other stocks it will become problematic. Your enthusiasm for understanding what is going on is understandable, but I think that there will be a bit of “wait and see”.

The Chairman: One of the stark messages from some of our witnesses was that by February some of the fleets could be tied up and, at the end of the day, it would be a decision between going bankrupt or fishing

illegally. The Committee took that very seriously, because it was a seriously made comment about the dilemma. Has that all gone away?

Barrie Deas: It is to do with the mitigation measures I referred to earlier. Irish Sea whiting, for example, would have been closed in February had business as usual continued, but the mitigation measures, including the decisions made at the December Council, have definitely had an impact and removed the immediate choke risks.

Bertie Armstrong: I do not dispute what has just been said, of course.

It is rather easier to detect changes of behaviour than to detect law-breaking. In the mixed demersal fleet fishing around the northern North Sea and the west coast, we have largely eliminated the catching of small fish. You can do that largely with mesh sizes. We did it voluntarily a considerable time ago, and we have had to do it voluntarily again because the net measuring device requires you to overegg your mesh size. We do not have a problem with small fish. The lack of landing of fish beneath minimum conservation size does not indicate that there is a problem with discarding; it indicates success in getting rid of the catching of small fish.

The bigger problem, of course, is perfectly healthy, perfectly reasonable fish for which you have no quota. The solution for that is rather different. In the report published in February, I noticed that there was little mention of the elephant in the room. The problems of discarding are caused largely by relative stability. If you distribute fish in one sea space among seven, eight or nine competing nations—it can be up to 12, depending on the species—in disproportion to what actually happens in the sea, no amount of fiddling about and swapping will actually fix the problem.

The fundamental systemic fix is sovereignty over our own area and a more sensible distribution of the fish. I was slightly surprised that the report did not pick that up as the central hope for the future.

The Chairman: I take the reprimand. We will certainly keep it in mind for the future.

Pete Bromley: Specifically in the south-west, we have a very mixed fishery. As you know, trawling is indiscriminate. It is very hard to specifically target a species with bottom trawling. I do not foresee that there is any need for anybody to discard any at the moment, but as soon as a choke situation arises it will become a problem. Barrie mentioned monitoring catches for species. One of the ones that is very hard to deal with is if someone has a limited quota for haddock, for example, and large haddock are making large sums of money and small haddock are not, the temptation is to land the large ones. That is virtually untraceable.

The Chairman: It is illegal, of course. It is high-grading, is it not?

Pete Bromley: It is not good for the industry. Whatever legislation comes in, it has to be paired with the profitability of the fleet. There are only 12,000 fishermen left, apparently. Somebody has counted them. Whatever they are doing, they have to be allowed to make enough money, otherwise laws will be bent. That is the danger.

The Chairman: I have other questions. Do you want to come in quickly on this, Barrie?

Barrie Deas: Yes. I want to add a small point. In that particular fishery, you need to remember that up to 70% of the catch can be non-quota species and therefore not subject to the landing obligation. You said that it is business as usual. Yes, it will be business as usual, because most of it is non-quota species. There are then specific problems that will arise.

The Chairman: Thank you. One of the things we noted in the report was that, even if you had to land things, you could not discard non-quotas. Your ship hold filled up, so it still limited your value opportunities. I am not making myself clear, obviously. If you catch non-quota species—

Barrie Deas: If you catch non-quota species, you can put them back. The landing obligation applies only to quota species.

The Chairman: Thank you for putting me right on that.

The Earl of Stair: Can you provide a quick clarification on non-quota species?

Barrie Deas: They include things like red mullet, squid and cuttlefish. They are high value and very desirable.

The Earl of Stair: By-catches?

Barrie Deas: When you are in an ultra-mixed fishery, perhaps catching up to 40 types of species, what is a by-catch and what is a target?

The Chairman: That was a very useful clarification. Thank you.

Jeremy Percy: Two of the main species that are landed in the south-west are cuttlefish and scallops, neither of which is on quota per se.

The Chairman: Indeed. I know that the Brixham fleet, in particular, has been into cuttlefish.

Q66 **Viscount Hanworth:** I formulated my question a while ago, and some light has been cast on it. The implication that there is business as usual in a port seems to imply either that fishermen are continuing to discard as before or that they are practising selectivity and avoidance as never before. What scope is there for further selectivity and avoidance, and by what means? I understand that there is a considerable difference between pelagic and demersal fish in that respect, but perhaps we can have some light cast on the whole issue of how difficult it is to be selective and to avoid species, and by what means that can be done.

Bertie Armstrong: I think you would be encouraged by the reality. We have been working on this for a considerable time. There are several methods of selectivity. One is spatial and temporal. In Scottish waters, we adopted a move-on principle. If you fall upon aggregations of fish that should not be caught then that area, out to 30 miles, is shut down for a period of time and you must fish elsewhere. That is what the Norwegians do. That is helpful.

