

WEDNESDAY 10 DECEMBER 2008

Present

Brooke of Alverthorpe, L
Brookeborough, V
Caithness, E
Cameron of Dillington, L
Dundee, E
Jones of Whitchurch, B
Sewel, L (Chairman)
Ullswater, V

Witnesses: **Huw Irranca-Davies**, a Member of the House of Commons, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs; **Mr Mark Hawkins**, Policy Adviser, Pesticides Safety Directorate, Health and Safety Executive; and **Mr Paul Dolder**, Policy Adviser, Marine and Fisheries Directorate, Defra, examined.

Q1 Chairman: First of all, Minister, welcome and thank you for coming to meet us. Secondly, apologies for keeping you waiting somewhat excessively. Thirdly, the reason is that we have suddenly had a flurry of correspondence from your officials.

Huw Irranca-Davies: Yes, indeed, and my apologies for that. I fully understand. Thank you.

Q2 Chairman: Could you take us through what is happening on the pesticides front. I think that since our last communication in September we have had the Second Reading and there has been an indication of the Government hoping to make progress and coming up against difficulties, I think is the fairest way of saying it. Where are we now and chance your arm on what is going to happen?

Huw Irranca-Davies: Thank you for the opportunity to bring you up to date on what is happening and I repeat my apologies for the flurry of correspondence. This, as you know, as

in a number of areas, is such a fast-moving issue, so it is a good chance to bring you up to date. The Parliament's Environment, Public Health and Food Safety Committee, ENVI rather more conveniently, addressed in its Second Reading on 5 November, amid many points, two particular concerns. The first of those was on zonal authorisation and I know that you will be familiar with some of this but I would like to broadly explain. The Committee was evidently concerned that Member States might be obliged to authorise products which they considered unsafe under their particular national conditions and consequently they sought to remove the concept more or less in its entirety and I can return to some of the detail of that later. The other concept with which they were particularly concerned was the hazard criteria and you will recall that, in its First Reading report, the Parliament opposed amendments which would have had a major impact on the availability of pesticides. The ENVI Committee has substantially toned down its amendments at Second Reading and has come much closer to the Council's common position, but it still wants some additional criteria including in particular for immunotoxicity and developmental neurotoxicity in humans and also for protecting bees. I know that you will appreciate that, as these negotiations are still ongoing, it would be premature to say that either issue has been resolved. We have a third dialogue discussion between the Council, Parliament and Commission scheduled for 10 December when we should be clearer as to what, if anything, has been agreed. I can say that I believe that the Council has offered what we might call reasonable assurances to the Parliament to meet both concerns and it may be helpful if I say where those assurances are. First of all on zonal authorisation, this would deliver a major development in harmonisation and we are coming towards a common position now which would include sufficient safeguards for Member States and none would be obliged to authorise a use which would be unacceptable in their national circumstances. That is one part of progress that we have had. Secondly, the Council has suggested proportionate provisions for dealing with immunotoxicity and

developmental neurotoxicity bearing in mind – and this is an important fact – that there are no agreed rules for determining these substances. Therefore, we cannot determine the impact. Introducing tests for developmental neurotoxicity would also entail a substantial increase in the amount of animal testing which the Parliament, like us, would like to reduce, and we can also accept their proposals for specific criteria to protect bees. We have had some progress in the negotiations with a great deal of work but we are still waiting, as we go into this dialogue, to see the next stage of the detail. I hope that that is helpful.

Q3 Chairman: It has been an unhappy experience all the way through. Why has it proved so difficult?

Huw Irranca-Davies: I am going to have to use some ministerial phraseology here! Certainly our engagement over some time has been to try and make our fellow ministers and their officials and parliamentarians aware of the potential impacts, but it would be fair to say that we have been starting from a place where the concerns regarding the original proposals which were commonly accepted by most of those with whom we were sitting down and negotiating have not been fully taken on board. We have now put these to them and put to them with some evidence and in fact there has been quite a drift in our direction, but you are right in what you say in that we started from a position where we were arguing if not as a sole negotiator from our position as we have certainly had people come our way but it has been tricky, but it has come our way without a doubt and I think that our difficulty from here in the short stages that are remaining is how much more certainty we can get on these proposals having brought them our way to a large extent, but it has been difficult.

Q4 Chairman: We dug out the history of this a couple of days ago and, looking back to April when it came into play as far as we were concerned, we lifted scrutiny in April on the basis of an assurance and there is a quote in the letter from your predecessor, “We consider

this a reasonable compromise and one which we can support". So, there was the indication that, in the Council, a reasonable compromise was available and that fell by June when you were faced with a position where you could not support the presidential compromise. I may in passing say that, although that happened in June, we were not actually informed until September, which was quite difficult. It does look as though we got the perception wrong early on, did we not? We thought that we would be able to get a reasonable agreement and then the ground disappeared from under our feet.

Huw Irranca-Davies: You are right in many ways. The position that we have reached now is that we support almost all of the commentaries for the agriculture. Our objection fundamentally is now with this proposal to eliminate substances which are potential endocrine disruptors in humans and the impact on the hormone systems. Even at that early stage, I think that we recognised that, in the reality of negotiations with 27 Member Nations and with the Parliament, there would have to be some understanding of the valid aspirations of other Member States that we had genuine concerns. I think we always anticipated that, presented with the evidence, actually the parliamentarians and Member Nations would come with us and in fact that is what has happened over the course of time. You are right in saying that we cannot underestimate that, right back to that period in March and April when we were convinced and always have been and remain convinced of our arguments based on the evidence, we were also fairly convinced that there would be a reality of this because of the quite firm position at the time of others, but they have come with us. I do take your point and probably we would not have wanted to have begun these negotiations from a position where we were somewhat at odds not with one or two but the overall direction of travel at that time of other nations. I pay tribute to the work that our officials and Hilary Benn have done alongside other countries which have subsequently come to actually look at it and generate

their own evidence as well and have come round to our way of thinking. In this latter end of the negotiations, we have to be realistic as to what we can achieve.

