

# Select Committee on the European Union

## Energy and Environment Sub-Committee

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

Wednesday 22 May 2019

10.30 am

Watch the meeting

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

Evidence Session No. 8

Heard in Public

Questions 73 - 87

### Witness

[I](#): Mr Phil Haslam, Marine Management Organisation.

## Examination of witness

Phil Haslam.

Q73 **The Chairman:** It gives me pleasure to start this witness session in our follow-up inquiry on the landing obligation. I remind Members that if they have interests to declare they should do that when they first speak. I should mention that I am a trustee of the North Devon Biosphere Foundation, which has a relationship with the MMO but not a financial one. This session is public and will be recorded. We will send our witness a copy of the transcript, and if there is anything there that is not right then please let us know and we will correct it. Mr Haslam, perhaps you could introduce yourself for our audience and the public to put the meeting into context.

**Phil Haslam:** I am the Operations Director of the Marine Management Organisation, the arm's-length body of Defra responsible for fisheries management in the round. My particular purview within that organisation is the operational directorate, which deals with day-to-day operational and tactical fisheries management.

**The Chairman:** You are very welcome. I shall start with a general question. As you well know, the final phase of the landing obligation came into force on 1 January this year. We would be interested to understand from your point of view, and that of the Marine Management Organisation, how it has gone so far.

**Phil Haslam:** It was badged as a 'big bang' but the bang has been slightly less than expected. In terms of a general situation report of where we are at, it is a continuation of ongoing sustainability by the more progressive fishing business models. It is worth noting that the landing obligation was not the beginning of selective gear mechanisms and the like; it was a continuation of that. So we are seeing more of that and partnership working. There is much broader awareness of the requirement, and recognition that there is a need to be in step with these rules and take them forward. We are seeing that across the breadth of the industry.

There are many questions are coming out now. Prior to the inception on 1 January the questions were relatively generic, but now there are much more targeted questions about operational specifics, such as "How do I actually do this within my pattern?" Our process of informing people, as we did up to inception, and then educating the industry post-inception is still going on. We have increased our inspections this year.

There is a need, bottom-line, to account for all catches. The weak spot at the moment, which starts from a low baseline, is the recording of those catches. When we inspect vessels, we see a declaration of fish being discarded within an exemption but there is no record of how much. That is the flat spot that we are working on at the moment. There is still a risk of illegal discards, to be absolutely frank; people can do that and they will be driven by many factors. But my perspective, and the contract that we

agreed with the fishing industry, is that we will be a proportionate regulator; we will inform, educate and move to enforcement as and when necessary but we are not going to be heavy-handed at the outset. I think that approach is generating partnership working between us. It is "Steady as she goes". It is relatively early days. We are four and a half months in. It is mid to late spring now, and fishing activity will increase through the year, so I would have thought there would be more to come in terms of the actual impact.

**The Chairman:** That is useful. I was interested that you said that it was not a big bang but that there was rather less emphasis, or it was rather less pronounced when it happened. Did the industry actually even notice 1 January in terms of behavioural matters, or did it just go from 31 December into 1 January without a lot of difference in terms of attitude?

**Phil Haslam:** No, I think an awful lot of thought has been put into it. Frankly, a lot of people in the fishing industry are significantly worried about their operations and practice versus staying on the right side of the regulations. A huge amount of thought has gone into, "How do I do this?" Indeed, there was one issue around the end of the year, 31 December through to 2 January, that we had to solve about a particular species. I do not think it is just coming quietly but it will be a building impact, based on the time of year, the weather conditions and the like.

**The Chairman:** One of the issues that has come over in other work that we have done here is the very, very late decisions, mainly at European level, on how a lot of this was going to be solved. Has the fact that a lot of it was not decided until well into December last year caused problems for the MMO and Marine Scotland?

**Phil Haslam:** There is a lot of complexity in this, and the more you look the more complexity you will find. Are these decisions late or are they timely? I do not know. The fact that things were not finally nailed down until quite late in the day introduces the risk of non-compliance because people simply do not know, and it increases the workload—"Oh, here's another thing"—so with regard to our inform and educate process, we are continually adding to the list of things that need to be socialised with the industry. It is part and parcel of the fact that these complex rules that are driving a cultural shift. It is inevitable that things come out of the woodwork that need treatment relatively late in the day.

**The Chairman:** Would you say that the MMO, the fishing industry, Marine Scotland or whatever are clear now on what the rules are? Is everyone clear? Is it clear or obvious?

**Phil Haslam:** Yes. We as the regulator are clear, hence we have written the guidance and sent it out. As always with this, though, the Regulation has to encounter operational practice. The purpose of the demersal landing obligation is to shift that. There will be times when there are tensions and debate about, "Can I still do this or do I need to do something different?", and that will be interpreted through the lens of the Regulation. We agreed with the industry that, equally, we would drive

forward with this and commit to it in order to expose those elements that are workable and those that need further treatment. That is where we are at the moment.

- Q74 **Lord Krebs:** I want to quote to you something that Jeremy Percy, the Director of the New Under Ten Fishermen's Association, said to us in a recent witness session. When we asked him what had changed since 1 January, he said: "So far, overwhelmingly the comments have been, 'What landing obligation?'" This suggests that, at least among the 'under 10' fishermen, either there has been no awareness of it or there has been no implementation of it—I am not sure which. Does that surprise you?