Secondly, temporal spawning closures are placed in quite a widespread manner. This was not anti-discarding but sustainability of stock work.

Thirdly, of course, there was work on the gear. Almost all Scots trawlers now have a panel in their net somewhere to let out fish that are not desired. Some fish behave differently, so you can set the panels depending on what you are trying to avoid. We are now getting into the sophisticated end of gear trials, where you have panels in the nets to direct some fish out, and some fish in, to the cod end.

There is a great deal of work going on, but, as Barrie mentioned, it is work in progress and will remain so until the end of time. There are no complete solutions, but we are working very hard on it. The sea changes. The ecosystem is in—

Viscount Hanworth: What are the prospects for further enhancement of selectivity and avoidance?

Bertie Armstrong: Continuous.

Viscount Hanworth: Can you give some sort of proportion?

Bertie Armstrong: It is very hard to put numbers on it, because the way fishermen will react is to try to stay within the law. Because human nature is to make the most profit does not mean that everybody will high-grade. It simply does not. Fishermen try to husband their quota during the year.

They are getting better at spatial disposition. Fishermen always had an idea of where the fish were. That changes from season to season and year to year, but avoidance, rather than technical measures in the nets, is much more prevalent now. People will also adjust their fishing pattern this year, depending on how the fishing goes with their quota. If they cannot get any more, they may time refit and maintenance activities, or holidays, to suit the fishing pattern for times when they would rather not be at sea catching what they estimate would be fish that they would not be able to land. There is a complicated picture of working in the right direction.

Viscount Hanworth: I have one small supplementary.

The Chairman: Jeremy wants to come in on your question.

Jeremy Percy: I make no apology for representing the under 10-metre fleet, but I would be the first to say that not all small is beautiful and not

all big is bad. Nevertheless, there are some significant differences. A scientific paper showed recently that, in the last 30 or 40 years, there have been 3,924 scientific papers about discarding. Of those, 3,760 related to the larger-scale fleet and only 164 related to the smaller-scale fleet. In the smaller-scale fleet, 80% use passive gears, by which I mean nets, pots and lines. The larger-scale fleet predominantly uses mobile gears, whether they be trawls, beam trawls or pelagic trawls.

Just because there is less discarding in the smaller-scale fleet, it does not mean that there is less impact. In fact, there could be more. Bertie, quite rightly, gave reasons for discarding, but one of the major drivers for discarding was lack of quota. I will not bore the Committee again with the figures for the access to quota that 80% of the fleet has. In fact, I will—it is 2%. There is a significant problem.

That is exacerbated for the small-scale fleet by its inability merely to go elsewhere. I have been a fishing skipper for many years. With a large-scale vessel, if things are not good where you are, you can move on. As Bertie rightly said, there are moving-on areas if you come across that. With a small-scale boat—I have worked boats down to 5 metres in length—you simply cannot do that. You are very restricted in the area you can fish. That focuses your governance responsibilities.

Forgive me if I am teaching the Committee to suck eggs, but there have been dramatic improvements in selectivity since the discard ban or landing obligation was first mooted many years ago. In general terms, if you are using passive gears, the clue is in the title. If you have a gill net, for instance, which sits like a curtain on the seabed or drifts, you have a mesh that stays open. That is infinitely more selective than a trawl. Previously, when I was a boy, so to speak, a diamond mesh, under pressure, would tend to close up and, therefore, not allow the escape of smaller fish. These days, as Bertie rightly says, there are square-mesh panels and other devices that stay open.

Generally speaking, passive gears tend to be much more selective than mobile gears. We have proven that. We had trials in the south-west with passive gears in the haddock fishery. Effectively, we can discard fish at any length we choose, merely by altering the mesh size of the net. Obviously, if you make it bigger, larger fish can swim through it. It is more challenging for mobile gears, because they are mobile gears and are moving.

When it comes to selectivity, on the one hand people tend to think, "They're small-scale guys. They use passive gears. It's not a big deal". Largely, it is not, I have to say. At the same time, because of the lack of access to quota and the inability merely to move away to find pastures new, the discard ban exacerbates the situation for the smaller-scale fleet, over and above what you might think otherwise.

Viscount Hanworth: I wonder whether, for big fishers, sonar is available for identifying the nature of the shoals. Is that a possibility?

Bertie Armstrong: It is a work in progress. Pelagic fishermen will be able to recognise the mark of different fish, of course. In fact, in the season, the marks will all be of one sort. Acoustic recognition of fish size is being worked on actively now. That will be very helpful. You will be able selectively to catch the fish that will be of most commercial value.

Barrie Deas: There are two things. First, it is true to say that there is now a lot of pressure on skippers to look at how they have to reduce unwanted catch. Secondly, the EU-funded DiscardLess project will give you a good summary of the technical changes, research work and trials that have gone on in this whole area. For example, one particular experiment is about using light, and how fish react to different levels of light and dark in the net, to encourage them to go through a square-mesh panel. The DiscardLess project will give you a good overview.