Q5 Viscount Brookeborough: It appears to have taken people slightly by surprise but where is the scientific base that this actually emanates from in the first place and, if it is not a secret one, surely there are scientists from many nations who are involved and how come that there is no discussion not only in official papers but even in scientific magazines that would have been picked up by the agriculture community over the last few years? How come it is just sort of thrown into the pool?

Huw Irranca-Davies: It is a fair point and, as you are aware, the fundamental principle with which we have been wrestling here is the issue over the advice from the Chief Scientific Officer and we are confident in the science that we have and what we do on a risk-based assessment to this and a wide range of other issues because certainly, as you look at the issue of, let us say, endocrine disruptors, we know that the level of potential endocrine disruptors in substances such as meat or peas or soya milk is higher than you might find in some of these products. Our position has always been scientific and what we have argued and what we have discussed with stakeholders, both within NGOs but also within the agricultural community as well, is that our firm position is soundly based with the advice of the Chief Scientific Officer. The argument has been rumbling on. Your point is absolutely valid in why was this not happening elsewhere. I would not want to comment on why this sort of argument has not been articulated in such a way either within the agricultural or NGO or scientific communities in other Member Nations but also within those who are participating within negotiations. It has been at the latter stages that this has come to the forefront of their thoughts largely because of us pushing it.

Q6 Chairman: Did we get it wrong in the first place in terms of how we were engaging with the Commission? Okay, it is a matter of interest to a relatively limited number of countries because of the mild climate, marine and whatever ... Surely it is the Commission's job to recognise those interests of a relatively small number of Member States in framing proposals to make sure that those interests are recognised.

Huw Irranca-Davies: Yes.

Q7 Chairman: Did we bear in upon the Commission sufficiently strongly at that stage?

Huw Irranca-Davies: We did. There is a single factor which underpins all of this and which partly explains why we were, if you like, up against it in layman's terms from the outset and it goes back a lot further. It goes back to a political direction as much as anything, a political impetus that came from the Council and the Parliament in 2001/02 in the reports which stated the strong direction toward hazard-based intervention rather than risk-based intervention. With that thrust from all the way back then, by the time these proposals based in Agriculture Council – we got into arguments over it – the political direction was always clear. The political reality was, even back in March/April and way before that, that we were up against a political direction that had been set in process quite some years ago and we have had to bat against that.

Q8 Chairman: With respect, in March and April, we were saying that we were going to get a compromise that we could live with.

Huw Irranca-Davies: Yes, indeed. We are still in the negotiations and I hope that what I have explained in terms of two main factors, both on the zonal issue and in terms of what we can do on the main substantive issue on the use of the substances ... We are still hoping for a position where we will be able to not only live with it but actually to satisfy the needs both on human health and on the environment, but also for our agricultural community as well

because it has always been our concern from the beginning as to what impact this would have, yes, on human health – absolutely paramount importance and so on – but also what impact it might have on our farming community and that is still with us. We hope we will get to a position when we can realistically accommodate and implement.

Q9 Viscount Ullswater: My question on endocrine disruptors has really been substantially answered but I would like to touch on some of the things that you have said. Are you actually saying that the argument of hazard against risk was politically formulated in 2001 and that therefore any arguments that we might have on the risk-based assessment are now really not able to be persuasive in the European context? What we have in front of us is the Pesticides Safety Directorate's report dated May 2008 which is really all about risk rather than hazard and of course what it does identify is the, in some terms, catastrophic results that might happen to yields if some of these available chemicals are withdrawn from the market. Have the Pesticides Safety Directorate been given the wrong criteria for looking at these things? Should they have been given the hazard criteria and have changed their views or are we so confident that the risk-based assessment is still safe for humans and production of food? I am sorry, I have gone slightly wider than the question.

Huw Irranca-Davies: You have kept right to the heart of the matter. To your first question, the answer is absolutely “yes”, in the sense that that political direction of travel away from risk-based assessment to hazard assessment was set in direction way, way back in 2000 and 2001. Absolutely, yes. However, we should not and we have not as a UK Government and as UK ministers accepted that when our science is sound and categorical and our rigorous system in the EU and in the UK of assessing these substances on a risk base for their potential impact further down the line has always been sound and is led by the best science. So, even knowing that that trajectory was there in place and the clear political direction of the EU was set way back then, we were not going to give up on the fight and that is why, in a sense, since March

we have been, if you like, fighting the good fight on it. Let me put it purely in layman's terms. Electricity is a naturally dangerous thing to deal with, but we do not ban the use of electricity. What we do is regulate it and make it safe for the end user. The same principle applies to our scientific assessment elsewhere. We will not jeopardise human health and we will not jeopardise the environment but, led by the best science, that is the argument that we advance. Were we right to take this approach and negotiate hard? I think that we were in the hope that we could actually bring people along and curiously, as I have mentioned, even in this state since March, presented with the evidence, we have managed to bring other Member Nations along with us to recognise that, but late in the day. My wish would have been and I think that the Secretary of State's wish would have been that they would have been there earlier with us on this in order that we could together advance the case.

Viscount Ullswater: Have other Member States made the assessment that the Pesticides Safety Directorate has made? Have other Member States made those sorts of assessments about the effect on yields and that sort of thing? As I said earlier, some of them can be quite catastrophic.

Lord Brooke of Alverthorpe: Where do the Germans and the French stand?