**Phil Haslam:** On the awareness, I would be very disappointed, given the effort that we made, up to and including writing to individual fishermen to spell out where they fish, what they fish with and what they will need to do. If there is a lack of awareness, it is not for the want of trying. I have heard that myself, that people are just unaware, but, in terms of the impact, if there are factions within the industry that are relatively backwards-leaning... One of the contexts of this Regulation is the narrative surrounding it, which is that it is not welcome, the genesis of it is not entirely trusted—it is seen, rather than as something that is going to support sustainable practice to underpin the viability of businesses and give UK-sourced fisheries produce a market-placed position, as something that is driven by a media drive to do something and it has not been wholly thought through. So, if you are in that camp and you are relatively backward-leaning regarding the need for this, it is relatively easy to dismiss it as unworkable: "Everybody is saying that it's unworkable and therefore...". Our job, and our commitment, is to inform and educate people on why this is the right thing to do. Where we are seeing genuine misunderstanding, we will correct it; where we are seeing opportunism to work around the rules, we will act.

**The Chairman:** I think it is true to say that even last week, when we had Barrie Deas here, he sounded pretty sceptical about whether this was the right thing to do in the industry at the moment still, which was an interesting comment.

- Q75 **Lord Selkirk of Douglas:** What are the main steps that have been taken to monitor compliance with the landing obligation? Also, are additional resources needed to enable you to monitor compliance effectively? Do you anticipate that advances in technology will have a significant role to play?

**Phil Haslam:** On steps to monitor compliance, as I said, the "inform and educate" part of our strategy is ongoing, both internally and externally: we can only regulate if my team know what they are doing and, equally, the regulated community needs to have a fulsome understanding of what it needs to do. That is ongoing. We have increased our inspection routines, and there is a 25% increase this year on a similar time last year. We have adjusted our supporting IT. When you inspect a vessel, you input data into a system; we have altered that so that anything that is highlighted as a demersal landing obligation issue or potential

infringement is easily highlighted out of the system. That allows us to target our inspection regime; we know where there are difficulties, frequent themes of misunderstanding or opportunistic behaviour, and can do something about it.

We are making greater use of aerial surveillance. I shall come to resources in a minute, but we have had the use of an aircraft a lot more this year. Although that cannot enforce the demersal landing obligation, it can provide surveillance—what is happening out there and how many vessels are out there—and, equally, it can provide a deterrent effect.

We are using other things such as last haul analysis, where we board a vessel and inspect as the nets are brought on board. We ask: “What is in that?” That can be used as a reference tool, as long as there is consistency in the gear and where the fishing vessel has been operating, so we can say “well, if that is what we are seeing from this particular haul” and reverse engineer what you could expect to see for retained catch and the like. Those are the immediate things we are doing on compliance.

There is also net tagging. Where we identify progressive behaviour, such as highly selective gear, we tag those nets so that we can know by default that that net is highly selective.

We are working regionally to increase gear selectivity; that is another way to monitor compliance, because it is the willingness of people to do it.

As I said, poor data recording is at the moment impacting our ability to do thorough data analysis, so a lot of our work is risk-based and intelligence-led. We need the underpinning data to do it.

In terms of additional resource, we are fortunate at the moment that the full inception of the DLO—demersal landing obligation—is coincident with the preparations that I have put in place for EU exit. I have additional control and enforcement capability in the air and at sea. We have not left yet, so I can deploy it for this business. In future, I contend that I will need to maintain that level of control and enforcement capability. Indeed, I might even need to increase it as we become an independent coastal state, and our own fisheries manager, to make sure that we can assure control of our waters and sustainable practice.

Technical innovation certainly has a part to play. It is not a total panacea, but there needs to be judicious use of technology where it can be a cost-effective and efficient way to gather scientific evidence and enable the monitoring regime.

**Viscount Hanworth:** Is your increased aerial surveillance just looking for trails of seagulls eating discarded fish, or is it actually determining where the fishing is taking place?

**Phil Haslam:** It is more a surveillance of where fishing is taking place, because the demersal landing obligation is not black and white. It does

not say: "Thou shalt not discard fish". There are many exemptions which require you to discard fish; indeed, there are prohibited species that you may discard and you shall discard. It is not a way to say that a vessel is not compliant, but it helps as part of the tapestry of surveillance to see what is happening and where.

**Viscount Hanworth:** Essentially, it is locating the fishers.

**Lord Young of Norwood Green:** Are you using drones?

**Phil Haslam:** No, not yet.

**Lord Young of Norwood Green:** That would seem to be a cost-effective way to do it.

**Phil Haslam:** That is often said to me. But for a drone that has the endurance and loiter capability to do the work that we need to do, and the coverage and the ability to be controlled, it quickly escalates up the scale of expense. It would have to be quite a sophisticated drone to do this work. It is a manned, fixed-wing aircraft versus that level of drone. This year, I have a partnership with the Marine and Coastguard Agency. It flies aircraft for antipollution reasons. We have arranged with it that, while the aircraft is in the air, it can do our work. I think that is a cost-effective way to deliver aerial surveillance over the sea.

A lot of work is going on with drones in the marine space to see how we can introduce that capability, but it is not straightforward.

**The Chairman:** Can you clarify one thing? I think you said that you do not believe that aerial surveillance could in itself lead to a prosecution.