The Chairman: I went to its last conference in Copenhagen. It was very instructive, although most of it was around not much having happened, but that was much earlier in the year.

Q67 **The Duke of Montrose:** I declare an interest in freshwater fishery in Scotland.

Barrie Deas answered some of my questions on the choke issue, but could you say which areas of the fishery are most at risk of choke at the moment? Are you on the lookout for anything in the next few months?

Barrie Deas: There have been various exercises in the North Sea and in Western Waters to identify chokes in mixed fisheries. There is something called a choke mitigation tool, which is a bit misnamed; it is really a choke identification tool. I refer you to the work of the North Western Waters Regional Advisory Council and the North Sea Advisory Council, which informed, I think, the joint recommendations for the north-west waters and the North Sea by Member States. They then became delegated Acts and are the basis for the exemptions.

I have always felt that you are looking at a marine environment that is constantly changing, and a dynamic industry, and we are likely to meet chokes along the path when we do not expect them. The total allowable catch for North Sea saithe was reduced by 23% last month. The EU and Norway agreed to an in-year reduction, and that certainly caused the risk of chokes for certain classes of vessel. The EU agreed to it because it was considered to be a category 2 choke, which is when there is enough quota in the system but it is not in the right place.

We have had chokes before. The Belgian fleet ran out of quota a couple of years ago and moved from area 7hjk to adjacent areas. That is one facet of choke risk that we have not really considered—the displacement effect, whereby fleets are obliged to move to keep fishing to continue to earn money to pay their crews, and so on. We have not solved the choke problems, but we have mitigated the worst of them. We will have to see; this is May, and you would expect chokes, if they were to arise, to increase in intensity in the second half of the year.

Bertie Armstrong: In direct answer to the question from the Duke of Montrose, the downturn in cod quota for natural and sustainability reasons will cast a shadow later in the year. Barrie mentioned saithe; hake is another one where the distribution is such that it always stands in danger of being a choke species, as is the case on the west coast with cod and haddock. There are problems to be confronted.

The Duke of Montrose: Is there evidence of resistance to swapping; are people simply sitting on their quota?

Bertie Armstrong: It is less fluid than it used to be because, naturally enough, each participating Member State will now start to look after their own responsibility not to be choked rather than swap fish away for commercial reasons. The fix in this, I hasten to add, is the work on relative stability that will be downstream of sovereignty over the waters.

Barrie Deas: There are signs of resistance. People are hanging on to quota, to see if they need it.

The Chairman: I am in no way questioning what you are saying, but are there statistics that actually show that is the case, or is it just a feeling?

Barrie Deas: I do not have them to hand, but there will be, because a record is kept of swaps by the Marine Management Organisation in England.

The Earl of Stair: Does that mean that at the end of a quota year there could be unused quota, if people have been holding back on it, or is it normally traded?

Barrie Deas: Over the years, a market system has emerged. It would not be in someone's interest to hold quota that could be swapped for something they need. Ultimately, at this stage, what we're seeing is an unwillingness to let it go too early. Member States looked at whether they should intervene and decided to leave it until this year to see what happens. As Bertie alluded to, relative stability is at present sacrosanct, and there is unwillingness to tinker with it, particularly perhaps in the current context.

The Chairman: We have a challenge not to mention the B-word during this meeting. We are looking at the situation as it is, rightly or wrongly.

Barrie Deas: Again, it is a wait and see situation, and Member States are taking a wait and see approach. Can the market mechanism deliver unutilised quota to where it is needed, at a reasonable time? There is no point in delivering it in December, when it cannot be caught, or will some intervention be required?

Jeremy Percy: Barrie is right that quota has become a commodity; there is a market for it. Markets and commodities are driven by those who have the deepest pockets and the most serious financial muscle. You will not be surprised that for the smaller scale, the under 10-metre fleet, that does not really hold much quota, or nothing personally, as opposed

to the over-10s, which hold their own individual quotas, it is a particular concern. As with any commodity, it is about supply and demand, and Barrie is right to say that because of the unknowns about what is going to happen, the value of some quotas has already risen and will probably continue to rise dramatically over the year. That being the case, it will shut out those that do not have the financial resources to lease it, which could carry on for a significant part of the year and does put us at a competitive disadvantage.

Jim Pettipher: To answer your question about statistics and to back up Jerry's point, at the Coastal Producer Organisation it is our business to monitor the availability of quota to the small-scale fleets. The quota is managed by the Marine Management Organisation; we do not have the right to manage that quota, which is an ongoing point of creative tension between the Marine Management Organisation and us.

I worked out recently that, of the top 25 species that the under-10 vessels in England land, they have under 2% of the quota available to them, and we now constantly monitor that. In the south-west, for example, looking at cod in 7d, or pollock, the problem when chokes arise, as Jerry alluded to earlier, is that the small-scale fishermen fishing with passive gear can catch only the fish that are there when they swim past their door. If the fish is there in January and February, as Barrie pointed out, that is when they need the quota.