Q10 Viscount Ullswater: They talk about a 100 per cent effect on yield.

Huw Irranca-Davies: They have subsequently gone to do those assessments and the assessments are not far from ours in terms of the impact and, as you know, these are estimates but good, scientifically-based estimates, that we could be looking for example on wheat at an impact of 20 per cent on yields. They have done their assessments and they are not far off it as well. We do have, as the Chairman mentioned, particular circumstances in this country with the triazoles particularly and the impact of that in a mild climate that we have on wheat production which does not affect other countries as much in the way that it does as. We are particular in that way, but it will also impact on them. Yes, their findings are the same but

this direction of travel based on a hazard approach is where we are. That is the reality of our negotiation position.

Chairman: Let us jump and go to the Earl of Dundee on impact assessments as I think that follows from the way in which the conversation is going.

Q11 Earl of Dundee: Minister, as you will know, the Government's impact assessment was sent to this Committee last May. Since then, have the Government undertaken any further analysis of the proposals in their amended form?

Huw Irranca-Davies: Yes, indeed. As you know, the original impact assessment looked at the effects of these hazard criteria and substitution provisions. We are preparing a revised impact assessment at the moment which reflects the Council's common position which we have come to and the Second Reading amendments adopted by the ENVI Committee. It is going to be published in two stages. The first stage has already gone out there on 1 December. That stage analyses which substances would be caught by the two sets of proposals and it also assesses what would be caught by Sweden's definition of endocrine disrupters. The second stage which looks at the agronomic impacts of the proposals will be published shortly, the reason being that it takes a little longer to assess those. We are moving ahead on that. The report concludes at the moment that the common position would remove up to around 14 per cent of these potential endocrine electing substances while the Parliament's Second Reading amendments would remove between 14 and 23 per cent. There are uncertainties within this and some of these uncertainties are unavoidable because provisions such as endocrine disruption and developmental neurotoxicity lack agreed definitions and criteria for determining them. I hope that is helpful.

Q12 Earl of Dundee: That is. Taking into account other impact assessments carried out by other EU Member States and EU institutions, how would you prioritise these and which ones

would you find to be useful and with which you would be able to agree including aspects within the European Parliament's analysis published on 15 September of this year?

Huw Irranca-Davies: In fact, all of them including those assessments that have now been done in Sweden, the Netherlands and Germany. Our discussions and negotiations from hereon would be utilising those, not only the reports that have been up there but also what other countries have done as well.

Q13 Earl of Dundee: From these different assessments which points and aspects do you think are particularly worth noting?

Huw Irranca-Davies: Certainly that is the approach that we will take. Whether it is the individual Member Nations' ones or it is from the European Parliament's report, we will pick out and identify where those can back each other. I cannot tell you exactly which ones those would be at the moment but certainly amongst the other Member States, Germany has looked at what substances they would consider would be removed by these provisions. That helps us. The Netherlands published a report on the agronomic impact which helps us. Sweden has looked at which substances they believe would be eliminated and some of them have common position with us on that identifying the same ones. Allowing for some differences in the substances considered and the details of interpretation, all of these assessments reach broadly similar conclusions to us, so they all actually reinforce our arguments. In the European Parliament's report which was requested by the ENVI Committee on this scientific review of the evidence, it generally supported the Parliament's position on hazard criteria but it also highlighted – and I think that this helps in what you are saying, what do we pull out of this – the uncertainties in the epidemiological evidence that we already know and which makes it quite difficult to show causal connections. When you combine those together and stack them up, it is a very compelling argument. The key issue then becomes whether we should eliminate useful substances because of suspected effects rather than on the basis of firm

evidence of such effects. Parliament has chosen the former, we prefer the latter and that is still our fundamental position, but there is a reality to the negotiations.

Q14 Chairman: The real weakness with this whole business is that there has not been a thorough EU Commission impact assessment and yet the Commission is, I think the word is, “encouraged” to carry out impact assessments of proposed directives.

Huw Irranca-Davies: You are absolutely right. You say “encouraged” and we have pressed Commissioner Vassiliou on these points.

Q15 Chairman: Why has she not?

Huw Irranca-Davies: No pun intended but I can hazard a guess on this! We have had no response but the Commissioner evidently takes the view that since hazard criteria were requested by both the Council and the Parliament some years ago, as I have touched on, the decision to introduce them can be taken without such an assessment. We have pressed but I think there is, as we have mentioned before, a political direction that we have always been battling against here.

Q16 Lord Brooke of Alverthorpe: There is a pretty heavy disclaimer, is there not, if my understanding is correct in the PSD’s report?

Huw Irranca-Davies: That is absolutely right. The PSD’s report points out the difficulty in demonstrating causal links which are touched on to pesticide exposure and I will quote one part briefly - I do not like quoting lots – “The results of the epidemiological studies are not consistent enough or sufficient enough on their own to justify regulation on the basis of the associations that have been found”. So, yes.

Q17 Lord Brooke of Alverthorpe: You mentioned bees but there is also concern about ground water, is there not? There has been continuing concern in many quarters in this

country about leeching into ground water from some of the pesticides used. Are we continuing to be content that enough research is being carried out in that area?

Huw Irranca-Davies: I am seeking inspiration here! I am informed that the common position now contains sufficient within it to deal with ground water issues, so that if there is evidence of causal link, that can be addressed and, if I do not have here the full detail on that, I am quite happy to get that for you straight after this meeting. Do you want me to bring in Mark for a moment? Would you be happy with that?

Q18 Chairman: Yes.

Huw Irranca-Davies: He is the expert on whom I rely.