**Phil Haslam:** Not at the moment; but it is about not the aeroplane but the sensor suite and camera fitted to it. Cameras have been developed that can ensure fidelity of evidence right down to individual fish species. You would need to be able to say, "That is a quota species and it has been discarded", and we are not there yet.

**The Chairman:** Thank you for that clarification.

**Lord Selkirk of Douglas:** Would it be fair to say that a course of steady evolution is being followed?

**Phil Haslam:** Yes, it is. This is quite a seismic shift in fishing patterns and all the rest of it, and we could have been heavy-handed and had a list of prosecutions now. But the approach we have taken is to inform and educate but reserve the right to enforce where there is clearly opportunistic behaviour. On enforcement action, we have completed 93 inspections—

**The Chairman:** Actually, we will come on to that

**The Duke of Montrose:** Do you know of any rumour as to whether, at the Scottish end of things they have been able to step up surveillance on the level that you have? They have a huge area to cover; you are

covering only a small part.

**Phil Haslam:** They have, and have routinely had, the level of capability that I have now. They have two aircraft and three ships, and achieve an awful lot. Their control and enforcement capability is routinely higher.

**The Duke of Montrose:** So they may not have increased it all that much because they had enough to begin with.

**Phil Haslam:** That is what I would contend, although I cannot answer for them. I would say that it is about targeting that capability, but I know they have three vessels. I think they get something like 320 days a year patrol out of each, and similarly with their aircraft.

**The Earl of Stair:** Are you interacting with Marine Scotland?

**Phil Haslam:** Yes.

**The Earl of Stair:** Are you sharing information?

**Phil Haslam:** We are certainly sharing information and practice. Our jurisdictions are quite different and our fishing patterns are also very different. As we sit here now, the control and enforcement working group is in Edinburgh, with my team on it, enabling that cross-pollination of information. But the lines are drawn: I monitor and regulate English waters and they do it in Scotland. It is similar for Wales and Northern Ireland.

Q76 **Lord Krebs:** How many cases of non-compliance have you detected since 1 January and what penalties have been awarded?

**Phil Haslam:** As I said, there have been 93 inspections to date. Within those, there have been 57 issues in terms of the demersal landing obligation—not infringements, but issues that have needed correcting. Six formal enforcement actions have been taken and, to date, those actions have been under our “inform and educate” stance. The officers operated with discretion to say that this was genuine misunderstanding rather than opportunism. They contributed verbal rebriefs.

**Lord Krebs:** Could you explain a bit more what the issues were? You said that there were 50-something cases.

**Phil Haslam:** A lot of it is around reporting. If we are told that fish have been discarded because they are subject to an exemption and so do not need to be on board, the question then is: “Okay, where’s the record of what it was and how much?” That links back to my point about poor data capture, because the critical part of this is reducing mortality. If we do not know what has been discarded through the exemptions, we will be no further forward. A lot of it has just been misunderstandings in terms of exemptions, about what should be retained and what can be put back. It has been very much those kinds of issues, operability issues, rather than wholesale offences or infringements.

**The Chairman:** Has anyone actually been nabbed at sea while

discarding? Does that happen?

**Phil Haslam:** If we go out there today patrolling and someone is wholesale discarding quota species because it suits their purposes to do so, or they are high grading or the like, that is an immediate offence and action will be taken, but we have not seen that as yet. We are seeing people being precautionary.

**The Chairman:** No, I understand that entirely. We are not arguing about that. We are trying to understand what is actually going on. The question that follows from that is: is there ever any possibility that you would catch someone discarding?

**Phil Haslam:** It is going to be tricky. As has been previously stated to the Committee, people are not going to do it when we are there. The fact is that there are other regulatory requirements, such as recording what has been discarded. If there are protestations that, "It was all exempt and I put it back", there must be proof.

**The Chairman:** We understand that, thank you. We are trying to get the context.

Q77 **Lord Young of Norwood Green:** Do you have examples of best-practice data capture, and do you circulate it to say, "There you are. This is the standard that we expect and this is the technology you could utilise to achieve it"?

**Phil Haslam:** I think it is more of the same, to be frank, because fishermen may have to record their catch several times over, so the need to record and log what has been recovered from the vessel and what has been landed is a known practice. This is an incremental adjustment to it, which is, "And this bit needs to be not only recorded but held separately in the vessel". Do we share best practice? Yes, we do. Do we have the technology to do it? There is the electronic logbook system out there whereby you can do this. There are people operating with paper logbooks, and we are working up catch-recording technology to launch later this year. We are taking those steps, but that best practice is shared.

**Lord Young of Norwood Green:** Is that electronic log system reasonably cheap? Will cost be a deterrent?

**Phil Haslam:** No, I do not think it will. If you operate within a regulated industry, you will need to make investments to make sure that you comply with the regulations. I think that is similar for any regulated industry. This will be just one of the business costs but, in developing it, we are ensuring that it is as cost-efficient as it can possibly be.

**Lord Young of Norwood Green:** When do you expect that to be available?

**Phil Haslam:** In the technical jargon, it is in its beta phase. It has been developed and is now being tested. It will be introduced to the public

soon in a testing phase to finesse it, so it is an incremental development, but I would hope to field it later this year.

**Viscount Hanworth:** Could you by manifesting a sufficient presence within the fishing fleet have a substantial effect on a rate of discarding, or do you have far too few vessels available to you for that purpose?