The Marine Management Organisation's track record of managing that quota for the under-10s and the non-sector is appalling, and I can and will provide you with evidence after the meeting. I understand it from the MMO's point of view in that the people managing the quota are not fishermen or fisheries managers; they are civil servants, and their abiding concern in managing the quota pool is that if it goes over quota they will get sacked, so they take an extremely precautionary approach to the allocation of quota.

Year on year in the south-west, fishermen are crying out for cod quota and particularly pollock quota—not so much cod recently—in the first couple of months of the year. The Marine Management Organisation says: "Well, we can give you this much, but we have to be really careful". When you get to the end of the year and look at the amount of quota actually caught and landed, it can sometimes be 50% or less. You start out with 1.8% of the quota, but if you are not allocated it at the time you need it you cannot catch it, because you can only catch it when it swims past your door.

The Chairman: Thank you. That is very useful. We will have the Marine Management Organisation and Marine Scotland in front of us in two weeks' time. I should point out that I am no longer a board member of the MMO, hence why I am chairing this meeting, not my colleague, Lord Krebs, this time.

Q68 **Lord Cameron of Dillington:** A jaundiced person listening to this conversation who was also here last December—when, for example, Jim

and Jeremy said that you would have half your boats tied up by March, unable to go out, and everyone went on about how it was going to be a disaster for the industry—and who then listened today to Jeremy saying, “What landing obligation?”, Bertie and Barrie saying that it does not seem to have had much effect, and Pete saying that it has had no effect at all, might suspect that no one was paying any attention to the landing obligation and that fishermen are continuing to discard their fish. I suspect, although there has been some change, that that probably is happening.

Has there been any playback on behalf of the buyers—the supermarkets—who after all must be claiming that they are selling only totally legally caught fish? Have they requested that you have universal REM on your boats, or anything of that nature, which other nations such as New Zealand and the United States have done? What is the situation vis-à-vis your buyers when it seems that everything is carrying on as per normal?

Barrie Deas: We have a constructive dialogue with retailers and processors. I think they understand the magnitude of the change that the landing obligation brings. It is the biggest change to the way our fisheries are managed since 1983, when quotas first came in. The catching sector understands that retailers are vulnerable to criticisms if they buy fish from fisheries where they cannot demonstrate compliance. It is a constructive and useful dialogue. I don’t think the means of demonstrating compliance are there yet, and we need to get to that situation. It is a joint problem and it needs to be understood and worked on collaboratively and collectively, right through the supply chain, and I think that is how the retailers and processors see it as well.

There will be solutions. We are at the beginning of a major shift and change, and it will take time to settle down. There will be those who are impatient, but there are real challenges. I am sure that remote electronic monitoring will be part of the solution, but it is not a panacea. I have seen no evidence that it is a panacea that can just be flipped like a switch.

There are lots of practical, ethical and legal issues associated with the introduction of remote electronic monitoring. Vessels in our fleet in the North Sea have successfully used CCTV cameras and continue to use them, but you need to get the governance and practicalities right, and, above all, you need to get the mindset right. The people on the boats need to want to do this to demonstrate their compliance, for some incentive, whether it is quota, or to be able to sell their fish in the market, or a price premium. Those are all things that are being discussed actively with the processors and, in the context of England, in a forum set up with the MMO, Defra and the industry. There is no quick fix. We are very alert to the issues and risks, and it is extremely important that we work collaboratively.

The Chairman: Can I ask everybody to be brief, because we have a lot to get through?

Jeremy Percy: I take your Lordships' comments about Jim's and my comments at the last Committee meeting. We were full of dire predictions; in some cases they came to the fore and in other cases they have not, so far, and I am very glad that they have not.

I spoke to a number of fishermen before this meeting, so I shall paraphrase. One chap said that it was pure luck, and a lack of fish on the ground, that had stopped things going wrong, and the failures of the MMO in dealing with the landing obligation. That mirrors a number of comments. It is that combination. I provided the Committee with an exchange of letters between me and the MMO on behalf of fishermen in the south-west over the 7e cod issue, so I shall not reiterate that one, but that was a very good example of where the lack of preparedness and information provided to the small-scale fleet has been dire and continues to be so.

Our concern is that the MMO will tell you: "We've published this and been on social media, and we've had port visits". I have yet to find a fisherman who has spoken to them. I have a whole list of emails, which I am happy to copy to you, saying, "We've heard nothing and we don't know anything". That is not me criticising the MMO; those are the comments of fishermen on the ground who are still at something of a loss to understand the issues. For instance, it is a struggle to chase through the printed documentation on the MMO website, and, like you, I spend my life staring at computer screens. It refers you to one document, and you go to another page that refers you to another document. Fishermen are not on the pulse for that sort of thing; it is not their way of doing things. One of a number of examples is where it says—

The Chairman: Jeremy, I need you to come back to Lord Cameron's question about retail.