Mr Hawkins: The common position text does actually include provisions in it such that where there is a suggestion that the requirements of the Water Framework Directive are not being met, we should review any authorisation which might be implicated and there are also specific requirements from the outset. The approval of an active substance should take into account the possible effects on ground water. So, there is a very clear standard there and a mechanism to review an authorisation and indeed the approval of an entire active substance in the community if there are concerns that it may not be possible to use a particular substance or a product without adverse effects on ground water.

Q19 Lord Brooke of Alverthorpe: If I may come back to Viscount Ullswater's questions on the PSD, we are a little ignorant on the operation of this entity. Is it an independent agency of the Department?

Mr Hawkins: Until April of this year, we were an executive agency of Defra. From April, we transferred to the Health and Safety Executive.

Q20 Lord Brooke of Alverthorpe: So, there has been a change and quite an important change.

Mr Hawkins: Yes.

Q21 Lord Brooke of Alverthorpe: Going back to ground water, is that continuing to be kept under review?

Mr Hawkins: Yes, it is. It is one of the requirements that use of a product should not have an adverse effect on ground water. That is in the current regime and, where there are implications for ground water, then the authorisation should be reviewed and certainly in the new regime that is very explicit.

Viscount Brookeborough: When you told us about what some of the other countries think and so on I may have missed it, but what do the French farmers think because they are always quite good to have on your side if you agree with them?

Lord Brooke of Alverthorpe: It is the Breton farmers I would have thought!

Q22 Viscount Brookeborough: There could be an uprising!

Huw Irranca-Davies: The reason I am smiling is that, yes, when I first was wrestling with this brief and Hilary, as Secretary of State, has been taking this forward, I sort of expected as well the reaction perhaps of some other Member States, not least the French farmers, but actually they are content with the position, the common position.

Q23 Viscount Brookeborough: Somebody has drugged them!

Huw Irranca-Davies: I do not know, but it comes back to the point you made before which was why, if we were so aware of this, had it not been taken up in other Member Nations. I did miss one important point and I would like to come back to it. We talked about some of the reinforcing of our messages that would be helpful in these latter stages. Sweden in

particular proposed a refined definition of endocrine disruptors which we think may be helpful as well. So, there is one specific element there, but the generality of it is that those assessments are actually reinforcing what we are saying.

Chairman: I also think that this issue does raise some big issues of governance, does it not, on how the Commission sets about formulating and then progressing proposals, but I think that we will have to look at that in another context. Let us go on to zonal arrangements.

Q24 Lord Cameron of Dillington: One of the aspects is of course the proposals for zonal arrangements for the authorisation of products and this seems to be supported by the common position and by the UK but not by the Parliament. Could you set out how zonal arrangements might be advantageous to the UK position. How do you see that working?

Huw Irranca-Davies: The zonal position we are certainly much more comfortable with now in the way that it has developed. I mentioned earlier that the European Parliament was evidently concerned over this issue that Member States might be obliged to authorise products which they considered unsafe and the ENVI Committee's amendments would in effect have sought to abolish zones and maintain the system of 27 Member State authorisations with all that that would entail. Hence why we see the advantage in a zonal approach. In effect, whilst it differs in details from the existing arrangements of mutual recognition of authorisations under the Directive 91/414, with the proposals that we have now, mutual recognition would be compulsory where all the conditions were comparable, but there would be ample scope to require additional data and impose additional requirements or to refuse authorisation entirely where they differ under the proposals coming forward from the ENVI Committee. Most Member States, ourselves included, would find this unacceptable and prefer the common position. Why? The position that we have put forward, the common position, would not allow that scope to require that hurdle of additional data. The options for setting additional

conditions are constrained and the scope to refuse authorisation within that zone is very limited. So, it makes the whole process much more workable and much more effective.

Q25 Lord Cameron of Dillington: Does it mean that if the UK, let us say, authorise a particular product other Member States within its zone would be compelled to accept it?

Huw Irranca-Davies: Yes with some minor safeguards. I say “minor safeguards” but minor options as safeguards. For example, where justified, Member States would be able to impose risk mitigation measures to reflect specific conditions of use within their country. They could include, for example, practical examples such as additional requirements to protect workers and bystanders and this could apply to us as well within the UK. So, you can see the advantage within some of these, but without actually putting immense hurdles as come in across 27 Member Nations, such as changes in the maximum permitted dose and changes to the number of applications permitted each year. So, it has some flexibility for individual nations to apply based on specific national circumstances which we welcome, but what it does not allow is for the complete congestion of the system.

Q26 Lord Cameron of Dillington: The European Parliament opposes this but does Parliament have an alternative practical solution or not?

Huw Irranca-Davies: Parliament’s solution would be based on their position at the moment which is essentially the status quo which we would find much more unworkable, I have to say. I think that we are in a good position with the common position on this now and other Member Nations are as well and I think that this is what we will be pushing as we go into the final stages of negotiations.

Q27 Lord Cameron of Dillington: Will the Council position win out?

Huw Irranca-Davies: I can never entirely forecast these things. However, I would say on balance, yes.

Chairman: Quiet confidence, Minister!

Q28 Viscount Brookeborough: I think that most of my question, regarding the authorisation we have just been talking about has been answered, but do you think that it is going to interfere with the free functioning of the internal market?

Huw Irranca-Davies: No. If we do get through, as I hope we will and I think we will, the common position that is now there, then this will be a very workable solution which will allow within these roughly comparable zones Member States to have some minor flexibility/appropriate flexibility and will not end up with the whole system in a quagmire. I do not think that this will be a barrier. It is a good position that we have now got to.