**Phil Haslam:** Under the Regulations you are required to retain species on board. If I put a patrol vessel among a fleet, the likelihood is that it will be very compliant at the time. This is not a case where the regulator is going to compel compliance, because I cannot be everywhere at any time. It is similar to trying to enforce a 70 miles per hour speed limit on a motorway. To do it meaningfully, you would have to put someone in every car to ensure that they comply. I cannot do that. This is about a cultural shift. This is a partnership between Government, regulator and industry to say that this is the right thing to do and therefore people comply by default because it makes sense. The struggle we have at the moment is that, to some, it does not make sense.

**Viscount Hanworth:** So you cannot practically monitor by going out with fishermen?

**Phil Haslam:** I can certainly monitor whether people are discarding and what they are discarding.

**Viscount Hanworth:** At the quayside, but not out at sea?

**Phil Haslam:** And at sea. I have available to me at the moment three vessels.

**Viscount Hanworth:** You have three?

**Phil Haslam:** Yes.

**Viscount Hanworth:** That is very few.

**Phil Haslam:** Yes, it is very few, but they are quite agile, so I can get them around. Under EU exit day one capability, I have not only Royal Navy vessels, to which I do not have exclusive access but which commit to the fishery protection task if they do not have other tasking, but also a commercial vessel which is operated solely by us with our teams onboard. It will go where we need it to. That is how we are bringing this ability to increase inspections to the fore.

**Baroness Sheehan:** It sounds to me as though you are more of a deterrent than an enforcement force.

**Phil Haslam:** I think we are both. We seek to deter and compel compliance, but we have the ability to enforce as and when necessary. Our limitation is, it is increased but with 230,000 square nautical miles of sea, we can only be in certain places at certain times.

**Baroness Sheehan:** But you get my point: your presence means that enforcement is unnecessary because of the deterrent effect.

**Phil Haslam:** Ideally, the deterrent effect works and the Regulations make sense.

**The Earl of Stair:** Was that three vessels including the Royal Navy?

**Phil Haslam:** Yes.

**The Earl of Stair:** So if the Royal Navy has a different task, you are down to one.

**Phil Haslam:** I have one steady-state commercial operator. The Navy has committed to a certain number of days per year for the offshore patrol vessels that they operate, and we have agreed to retain in service additional ones of those so their ability to service their part of it is not routinely challenged. On occasion, there has to be a decision between higher maritime security tasking and my fishery protection task, and that judgment is made, but there will be more Navy ships so the likelihood of that playing in reduces.

I am relatively confident that between the vessels that I can contract, I have a number of hours for which I can survey with ships out there. Right now, that is a significant uplift to what I had last year.

**The Earl of Stair:** Yes, but they are not 100% reliable: you cannot guarantee that you will have that number?

**Phil Haslam:** No, there is always a risk that they could be on task and then be drawn away to something else.

**The Earl of Stair:** This is a very open-ended question, then: how many vessels would you ideally need to carry out your task?

**The Chairman:** This is your chance to bid.

**The Earl of Stair:** You can bid, but I fear you might not get it.

**Phil Haslam:** All I can do is refer back to when I was serving in the Fishery Protection Squadron myself and there were eight vessels but, in that day, we were patrolling Scottish waters as well. Rather than an actual number, you just need the right capability at the right time.

**The Earl of Stair:** So probably five plus the Navy would be sufficient.

**Phil Haslam:** Yes.

Q78 **The Chairman:** I would like to come back to something that you said earlier, which was that you are well-resourced at the moment because of Brexit. I think you said something like, "And hopefully there might be a way to continue that". Do I take it that the resource level you have at the moment is largely because of preparations for a no-deal Brexit or whatever, and that money is there only for a particular period and there could be more challenge beyond that period?

**Phil Haslam:** That is correct. The capability that I am fielding this year has been sourced to mitigate risks perceived through EU exit. What I am going to need in future is a similar level of capability, and it is my challenge to successfully to bid for that and make the arguments for it. I think that as we become an independent coastal state, with sole responsibility for control and enforcement within our waters, we will have to give meaning to that. At the operational level, I contend that what I have now is a baseline amount and indeed we may need more.

**The Chairman:** But at the moment that funding is not guaranteed for the long term.

**Phil Haslam:** It is time-limited.

**The Chairman:** It is very important to this Committee that that is the case.

Q79 **Baroness Wilcox:** Captain Haslam, what a delight to have you back again—someone who really knows what he is talking about at sea; it is terrific. Thank you very much for coming today. What estimate have you made of the likely rate of non-compliance with the landing obligation, and what percentage of vessels do you think have discarded fish illegally since 1 January?

**Phil Haslam:** If I may say so, at four months in it is early to give an estimate of compliance. All I can say is that the figures at the moment are, of 93 inspections, we have had to issue six enforcement actions through verbal rebriefs, which is a 6.5% non-compliance rate. I do not believe that that is steady, but I do not believe it is a 85% non-compliance. It is an emerging picture. I am probably not best placed to answer at the moment but, as I say, the fact is that there is 6.5% non-compliance that is provable at the moment.

Q80 **Baroness Sheehan:** The legislation underpinning the landing obligation was agreed in 2013. Serious marine conservation concerns relating to non-compliance continue and are growing. We have heard from you that it will take time to be compliant, and we have heard that from other witnesses in previous sessions. So when do you think the practice of discarding will be eliminated completely from the UK fishing fleet?