Jeremy Percy: Lord Cameron started by saying that Jim and I had made dire predictions that had not come to the fore, and one reason is given in the quote that I gave from the fishermen. The second is that the MMO online guidance says that, if you land undersize fish, you have to fill in a logbook, but under 10-metre boats do not have logbooks. I questioned the MMO about that, and they said, "We can amend that, and by the way we're going to introduce electronic reporting in the summer". This is five, nearly six, years after the thing was introduced.

The Chairman: Thank you for that, but for customers of your fleet is it an issue at all?

Jeremy Percy: Not particularly, no—mainly, of course, because the large-scale fleet tends to supply the larger retailers. We tend not to.

Bertie Armstrong: The approach of the Scots fleet has been MSC accreditation and contact with the retailers. That goes way beyond discarding; it looks at all aspects of the fishery. We depend on that and will continue to depend on it for our relationship.

The Chairman: Has the MSC got into the issue at all?

Bertie Armstrong: It is part of the assessments, which are done independently, not by MSC staff but by independent contractors. It is part of it, as well as the legislation, crewing standards and the Modern Slavery Act.

Could I have two seconds on the small-scale fleet? I am getting a confused picture. Jim has just told us that the problem is not the discard ban but management by the MMO, whereby you end up at the end of the year with fish that could have been caught that have not been distributed. That has nothing to do with discarding; it seems to be internal management. As Jim rightly says, there is no point in giving me fish that I cannot catch. If the herring are 100 miles west of Ireland in January, you are not going to catch them, no matter how much quota you have.

We need to temper the continual drumbeat about 98% of the fleet having a minuscule amount of quota. There is a reason for that. If you look at a 75-metre pelagic trawler and a 5-metre vessel, is it a surprise that there is a reasonable, just and sensible distribution of quota in accordance with catching capacity?

The Chairman: I understand that, but I do not particularly want this Committee to get into an inter-sector issue, or even a discussion of how the MMO or Marine Scotland generally administer—whether they are lousy or good, or whatever. I want to stick to the issues around the discard ban.

Bertie Armstrong: But if I may say so, in the shortest possible time, it is necessary to look at other influences, otherwise you could conclude that the whole world's problems are down to the discard ban, and that is not the case.

The Chairman: The Committee is very aware that there are a whole load of other issues in the industry, I promise you. Jim, do you want to come back on this, without getting into the inter-sector thing?

Jim Pettipfer: Yes, there are things to say on that, but not here or today. To get into the specifics, the answer to when chokes may arise for the under-10s is that it is specifically to do with the management of the availability of the stuff when you can catch it. After I had finished, I thought that I should have made this related point. I am not criticising the MMO. I have a lot of time for it, and there are a lot of people trying to help, but—

The Chairman: You are very welcome to criticise the MMO if you link it to the discard ban.

Jim Pettipfer: With specific regard to the discard ban, I wonder if we have not heard very much from the MMO simply because it does not have the resources. When I talk to the head of fisheries management and the head of enforcement, we talk about other things. First of all, they said,

"Don't ask me to do anything until April, because of the B-word. We've got no resources and no bandwidth". Once you get past the B-word, the other side of the fisheries management team seems to be entirely sucked up in the infraction proceedings that it is subject to by the EU at the moment. I do not think it had enough resources to start with, before those two things arrived.

The Chairman: That is a very useful comment, thank you. I take that.

Q69 **Lord Young of Norwood Green:** My original question has been at least partly answered, but I want to pursue it a little more. Bertie—if you do not mind that familiarity—you said that you have modified behaviour. Have we explored all the behaviour? I wrote down things such as mesh size and panels. Are there any other parts of the behaviour that you have modified that we have not heard about?

Bertie Armstrong: It falls into three areas: spatial measures, temporal measures and physical and technical measures in the gear. All three are work in process and overlapping, plus there are other things that fishermen can and will do. It is important not to be excessively jaundiced about the approach that fishermen take to life, as it has demonstrably changed over the last decade, with fishermen becoming considerably more responsible, for no lesser reason than, as I explained, retailers will shy away from buying your fish if you are not.

Lord Young of Norwood Green: There are two things I want to explore. One is technology. We have heard a bit of analysis that REM is not a panacea. From your point of view, has there been a gradual improvement in technology that will make it practical and applicable over a period of time and help this situation?

When I first took part in this debate, people talked about a change in culture. Whenever I hear that, I think, "That will take time". Indeed, I have a feeling that I heard from the MMO at one point that it did not expect things to happen overnight; it expected this to take place over a period of time. Could people generally come back on technology and how that will impact? What are the cost implications? Is the comment about cultural change a reasonable assessment?