Q29 Chairman: Let us change and sail into the smooth waters of TACs and Quotas and I see that we have a quick change of personnel. I will start with the soft one and then the Earl of Caithness can come in with the hand grenade! There has been a clear desire by the Commission to front load the discussion on TACs and Quotas and hopefully getting a lot of the work out of the way before the scramble of the December Council meeting. Do you think that that is working? I appreciate that you have not experienced the appalling macho December Council where everybody stays up to four o'clock in the morning defending the impossible and risk giving their fishing industries at the last moment. Has greater progress been made in the weeks leading up to December of this year than in previous years and are we going to get a more rational end-of-year decision?

Huw Irranca-Davies: I think that we will, in short. It certainly has helped that some of the potentially tricky areas have been front loaded in order to try and get broad agreement at a more advanced stage than we normally do. You will know that this is my first foray into it

and I have done two, the October and the November, Fisheries Councils and I am looking forward to the overnight in December! Certainly the feedback that we are getting both from those who are participating as fisheries ministers but also stakeholders as well is that they would welcome the front loading aspect to give clarity and get to earlier decisions although it will not avoid of course the last minute hurly-burly of December Council and other priorities as well. Certainly my experience has been in the huge engagement that we have had with stakeholders both here in Whitehall but also up in Glasgow where I was recently is that there has been an appreciation that it has enabled us on some quite difficult issues such as North Sea cod, cod recovery plans and so on, to really progress in quite a way rather than leave that to the last minute. The Committee will know however – and it is worth touching on this – of the EU Norway issues as well. They were due to be completed by now but this year have been subject to a third round which started on 8 December. We would have liked to have seen those concluded. This has added to some time pressures ahead of December Council. However, the agreement, as I mentioned, to the cod recovery plan with its new effort regime of which I know you will be aware but which I am happy to expand upon at November Council means that there is now more time to actually focus on the remaining priorities and in fact we had a ministerial meeting only yesterday, I think, to decide on those final priorities. In summary, this earlier publication by the Commission of the policy statement has meant that we have had more time to plan and more time to agree priorities with stakeholders which is a vital thing and that has been welcomed, and we have worked very hard to take account of those priorities earlier on and the position that we have reached I think probably reflects that earlier engagement in that we have good, broad consensus on some quite challenging priorities of where those priorities should be as we go into the final stages.

Q30 Chairman: So, it has been helpful in helping to develop and get agreement on priorities both in terms of numbers and certainly for the North Sea everything virtually depends on the EU Norway.

Huw Irranca-Davies: Yes, very much so. I was inordinately pleased at the fact that we had a very tough but a good outcome of the November Council which allowed us then to go into EU Norway and this curious discussion where we have to wait to see the outcome of EU Norway. It was a big ask for the fishermen because the headline around that was 25 per cent mortality cut of North Sea cod. However, the big, if you like, benefit that we had and the big benefit that came out of our negotiation stance was to be able to advance a case with some very intelligent measures to deal with cod recovery in the North Sea around that based on gear selectivity, real-time closures, et cetera that the fishing fleet are with us on. The other advantage of the early engagement was actually to say to them, “We think that we are going into tough negotiations; we think there are red lines on things like mortality rate which are going to be really hard to shift, but we think that, with your support if you tell us that you will step up to the mark, we can negotiate hard and bring forward, if you like, a UK approach to tackle sustainability issues and tackle discounts”. So, that front loading has really allowed us not only to look at the priorities but also to develop our negotiation stance in advance of EU Norway, although of course we will be interested in EU Norway negotiations. I think that the Commission has a good position going into there with looking for what we can have with TAC increases and it is based on that early engagement.

Chairman: Now we come to the more difficult one from the Earl of Caithness.

Q31 Earl of Caithness: Minister, you said in your last answer that you had had a good discussion with all the industry and those involved and that was clearly helped because the Commission published their proposals earlier in May. Why have you given us no extra time

for consideration of this? You have done exactly the same as last year and bounced us a week before you are going to make a decision next week.

Huw Irranca-Davies: I know and I do accept the criticism. This is a slightly ungainly process and one that literally evolves piece-by-piece as it goes. Regarding the question of putting something in front of the Committee which we would love to give sooner and give much more time – I genuinely would love to as a minister – we are always tied by the release of the underpinning legislation documents key to the scrutiny from the Commission and then we try and rapidly turn this around. This year, we received the Commission’s proposals – they were published on 12 November – and we worked very hard in the Department to issue an explanatory memorandum on 1 December two weeks ahead of December Council and we also provided the Committee with a partial impact assessment recognising the complexity of this process going forward as soon as we learnt that the EU Norway agreement which includes these North Sea stocks would be delayed. I really do accept that the process is not perfect. Ideally, we want to give you and Parliament greater opportunity to study these explanatory memoranda and the impact assessments. We have made some progress this year. What I hope and what I will be discussing with officials is that we can build on that progress for next year, but it is not an easy or a fully satisfactory process by any means.

Q32 Earl of Caithness: It will be good if you give us more time next year and I welcome that and I am sure that the rest of the Committee do too. Something which is totally in your control is answering correspondence. What proposals do you have to meet the Cabinet Office guidelines for answering correspondence in two weeks rather than four-and-a-half months?

Huw Irranca-Davies: Oh!

Earl of Caithness: We have two letters in front of us. “Lord Grenfell wrote to my predecessor on 18 July”; “Lord Grenfell wrote to my predecessor on 17 July” ---

Chairman: Wait a moment. The convention of this Committee is that these sorts of issues are taken by me.

Earl of Caithness: I apologise.

Q33 Chairman: I think that we will deal at this stage with the substance of how we are going to improve consideration of TACs and Quotas. I think that the critical one here is in fact that the Commission identified some of the issues in the annual policy statement and started negotiations with stakeholders. We did actually respond to the annual policy statement I think on 17 July. There are problems about this year. What I am saying is that I think that we now have the framework where it would be possible to have an earlier meeting before the precise proposals have been formulated by the Commission and if we could have that generally, if we could have some what we recognise will be almost a scoping meeting, that would be enormously helpful to the work of the Committee.