**Phil Haslam:** When? This will probably be an unsatisfactory answer: when the cultural shift has been made and there is recognition that compliance with these regulations is possible and is adding value to business models. Eliminating the discards completely would be a significant challenge, but we can do it on a fishery-by-fishery basis. We are already starting with some fisheries that have very low levels of discard, such as gillnet fisheries, but some towed-gear fisheries within a mixed fishery have a much greater challenge. Your question is, "When will we end discarding?" I do not think I can tell you that, but we can certainly take steps in the short to medium term to drive down discards to the minimum.

**Baroness Sheehan:** On more than one occasion you have intimated that the policy is not all that it should be. How would you like to see the policy change?

**Phil Haslam:** I do not think I have intimated that the policy is not all it should be. For me, it is about the acceptance of the policy and the willingness to give it a go. Then, through joint action from both the enforcement and operational end—the fishermen—we can say that we have given it a fair wind but it is simply is not working. That would not be because we are intransigent and do not wish to alter our custom and practice; it would be just simply because it cannot work within this fishery, given the way that this fishery is. There are very distinct differences between different fisheries. That is why full implementation and greater exposure to this will flush out where that one-size-fits-all solution potentially cannot fit. I do not think there is anything fundamentally wrong with the policy, but it needs to be adjusted operationally to make it fit for purpose.

My previous experience of fisheries management is of managing one fishery from the north Norfolk coast round to the bottom of Suffolk. There were three distinct elements that needed to be dealt with just for one fishery, because what happened off Great Yarmouth was very different from what happened off King's Lynn. That is why extending this to all UK fisheries is such a significant challenge.

**Baroness Sheehan:** You said at one point that the policy was media-driven. There is a likelihood that the media will be involved again when the public want to make sure that the fish they are eating is compliant with the fishing discard ban. Is the industry aware that, for self-protection, it needs to be seen to be complying?

**Phil Haslam:** At the beginning I stated that there is a perception that this is a media-driven policy. I do not share that view but, to answer your question, yes. There are some very forward-leaning parts of the industry that absolutely recognise the potential and the value of demonstrating sustainable practice. Equally, there are some for whom this is a change too far and they are not wedded to it yet. They do not understand the practicalities of it, they cannot see how they want to make it work and they cannot see how it is going to add value to their business model, so why embark on that route? The challenge for the Government, the regulator and the industry is to say: "We can make this work and there is a dividend to doing so". That is what we are going to do.

On your point about people looking in, of course they are. There is a much greater social conscience about where food comes from, how it is sourced and whether it has been sourced with sustainable practice. We have to demonstrate that. We in this country are lucky to have the fisheries that we do. It would be a bit of an own goal not to exploit them fully within a sustainable framework, and this is the beginning of how we can do that.

Q81 **The Earl of Stair:** You said at the start that your officials carry out

inspections of boats when they come in as well as at sea. Is that correct?

**Phil Haslam:** Yes.

**The Earl of Stair:** If a boat brings ashore quota-eligible fish that are of a size for human consumption, what is going to happen to those fish? If you happen to be doing an inspection and find those fish on board the ship, do you seize them? If you do not find them because you are not there on a particular day, can the fishermen sell those fish and what happens to that income? We are looking at the end use of those fish. And I have a second question to come later.

**Phil Haslam:** If we are in a position where a fisherman has attempted to comply—through gear selectivity, spatial selectivity or even temporal selectivity—but has put the net in the water and still got over-quota landings of marketable fish, they will have to recover those. The way the system works is that, if you are landing over quota, you have to cover that excess quota by balancing the books. If you are operating within a Producer Organisation, that is one route, but if you are operating in the non-sector, which is the Marine Management Organisation's managed model, those landings have to be covered off. Those fish will be landed and sold in the normal manner, but the books have to balance. If there is behaviour where those landings are not covered off, there is a route via enforcement to make sure that they are. If such a practice comes out within the non-sector, which is predominantly made up of smaller operators, the ramifications are that the fish quota will be exhausted earlier than would be ideal.

**The Earl of Stair:** But the income from that sale remains with the fishermen without any penalty at all.

**Phil Haslam:** Yes.

**The Earl of Stair:** So apart from the book work, there is no real motivation for them to take care in catching the fish.

**Phil Haslam:** If you put it that way, no, there is not.

**The Earl of Stair:** Have you any idea how much has been landed since January?

**Phil Haslam:** Do you mean over quota?

**The Earl of Stair:** Yes.

**Phil Haslam:** Two hundred and thirty-seven tonnes.

**The Earl of Stair:** Sorry, how much?

**Phil Haslam:** Sorry, I am quoting the wrong figure: it is 56 tonnes, as opposed to 33 tonnes in 2018. That difference is caused by one significant over-quota landing of a species called nephrops, which are prawns. In the non-sector pool, the one that we manage, there were 61 over-quota breaches this year against 72 this time last year; 56 tonnes,

as I have said, versus 33 last year; and that was caused by 41 vessels this year as opposed to 45 last year. So it is a relatively steady state if you take that one oversized landing into account.

**The Earl of Stair:** That also suggests greater checking and greater regulation.

**Phil Haslam:** Yes.

**Viscount Hanworth:** So compliance means, essentially, balancing the books, and ceasing to fish because you have already fulfilled your quota.