Bertie Armstrong: Practical examples would help, and I can give you a very short one. We run something called GITAG—the Government and Industry Technical Advisory Group. We put our money where our mouth is in Scotland and we run a continuous programme of net technology improvements, in concert with Seafish and government. From that sort of thing were born square mesh panels, mesh sizes and compartmentalised nets. Some of it works and some of it does not, but it is continuous.

The other thing is called Fisheries Innovation Scotland, which is another quite severe example of putting our money where our mouth is. A number of participants, including the Scottish Government and Seafish, put in money to look for the margin on technological increases—stuff that you would not get fishermen to pay for ordinarily, such as lights in nets

or motorised panels. We have come a long way; with a big pelagic trawler, for example, you can tell how much fish is there from electronic inputs, cameras on nets and that sort of thing. That sort of innovation is working in the background. It is clear that we are not making enough noise about it, because retailers would find some reassurance from the fact that it is being worked on.

The Chairman: Barrie, I want to come back to something you said, although I shall let you comment on this as well. I was very interested by your comment that you cannot get proof of compliance, or that it is difficult to get, in relation to the retailers. Can we ever get that, or will it never happen? What might it look like?

Barrie Deas: The challenge is to monitor behaviour on board fishing vessels day and night, 24 hours, wherever they are and whatever the class of vessel. If you want a complete picture, that is the challenge, and it is big. That has to be understood.

I am impressed by the Norwegian discard policy, which has not eliminated discards but has reduced them from 50% to 15%, say; it has made a huge difference. The industry there is proud of its discard ban and slightly boastful about it, if the truth be told. That kind of mindset comes from working through the issues. In Norway, they did it differently: they started with one species—cod—and went on to haddock, once they had resolved the problems associated with cod. They did it sequentially, and it took 20 years, but they got to a situation where the industry and regulators seem to be at one. I can understand why, given that in the EU we have gone for a big bang approach—

The Chairman: It has been four years, has it not?

Barrie Deas: I was just going to say that I know the Committee regarded four years as plenty of time to sort this out, but I disagree. That opinion underestimates the magnitude of the change, and the implications. We have swerved the worst chokes at the moment, but there are others in the pipeline that have not been resolved, and we will have to see how that goes.

On the technology—

The Chairman: Can you be very brief?

Barrie Deas: I can be very brief. I draw your attention to a conference held earlier this year in Copenhagen, organised by the Danish Government, which looked at CCTV and remote electronic monitoring. It was very interesting. Two strands came out of it. One was a kind of top-down approach, which I think the Committee is suggesting, and the problems associated with that.

The other was a presentation from a fisherman in British Columbia, where the whole fleet has turned the fishery from a basket case into something that is quite inspiring. At the request of the fishermen, they use remote electronic monitoring to demonstrate what they need to demonstrate.

That is a very different thing from having it imposed on you top down, where it is seen very much as big brother, and there will, I am sure, be resistance.

Lord Cameron of Dillington: I must say that I see REM mostly as an avoidance measure. Everybody knows instantly who is catching what and where, so you can avoid it. I saw it as a help to avoid discards.

The Chairman: Okay, good. Perhaps we could keep some momentum now.

Q70 **Lord Selkirk of Douglas:** On the subject of advanced technology and the extent to which it could help with relevant recommendations, we have all been told many times that high technology will never stand still. Obviously, with 40 different species, this will be a very complex area. If tachographs can be put into lorries to keep lorry drivers working within the recommended procedures, I suspect that the same could be applied to fishermen. I would be most interested in whether there is an important role for technology, with reviews and monitoring in due course.

The Chairman: I do not want to spend too much extra time on this, because we have gone through technology to some degree. Bertie, I think I stopped you coming in earlier.

Bertie Armstrong: The last bit of discourse makes the underlying assumption that the rules are fit for purpose and that this is simply a matter of ensuring compliance against fishermen who are ignoring the laws. We need to address the systemic cause, which is that the rules are frankly not fit for purpose. That was obvious at the Green Paper stage 10 years ago and it is obvious today. There is no point in saying that we have had plenty of time. One is reminded of the story of the horse dying when its food was reduced to one straw. The passage of time will do nothing to make ill-fitting law work. We need to address the law.

The Chairman: Tell us very briefly, taking relative stability as a given at the moment, what needs to change. Could you briefly go through the main areas?

Bertie Armstrong: Until we attack the systemic item of relative stability and the wrong amount of allocation of fish compared with what you catch when you put a net in the sea, we will be into mitigation upon mitigation. The story that you are receiving - that it will not work very well but we will do our best - is the story you will continue to hear until we attack the actual problem.

Barrie Deas: It is helpful to think about the sequence, and the things that need to be put in place before you can consider the technology for monitoring compliance. Quota availability is one of the most important things; exemptions, which will be long standing and needed for quite a long time; quota flexibilities have to be in there. Again, I stress the need for co-operative working. The idea of a sequence, rather than doing it the other way around, whereby you bring in the technology and try to force it

on a disaffected and alienated industry, when all those other points have not been resolved-

The Chairman: That is very useful, thank you.