Huw Irranca-Davies: I would be very keen to explore that and any other ways in which we can improve the process from hereon for next year. I genuinely would be. I would offer to you, Chairman, and the Committee that we would work with you from here to see how we can improve it recognising that sometimes these things are helter-skelter but, where we can, we should be trying to ensure that we put the evidence in front of you in a timely fashion. We do accept that.

Q34 Earl of Caithness: Could you explain, Minister, what is the purpose of the multi-annual plan for the stock of herring on the west coast of Scotland. In your letter of 1 December you give us some figures, but those seem to be totally at odd with the figures proposed of the 52 per cent cut in the TAC.

Huw Irranca-Davies: The position we currently have with the west of Scotland herring is the TAC constraint at 20 per cent. That is our approach. The Commission's proposal will reduce

from 52 per cent to 20 per cent. That is the proposal at the moment. The key point for the UK – and I met last week up in Glasgow with fishermen on this and with Richard Lochhead, the Scottish Executive Minister – is stability for fishery and the measure outlined by the pelagic RAC, the Regional Advisory Committee, (a 20 per cent TAC constraint) which the UK supports, is our approach in going into this final stage.

Q35 Earl of Caithness: So, the proposal from the Commission is not a 52 per cent cut in the herring Quota?

Huw Irranca-Davies: The Commission’s proposal of 52 per cent no longer stands because a management plan has been agreed and, on the basis of that management plan, we can now get to a position of 20 per cent rather than 52 per cent.

Q36 Earl of Caithness: So, instead of 52 per cent, we can read 20 per cent?

Huw Irranca-Davies: That is right, yes.

Q37 Lord Cameron of Dillington: Reading from your explanatory memorandum, “The stakeholder collaboration in management decisions is an essential element of achieving sensible and effective measures” and we totally support that and agree with that. In paragraph 17 of your memorandum, you say that the Government will seek solutions and ensure stock recovery while preserving a final degree of activity in the industry. I wonder if you can focus in on that a little more and explain that a little more. What is your definition of a viable industry and how do you make the two positions compatible if there is a particular harsh cut in the TAC, for instance?

Huw Irranca-Davies: It goes right to the heart of where we negotiate on a range of issues with the several negotiations and leading up to here. I know that the Committee will have had an opportunity to look at the partial impact assessment already and one of the risks identified

in this assessment is structuring the right balance between the need to take measures which result in more sustainable stocks and measures that will actually allow our industry to remain economically viable and that is right at the heart of everything that we do within the negotiations and, as we have the stakeholder meetings which are very, very useful, you have different opinions on where that balance lies and we have to triangulate that and also satisfy the needs of our fishing fleet in all the different parts of the UK as well which might have different interpretations of that. This is always going to be difficult but what my Department does have is very good relations with the scientists in ICES and STECF and also of course CEFAS, one of our agencies, and also – and you cannot underplay this – the stakeholders in industry who will sometimes contradict with the science and so on but we do listen to them and we talk them through the negotiations to try and get his balance right. I am not blowing our own trumpet but I would say that we are probably at the forefront of trying to drive forward the issue on sustainability, both viable livelihoods and sustainability of the seas. It is not so much anymore about the direction of travel but the pace of change and that is where we are at. We are clear that we have to have these sustainable fish stocks in order to provide this long term. I often have this discussion with fishermen. It is not simply about this year's negotiation and next year's fishing, it is five years, ten years and 20 years hence. That is the issue with which we are dealing as well and, as we take into longer CFP reform, that becomes even more apparent. We are clear that we have to do the best in the long term for our industry, but it is also important in this that we take the industry with us on this and certainly, coming out of the November negotiations, one thing that was very rewarding and very refreshing was that even with the tough asks on things like the cod recovery plan and so on, the industry was actually saying, not to a man and a woman but saying as an entity, "We are up for this; we know that we have to go in this direction". We think as the UK that we have the balance right in the way we are taking it forward.

Q38 Lord Cameron of Dillington: Even through our investigations when we did our report, the EU position seemed to give very little weight to anything that the fishermen said and I just wonder whether you had any kind of fellow sympathisers.

Huw Irranca-Davies: I think that there is a genuine issue with how we get the most up-to-date science. I think that we have good science but it varies depending on which areas of the seas you look at and it can also be a difference between science that may be six months, a year or 18 months old depending on what is happening in real-time observation on the seas, but I think that there are some innovations being brought forward in literally observing what is happening on boats. Sweden and other countries are using innovations including cameras on board actually in the nets as well as in the hold of ships as well, so you are literally seeing what is live being caught. I think that there is more to be done on this because if we can supplement the good science that is out there, which sometimes conflicts by the way, with also what we are hearing from our fleets in real time, then the sort of intelligent measures about which we have been talking in various areas of the seas to do with real-time closures and to do with use of gear, we can then accurately say whether that is working or not in a real-time situation. So, there is more to be done. We do take stakeholders' views on board, but we always have to balance that against what the science is saying and I know when I visited Grimsby recently, I am having individual fishermen saying to me, albeit that the science is telling us that there is a recovery but that it is within certain stocks, "We are getting to the stage now where you could walk across the North Sea on the back of the cod" like it was in the thirteenth century or whatever. I do not think that we are there. So, we have to, on that balance of sustainability, make sure that we do take heed of the science as well.

Chairman: I think that the industry has changed quite significantly over a relatively short period of time. Back in my days, it was a matter of fishermen coming and saying, "We hear what you say, Minister, but, please, make sure that we can get our fair share of black fish".