**Phil Haslam:** Yes: getting the quota in to cover what you have landed if you have landed over quota.

**Lord Rooker:** When we did our original inquiry, the issue of storage capacity for potential over-quota landings was raised. Is there any evidence that there has been an increase of storage capacity at any of the ports to take account of over-quota landings?

**Phil Haslam:** Not in terms of huge amounts of over-quota landings. The figures show that there is not a lot of it, so it has not been a driver to have to cope with it.

**Lord Rooker:** Because 56 tonnes is quite a small amount.

**Phil Haslam:** Yes.

Q82 **Viscount Hanworth:** I think that was almost my designated question, but I will ask it again. In the previous session, a harbourmaster of Portsmouth<sup>1</sup> asserted that nothing much had changed since the advent of the landing obligation as far as the landing catch was concerned. We expected that there would be a substantial increase in the landing of undersized fish. This led to the observation that either fishermen had found new ways of enhancing selectivity and avoidance, which sounded improbable, or else they were continuing to discard as before. My question is: how much fish below the minimum conservation size has been landed since 1 January? The rider to that, which has already been asked, is: have there been any difficulties in finding markets to accept such fish?

**Phil Haslam:** The focus of the landing obligation is the reduction of unwanted catch, so actually it could be a signal of success that there are not huge amounts of undersized fish being landed. If fishing practice had just remained as is, and everything that was previously discarded was retained and brought into harbour, it would not be progress. It could be one measure that selectivity and the like is paying dividends, and so you are not seeing it coming in; or indeed people are just discarding, and so it is not there.

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<sup>1</sup> Viscount Hanworth was referring to evidence provided by the Harbour Master at Sutton Harbour (Plymouth)

I do not necessarily see this as an indicator of compliance but, so far this year, 237 tonnes of below-minimum-size quota species fish has been landed.<sup>2</sup> This goes back to my point about the lack of consistent reporting of those things that have been discarded based on exemptions. There is no way to cross-check to see if that is as it should be, and that is the bit that we are focusing on.

On the question of a market for that relatively small amount of fish, I have heard nothing to say that there is any difficulty in those being taken for pot bait or other things; innovation is alive there. But it is not economically viable to bring in vast quantities of undersized fish to turn into fishmeal, pot bait or whatever else. If selectivity or avoidance is working, you would not see it coming in.

**Viscount Hanworth:** So we still cannot determine accurately whether it is enhanced selectivity or simply a continuation of discarding. Presumably we can compare the 237 tonnes this year with previous years.

**Phil Haslam:** The landing obligation was limited in previous years. I do not have the figures with me for what was brought in in previous years, from 2015 onwards with the incremental introduction of it. But this year, when all quota species have to be retained and landed, the below-minimum-size figure based on that is 237 tonnes.<sup>3</sup> I would have to come back to you with a comparison with previous years.

**Viscount Hanworth:** A comparison between that and previous years would be helpful, because that is the crucial issue. And we still do not have any means of determining what exactly is happening at sea.

**Phil Haslam:** Other than what we are seeing and the increased inspection regime. This goes back to my point: unless you put an observer or some means of monitoring on every vessel, you are not going to get that level of evidence. It also goes back to my other point: this is about a cultural shift. The behaviours have to be demonstrated—a willingness to change gear, and active avoidance through spatial avoidance and time avoidance—and we are witnessing people making those decisions within their business models.

**Q83 The Duke of Montrose:** I would like to follow up on the discards question. I declare a small interest in some freshwater fishing, but that will probably not be affected. Do you think you have any role in developing markets for the fish? Who do you think does? Obviously it is not a great worry to you at the moment, but the harbourmaster from Portsmouth<sup>4</sup> was saying that the main enthusiasm he found was from a couple of people with biodigesters, which seems to be a very poor outcome for such a commodity. A lot of this presumably hangs on the question of the possibility of prions affecting the use of fishmeal. Has

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<sup>2</sup> The witness subsequently clarified that it was 85 tonnes of fish landed in the UK so far this year, compared to 293 tonnes for the whole of 2018

<sup>3</sup> The witness subsequently clarified that it was 85 tonnes

<sup>4</sup> Again, this is a reference to the Sutton Harbour Harbour Master

anyone found a prion in fish that is a problem?

**Phil Haslam:** Not overtly. I go back to my point that lots of below-minimum-size landings is not an indicator of compliance, and I do not think it would be a success. What we are trying to do is avoid that. In the instances where they are landed, there are markets there for pot bait or, as you say, for going to incinerators, but we are not actively looking for those markets. There could potentially be a role there for Producer Organisations that look after the marketing of products as well as the fisheries management quota allocation, but I think you would have to talk to a witness from the Producer Organisations to get their take on it. The Marine Management Organisation is not overtly seeking those markets.

**The Duke of Montrose:** My other question is: do you have concerns about the extent of exemptions to the landing obligation, particularly from a conservation point of view? To what extent was scientific advice followed when setting the exemptions, and how long will they be in place?

**Phil Haslam:** Do I have a concern about the extension of the exemptions? Only if they are not based on scientific evidence. This is a chicken-and-egg situation. It is critical to us that all catches are accounted for, because that is the way in which we can see whether or not this is having an effect. Without that data input and that evidence, we will be making decisions based on flawed evidence. The exemptions in place now have been based on pretty rigorous science, so there is a degree of scientific evidence there. But, as we work through this, if it is complied with then we will get richer data sources and thereby have a better evidence base upon which we can make better decisions. If there were just an indeterminate exemption extension because it was too difficult not to do it, that would be a concern.