Q71 **The Earl of Stair:** In 12 months, and I pick that timeframe because I hope we will be past any Brexit issues and over a year into another situation, approaching the halfway point of the next quota year, what would be the end use of the premium-sized and premium-quality over-quota fish that will have to be landed in the ports? What will the impact be? Do you think we will be far enough ahead with mesh sizes and controls that it will not be an issue, or will fish still be landed, and what will its end use be? I hope it will not be in the processing sector.

Barrie Deas: The Fisheries Bill contains provision for a charging scheme that would allow a by-catch of over-quota fish to be landed, but the vessels would not receive the full value of the catch, so there would be no incentive for targeting.

That is better than its going for fishmeal. What is the worst social evil? Is it discarding and putting fish back in the sea, or is it taking it ashore at cost, burning your quota and then sending it for fishmeal? Although a lot of practical issues need to be discussed and worked through, it did not seem like a bad idea to us. I think the Norwegians have something similar.

The Chairman: What is happening at the moment, Barrie?

Barrie Deas: There is no provision for that scheme in Article 15. If I had a criticism of the report you did, it is that you were rather uncritical of the Basic Regulation. I do not think that anybody in the industry or in Government thinks that is the best piece of legislation it could be, and if you were doing it again you certainly would not do it the same way. For example, interspecies flexibility was supposed to be one of the key mechanisms for dealing with chokes, but it is pretty well inoperable because it is hemmed in by the way it was drafted.

The Chairman: I take that. I want to go back to the Earl of Stair's question. Assuming that something has been landed somewhere in the UK because of the discard ban, what happens to it now?

Lord Cameron of Dillington: And do fishermen get any money at the moment from that landing?

Barrie Deas: Yes. Where it has been landed, it goes for bait, for shellfish pot. That is one of the sources. If you have large amounts of bulk discard coming into Plymouth, for example, what are you going to do with it? Are you going to put it on trucks to go up the M6?

The Chairman: That is what I am asking. What is happening to it? Peter, do you want to tell us what is happening across the nation?

Pete Bromley: As the harbour authority, we were concerned that we would have to get rid of those tonnes of fish, but the truth is that it is not the harbour authority's responsibility to get rid of it. We do not have to; all we have to do is to operate the harbour.

The Chairman: Whose responsibility is it?

Pete Bromley: The fish does not leave the ownership of the fisherman until such time as it is bought by the buyer. The auctioneer and the harbour authority never take ownership. Having said that, we are all working together on it. We have provisions in place and are registered for ABPs—animal by-products—to hold the stuff and then get rid of it.

You asked where we get rid of it. In the south-west, we have two companies that operate an anaerobic digestion system to turn it into fertiliser and make other use of it. I believe that there are three fishmeal plants in the UK—one in the Shetlands, one in Aberdeen and one in Grimsby. There is provision. We found that there was a hunger for it in the south-west. I am asked by people whether I have any discard or waste; they are picking up processing waste. I do not think that getting rid of vast quantities of potentially discarded and landed fish would be a big problem for us.

The fishermen sell bait, mostly off their own bat. Some gets landed on the market and goes to auction, and other stuff is traded between boats—between a trawler and a crabber—and we do not see any of it. Bait is becoming very popular in the south-west because reduced quotas for fish mean that under 10-metre boats cannot travel, as we said, so they are turning to static gear and pots.

The Chairman: I shall try to be specific, because this is something that concerns the Committee. Something that is not discarded gets landed, whether it is undersize or a quota species that is over quota, as Barrie reminds me. When it is landed, who takes ownership of it and who decides what happens with it?

Pete Bromley: There was great debate about that when we were setting it up.

The Chairman: Do we not know?

Pete Bromley: We do. The fish when it is caught is in the ownership of the skipper. We as the harbour authority generate our income from charging dues and levies on whatever is landed on our quayside. If something is landed on our quayside and we think there is no profit to be made from it, we do not want it landed, so we invoke our by-laws, which state that you cannot deposit anything on the quayside without the permission of the harbour master.

Basically, the fish remains in the ownership of the person who caught it. When it goes into our chiller for sale, you would think, theoretically, that it would fall into the ownership of the auctioneer, but this has been thrashed out for insurance purposes, and the auctioneering company

does not own that fish; the person who buys it ends up as the owner. Until it is bought, the fish remains in the ownership of the fisherman.

Baroness Wilcox: None of that is new, is it?

The Chairman: That wasn't remarkably clear to me. Is that happening across the ports?

Pete Bromley: It is happening everywhere I know of. I am not saying that it is everywhere.