That was the sort of approach and I think that it has become much more responsible in the past relatively few years. On a completely different issue, that is why we are banging away and strengthening the RACs and taking them seriously and bringing them into the process, but that is another issue.

Q39 Viscount Brookeborough: May I return to Lord Caithness's question about discrepancy between the 52 per cent or whatever and I notice at the top of the table the proposed 2009 TAC excluding jointly managed stocks and we are talking about the RACs and so on now. How many of those figures are going to vary by a great deal due to locally-managed stocks and, if they are, how relevant are they?

Huw Irranca-Davies: On that point, I am going to defer to my colleague because he might have something far more technical to say.

Q40 Viscount Brookeborough: Do not be too technical!

Mr Dolder: The document that you have in front of you including the Commission's proposals is current and correct. The third country agreements, for example the EU Norway stocks and the Faroese and Greenlandic ones that we negotiate with third countries, are not there. The difference with the west of Scotland proposal was that a management plan for the west of Scotland herring was being discussed in parallel to TACS and Quotas. The Commission has come forward with their proposal on the basis of there being no management plan agreed. There has now been preliminary agreement, which has yet to be agreed at Council, but now that there has been preliminary agreement, the Commission have confirmed that the west of Scotland herring figure will change to reflect what has been agreed in the management plan which includes a 20 per cent TAC constraint. That is the reason for the change.

Q41 Viscount Brookeborough: Are many of the others likely to change or are the same discussions not going on with them anyway?

Mr Dolder: No.

Q42 Baroness Jones of Whitchurch: I want to return to the discussion we were having prior to that last question regarding the balance between scientific evidence and fishermen's reports of what they are seeing in real time. The comment was made that increasingly the fishermen fleets are responsible and I wonder if you would agree that that is not universally the case throughout the EU. Therefore, there is an importance about the scientific evidence and I wondered how you can really balance anecdotal reports from the fishing fleets compared to the scientific evidence to make a really good judgment about the current rather than the ... It is easy to have information about what has been happening retrospectively but what is happening currently that might affect the TACs?

Huw Irranca-Davies: I think that you have to constantly challenge the evidence because some of the evidence will be conflicting. Some of the evidence between ICES and CEFAS may be conflicting as well as between that science and what we are having either anecdotally or sometimes anecdotally but comprehensibly across an area of the North Sea. The approach that we take is that we have to have a very robust case to supplement or augment any ICES's advice. ICES have a process to adjust their advice to reflect any further information provided. So, the process is such that advice can change if it is enhanced but on a robust cases, not purely anecdotal. In fact, this is where we have been challenged on some of the more tricky areas including discussions around the west coast at the moment which are a huge ask because the science is, compared to other areas, relatively weak or there are gaps within it and yet fishermen observationally will tell us in certain species, "Please, go back and negotiate harder". The problem is that you have to do that with a pretty robust argument and based on

the science. So, it can be enhanced depending on the information coming forward and there is reasonable flexibility within the mechanism currently existing.

Q43 Baroness Jones of Whitchurch: Do you see a mechanism where those negotiations can be re-opened once the TACs are agreed?

Huw Irranca-Davies: We do not want the situation and certainly we do not have the situation that TACs and Member States' Quota allocations are opened up mid-year in all cases; this would be far from ideal for many stocks there. However, when the TAC is set on a precautionary basis and there is evidence that the stock is comparatively abundant, then fisheries data can be used to request an in-year TAC increase or an application of technical measures such as fish enclosures and gear selectivity and so on. Downward TAC adjustments are rare and they would create a number of significant problems where take-up of the TAC was high. In addition, there would be a significant risk in a downward TAC of legal challenge from the fishing industry if Quota allocated at the start of the year was taken away mid-year, but there is a mechanism there to do it.

Q44 Baroness Jones of Whitchurch: It did feel when we were taking evidence certainly around the North Sea that the stories we were being told was that the TAC always felt to the fishing fleets to be wrong. The TAC was set and their experience was very, very different year after year. We are not just talking about one year, they always felt that they had been given the wrong allocation: too much, too little, suddenly they run out of fish and then they realise that they been over-fishing. There did not feel to be a synergy in the way that this process occurred.

Huw Irranca-Davies: Yes, indeed and the reality is that there will be often widely different views of where the TAC should be set not only by our own fishing fleet and scientific evidence but also by other Member Nations as well and I keep stressing that it is the reality of

European negotiations is to come forward with robust arguments. I note that when Commissioner Borg went into the EU Norway negotiations, there were proposals there from some countries – they will remain nameless for the moment – of TAC increases that could have been 90 or 100 per cent or more and others were saying that there can be no TAC increase and they were all arguing from relatively scientific bases. Our argument curiously with that one was that if we are going to avoid discards, which everyone hates – fishermen hate them more than anybody else – then, if we put in a clever recovery plan for cod using some intelligent measures, you actually need some TAC increase to incentivise the fleet as well as based with the science. So, it comes back then to this balancing of the socio-economic arguments against the conservation and environmental sustainability arguments and getting that right. Why did we argue for that? One was on the ICES science and secondly because, as I hear over recent months, it is not the determinate issue, evidence on catch limiting on cod at the moment that seems to be signifying that, at least in a couple of year classes, there is a significant recovery going on. It is still fragile. I hope that explains why sometimes there is never complete agreement on where those TACs should be.

Q45 Lord Cameron of Dillington: How do you explain the Commission position on Nephrops for instance, where you have the science which says that you do not need a cut, the fishermen say that you definitely do not need a cut, the UK I believe say that it needs very little cut and yet the Commission want to have 9.7, 15 and 15 per cent cuts? How do they justify that? Is this not supposed to undermine the whole system?