Q84 **Lord Rooker:** Turning to quotas, particularly for the under 10 metre fleet. I understand your organisation manages the potential for quota-swapping, or mitigation for the choke effects. Have you been able to take any steps to make this more flexible for them since it started?

**Phil Haslam:** The routine steps that we take in managing the non-sector pool, as it is called, are through consultation on catch limits. We discuss with fishermen what fish are available and when they would wish to have it available to them, and we set the catch limits based on that. We maximise the fishing opportunities and set ourselves quite a high bar in terms of organisational performance to make sure that we are doing that. So we can present the fishing opportunities; that goes on.

On the mitigation of the risk of choke, there has been other treatment such as a top-slicing of quotas, so more has been put into that pool to give greater liquidity within that system. You will probably be aware, through Mr Percy and others, of the Coastal Producer Organisation, which is a formative Producer Organisation to represent that sector. We will be working with it in short order, putting together a trial to enable them to demonstrate functionality as a Producer Organisation, so that we can

then increasingly say, "Right. You have a membership, you are compliant with the Common Market order Regulation and you have functionality as a Producer Organisation", and we can start giving them greater latitude to manage that sector. Those are the three means by which we are trying to mitigate the risk, but the risk is large.

**The Chairman:** Clearly the whole choke issue has been fundamental to concerns that the Committee has heard, both in the original inquiry and in this follow-up. I realise that the MMO does not make the rules but has to enforce them. To just increase the quota on certain species is fine, but is the choke issue actually solvable while keeping conservation—or sustainability, I should say—as the number one objective, or is it just a contradiction in this area? Can we actually solve the choke problem? We were struck in our original inquiry by the very honest statement from certain people in the industry that, at the end of the day, if there is a choice between going broke because you have to stop fishing halfway through the year and keeping the rules, people are likely not to keep the rules. A number of us are unconvinced at the moment that a solution has been found to the choke issue.

**Phil Haslam:** To answer your question whether choke is solvable, I would say yes, because it is fundamentally about the liquidity of fish. If you have enough fish such that you can balance the fishing opportunities within the mixed fishery, you do not exhaust one species far in advance of others and have to discontinue your operation. That goes to the wider question of renegotiating a better share of quota and giving greater opportunities.

It is eminently solvable. Whether it is possible to do it is a wider concern and probably not for me to comment on. We have a number of tools in place now to try to mitigate the risk of choke already. We have not yet got to the point where we have to deploy them, and only at such time as they are deployed will we see whether they can actually solve the problem. It is theory, rather than practice, at the moment.

I get the point about where someone is faced with having to discontinue their business model because of a rule and what choice they make. Your question was whether choke can be mitigated or solved. I think it can, yes, but it will take macro-level adjustments rather than operating as we are now.

**The Chairman:** Bertie Armstrong was very clear around an agenda that, once we are an independent nation state, and we are no longer shackled by relative stability, that would help to solve the problem. Is relative stability and the carve-out of quotas among EU members a key problem?

**Phil Haslam:** Relative stability determines the slice of the cake, the amounts of fish, which we get now. If it is possible to renegotiate that as an independent coastal state, reflecting fishing practice now and not based on fishing practice previously, there is an opportunity there. I share the view that there is an opportunity with the fisheries we have to be able to balance and operate within them, but I do not think that is the

single line of approach because there needs to be parallel lines of approach of different custom and practice, different standard operating procedures and the like, and the marry-up of them all together gets us to a point where we can have sustainable fisheries and a fair apportionment of our fishing opportunity at all levels of the industry. Then we are in a very different state in terms of regulatory compliance. From where I sit at the operational level as the regulator, I can see why things are not working. There are some relatively large pieces of business to be done to get us to that better place, but it is all being spoken about and on the agenda.

**The Duke of Montrose:** To come back again, do you have in mind a date, preferably not too far away, when you will produce your assessment of how the fishery has improved from all these actions? Are you required to produce a report on the state of the fishery?

**Phil Haslam:** The stock status assessments will be made by the scientific bodies. I would expect CEFAS to gather the evidence of where stocks are recovering and the exploitation of those stocks. That is routinely done and will have to continue to be done to inform negotiations about shared stocks and the like.

As an organisation, we report on the uptake and use of the fishing opportunities, but there is a blend between the two and I think there will have to be a stock take at some point in future to say, after one year's full inception, this is it. That will need to be done.

**The Duke of Montrose:** Next January?

**Phil Haslam:** I think we would need a season to let it roll through.

Q85 **Lord Young of Norwood Green:** In a previous session we were told that the landing obligation was resulting in fewer quota swaps. Bertie Armstrong and Barrie Deas both said that people were hanging on to their quota in case it was needed later in the year. They did not have figures. Then, the New Under Ten Fishermen's Association said that it was resulting in the value of quota rising dramatically, which would preclude those who do not have the financial resources to lease it. Do you have any evidence of Member States, or Producer Organisations in the UK, being more reluctant to swap quota this year? If so, do you have any concerns about the impact this may have, particularly in relation to chokes that may occur later in the year?

**Phil Haslam:** The evidence so far this year is that swaps are relatively typical to other years, but I would expect there to be increased activity towards the back end of the year. I am hearing the same anecdotal evidence that getting hold of quota is more difficult and, if it is at a premium, the price will rise. There is something in that, but, right now, we are not absolutely seeing those indicators. But I would expect that to be a tension, yes.