Jim Pettipher: Before the ban came in, I was asked by one of our fishermen from Hartlepool: "Jim, I come into port with fish of quota or non-quota species that I am allowed to land, but I've got some over-quota fish. What do I do with it?" I said: "I don't know. What are your options in Hartlepool?" He said: "We have one buyer. What do I do if he doesn't want it?" I said: "I don't know". I have heard no answer from anyone at the MMO or anywhere else.

The Chairman: Do you know who the buyer was, or what sector they were from?

Jim Pettipher: It would have been a small-scale local fish merchant.

The Chairman: It goes back to a fish merchant.

Jim Pettipher: No. The question from my member was, "If he doesn't want it, what do I do with it?" You are not allowed to sell it into the food chain if it is a quota species, for example.

Lord Krebs: I shall be very brief. It is a question raised by something Bertie said. I think I heard you say that the MSC now includes in its accreditation scheme compliance with the landing obligation. Is that true, or not?

Bertie Armstrong: I would have to check. The MSC audit process is expensive and exhaustive, so I made that assumption, but I can check and get straight back to you.

Lord Krebs: Could you? It is quite important for us to know whether an NGO has actually come up with a system of accrediting compliance.

Q72 **The Chairman:** I am going to ask the panel one question. For the rest of the year, or in the near term, can you give me one thing that you think needs to be changed? I cannot deliver relative stability, because the British electorate did that three years ago and we are still working on that one, so that is not the answer, Bertie. What else needs to be done that we can put to the enforcement authorities and the Minister in our future meetings?

Jim Pettipher: I would ask for, and we are working towards, better and proper co-management between the Coastal PO and NUTFA, representing about 80% of the fleet that is under 10 metres and small scale, and the MMO. It is a completely new initiative. When people talk about "the

fishing industry in the UK”, they are thinking about the big-scale boats that are responsible for the massive majority of the catch, and the PO model as it existed in the UK was entirely designed for that, and everyone understood that that was the purpose of POs. But if you look at the CMO, that is not the purpose of POs. We are trying to introduce a new CFP/CMO-compliant way of doing co-management between the regulator and the industry, and we are struggling with culture change in the MMO because it is not set up to do that.

Pete Bromley: Fishermen need to want to comply and, like most people, they will not comply with legislation if ultimately it means they will be out of work or lose their job. The answer to that would be—I shall not say relative stability—to make sure that there is enough quota, specifically for the smaller inshore guy who does not have the scope to move, to be able to make a living. Then they will comply. At the moment, we are working with an honesty box system. That is all we are doing. There is nobody checking.

Barrie Deas: There are so many interconnected issues. For me, the key is really good dialogue between the industry and the regulators about how we are going to absorb this very significant change. The issues of quota availability, monitoring and compliance: I have been heavily involved in this; it has taken too much of my time over the last four or five years, and I see no simple answers. The solution lies in a dialogue that helps us to find a way through.

The Chairman: Do you think that the whole exercise is a waste of time? Should we be doing other things that are more important?

Barrie Deas: The discard ban was based on the false premise that there was a massive problem that nobody was doing anything about. But in the North Sea groundfish fishery, for example—cod, haddock and whiting—there was a 90% reduction in discards over the last 20 years. There were one or two big problem areas around dab and plaice; that is where the big numbers came from, and the campaign that generated the landing obligation misused those statistics, in my view. As Bertie said earlier, discard policy is extremely important but it is only one strand in good fisheries management.

Bertie Armstrong: The problem we are working with is that we have a political fix to an essentially management problem. Recognition of that and concentration on the management is exactly where we need to go.

On the general principle, which Barrie touched on in the Norwegian approach, we need an approach that seriously, properly and solely minimises discarding to the lowest possible level, rather than taking a zero-tolerance approach and enforcing it with cameras, which is simply not the way to go.

Jeremy Percy: I gave a presentation to the European Commission 18 months ago about landing obligation issues, and members evinced significant surprise that it would have an impact on the smaller-scale

fleet. The head of fisheries in the Commission said, "We have two choices. We could try to sort out all the problems and then implement it, or we could implement it and then sort out all the problems". Clearly, the Commission chose the latter, and you have heard about the ongoing debacle that is, in many respects, the result.

As Jim mentioned, we are enormously keen to work with the Marine Management Organisation and Defra, but you go to the MMO and it says, "Defra's sorting that issue out", and you go to Defra and ask about the same issue and it says that the MMO is sorting it out. There is clearly a failure of communication at every level.

We need to work on behalf of our members. Our major concern is that, although everything is quiet at the moment, when we start to catch fish and a bit more fish come on the ground, all of a sudden there will be MMO enforcement officers. We are the low-hanging fruit for enforcement; we tend to land in small ports on the beaches, and we are easy pickings for them. They will come along and say, "You've had six months to learn about this. You haven't got an excuse. We're going to prosecute you on the basis of that". Communication will be the key if we are to move this thing forward.

The Chairman: Thank you very much indeed for giving us your time. It was slightly longer than we planned, but it has been very useful. Thank you for your participation. I thank members of the public for attending as well.