**Lord Young of Norwood Green:** Will that impact on chokes?

**Phil Haslam:** If you cannot get the fish in to have that liquidity in the system, yes, it will have an impact because some of the mitigation measures are based on the fact that you need to be able to offset the quota—the interspecies flexibility—against another species which is less exploited or more populous, or the fish exists but it is just not in the right place and you need to get it to the right place. It is that trading. I suppose that it will get to a situation where you could get it in if you were willing to pay. That would be the determinant.

Why would you trade out fish routinely, as was done in previous years, if you need to hold on to it to mitigate a risk that might mature in due course? I think there will be a clamping down on that, yes. The evidence so far is that swaps this year look relatively typical.

**The Chairman:** When do you predict that we will have the first fleet tied up because it has run out of quota because of choke?

**Phil Haslam:** I do not think I can predict that, to be frank. I hope we do not get there, because our treatments will work, but I cannot offer a forecast.

**The Chairman:** Do you think we might get through the whole year without that happening?

**Phil Haslam:** I really do not know. It depends on the management of it and it depends on the willingness. For me, there is an opportunity to be able to manage it through, but if things such as quota become disproportionately expensive, or it is withheld or whatever, those will be hard points that we cannot get around and that will propagate other action. I do not know when it will happen, and I hope it does not.

Q86 **The Chairman:** Perhaps we can use your experience in one other area. One of the things that we expect to do, depending on our membership of the European Union, is go to Brussels to talk to the Commission about this area. How do you see other Member States, particularly in the North Sea or in Western Waters, applying this? Are they doing anything at all?

**Phil Haslam:** I am aware that the Dutch are taking action. In terms of risk-based intelligence-led operations, they see that the risk of non-compliance is live and are reacting to that with their inspection regimes. I am not aware of any other Member States' activities in this space.

**The Chairman:** Do you swap practice with them in this area?

**Phil Haslam:** Yes, through an organisation called EFCA—the European Fisheries Control Agency. It covers all Member States, and is a sort of clearing house for best practice and the like. However, it has relatively infrequent meetings and a very set agenda. Operational and more tactical collaboration goes on day-to-day with our French counterparts or whoever, but it is on a case-by-case basis. I would expect demersal landing obligation enforcement best practice to go to the EFCA committee, and for there to be some form of operational stocktake of

how it was going and who was doing what, but that has not happened yet.

However, the control and enforcement working group between the devolved administrations is a body that is sitting today with an agenda. I am not aware of what is on the agenda, but I would expect best practice so far and a sharing of experience to be part of that, either formally or informally.

**The Chairman:** One of the conclusions that we came to in our original report was that, frankly, the only way you have a chance of enforcing this is by having cameras on board vessels. Is that still the MMO's view, and is there any progress on that?

**Phil Haslam:** If you look through the lens of 'this will have to be done "to" people because it cannot be done "with" people', cameras can certainly help with that monitoring regime. I come at it from the other end: if this makes sense then people will do it, so we need to make it make sense so people will elect to do it rather than be directed to do it.

However, if it is going to get to one-dimensional enforcement, either you have an observer on every vessel or you have some kind of monitoring system. Even so, if you were a fisherman and you had a camera on board your vessel, it might be inconvenient for it to be there. Cameras need light to operate, so are they going to have to have infra-red capability so that they can operate at night? They need electrical power to operate, and electrical power on ships does go. Cameras are certainly not a panacea.

The model that would work for me is for a fishing business to say, "We have nothing to hide. We are highly sustainable. We are producing a brilliant product, and we want everyone to know about it". That is where you deploy the cameras. A fully documented fishing scheme that has been in the North Sea for the last seven years operates on that very basis.

Q87 **The Chairman:** I would applaud that. Coming from the freight industry, I know that when tachographs were introduced, if yours did not work then that was an offence, as was not having it operational. Still, it is interesting that you come back to the point about this being cultural.

My last question comes back to retailers. One bit of feedback that the Committee has had is that the retailers who buy much of this fish—although not all of it is UK-produced; a lot comes from outside as well—have a strong position. Do you feel that at some point they, with their demands around the sustainability of what they sell, and the Marine Stewardship Council, will have a role to play here in making sure it is right?

**Phil Haslam:** Absolutely. In the final analysis, this is a product that needs a marketplace. It is a fantastic product from very diverse fisheries, sourced in a sustainable manner, and we want to get the most from it. To me, if there is any nervousness within that marketplace—among buyers

or among those who support sustainability statements and say that they cannot put their name to this or have no confidence in buying it—that is the major risk. You can regulate as much as you like but there has to be a marketplace to support the businesses' viability.

**The Chairman:** And do you think that pressure will start to come in?

**Phil Haslam:** I think it is there now. People are very aware of it. Any retailer would be alive to the risk of flagship stores having protests outside and the like. My part in that as the regulator is to make sure that we can exert control of our waters to assure the sustainability of the product. In answer to the question of whether they will continue to exert pressure, I would absolutely expect them to, because they need to be able to buy with confidence.

**The Chairman:** Mr Haslam, thank you very much indeed for being a witness today. I am very aware that you sat there and had questions fired at you continuously, when normally we have more than one witness at a time. We are very grateful to you. I suspect that we wish you every success in changing the culture and making this work from the bottom upwards. I bring this public session to an end.