Huw Irranca-Davies: The Commission are advocating an approach on Nephrops on the basis of the use-it-or-lose-it provision.

Q46 Chairman: That is useless.

Huw Irranca-Davies: To which we are opposed

Q47 Lord Cameron of Dillington: It is such an irresponsible approach.

Huw Irranca-Davies: It is a very blunt instrument which does not encourage sustainability. We are continuing to argue against that but alongside that bringing forward a package of other measures. We are in a stage of negotiation on this but our position has been clear all along on it. We do not accept that position.

Q48 Viscount Brookeborough: To what extent have we been under-using it over the last few years?

Huw Irranca-Davies: We do not have the figures to hand on that but it is well within our own fishing fleet, it could well be on the use-it-or-lose-it basis. Some Member Nations will fish right up to the limit and others do not for one reason or another.

Chairman: We do not have to rehearse it; I think we are all agreed that it is completely idiotic.

Lord Cameron of Dillington: How do you encourage responsibility?

Q49 Viscount Brookeborough: On effort management, could you clarify to what extent the Commission is proposing to extend effort management in kilowatt days at the Member State level to species other than cod in its proposals for 2009? How effective has this system been found to work for us and are you aware of whether other Member States are looking at it favourably?

Huw Irranca-Davies: The Commission at the moment is not proposing to extend effort management in kilowatt days to species other than cod in 2009, but of course, given that cod is actually caught in a mixed fishery, many other species are necessarily brought within the ambit of the cod recovery effort management, for example haddock, whiting, Nephrops et cetera. I firmly believe that the trial within the UK has been effective in forging better relations with the fishing industry and scientists and government in this quite worthy aim of

reducing cod mortality. It has allowed the UK to reward fishing practices which are demonstrably in line with what we have been talking about, conservation friendly objectives. I think that the Chairman is right in saying that when the fishermen see this happening, there has been a real shift in direction. They are up for this. So, use of greater yield of selectivity, staying away from areas of high cod abundance etc. In 2009, we will be building on this progress – the UK will be pushing on this process – by linking more explicitly conservation friendly objectives and behaviours with the vessels effort allocation. However, these are still early days in determining the extent to which the system has been or is likely to be successful, but it is something on which we are going to be keeping a very close eye. Maybe we can talk a little about what is happening elsewhere as well. In 2008, Sweden and Denmark were particularly interested in establishing kilowatt days effort management on a voluntary basis. However, as a consequence of the cod recovery plan which we have agreed at the November Council, all Member States will have to put in place such effort management schemes in 2009 and beyond. So, we have started to develop some interest in the ways forward.

Q50 Viscount Brookeborough: To look at it from a slightly different point of view, do you think that such management will have similar effects to people wishing to leave the business as Quota management? Is there a difference between these two systems to those people who might come up for decommissioning? Ultimately, what we want is the fishing effort to equal the resources.

Huw Irranca-Davies: I do not think so necessarily. I think balancing the effort with the availability of stocks is fundamental but I do not necessarily think that it will have that effect. It might be worth mentioning one other thing here supplementary to what I have just mentioned. I understand that we are expecting a non-paper from the Commission before the end of the year on effort management more generally and we have not received this yet. We do believe that there is a place for effort management given that the TACs are not sufficient

on their own. What I would add to that is that we do not think that it should be a one-cap-fits-all approach. It should be a mixture. I think the thrust of our approach through these negotiations is trying to articulate that there are good, solid and intelligent ways to deliver these objectives on sustainable seas and sustainable fisheries.

Earl of Caithness: I have a question for my own clarification. When you are looking at scientific evidence and at TAC, particularly for cod, are you just looking at the numbers of fish or are you looking to increase the size of cod in their weight back to what they were 100 years ago?

Q51 Chairman: Do you want them to live happier longer lives?

Huw Irranca-Davies: I was just checking as to whether we have a specific target on it. You cannot divorce what we are doing now from longer-term issues on common fisheries reform as well. The objectives within that surely must be not only to maintain fisheries year by year but actually to enhance the yield, and it was interesting seeing the World Bank report recently which talked about the untapped potential in billions of pounds of the seas, not to do with more fishing but actually to do with what we can do in terms of growing the stock, your point exactly. So, we do not have a specific aspiration within these negotiations going through short of that overall ambition to make sure that we have sustainability next year and the years after and so on. Ultimately, we have to be looking at not necessarily going back to over 100 years and certainly not necessarily back to the twelfth century either, but actually, yes, growing the sort of yields that we can have in the size of fishing that we have. It is what the fishing fleet would want as well.

Q52 Chairman: Thank you very much, indeed. Welcome to the world of fisheries. We have always had very good relationships with the Fisheries Minister and indeed all Defra ministers in this Committee and we look forward with a sense of enjoyment and anticipation

to meetings. Our objective, quite honestly, in exercising scrutiny is to avoid, where possible, the need for overrides. We try to work with the Department on that. I do have to say in passing and I am not going to make a heavy issue of it that, over recent months, we have run into some difficulties. We have had papers that have really come in in much too short a time and we have not really been happy with the degree of scrutiny we have been able to give them and that is causing us problems. Also, to avoid overrides, what we have often done in the past is to lift scrutiny but ask for further information. We are getting the feeling when we are doing that there is a tendency to say, "Job done" and we do not get the further information for some considerable time. That is really not in the interests of either parliamentary scrutiny or the work of the Department. We will have to see how things develop.

Huw Irranca-Davies: Chairman, you have my assurances that we are very keen to work with you and see which way we can improve on it and certainly I look forward as well to being in front of you again. It is a very good opportunity to try and explain both what we are doing both in live time but also in the longer term as well.

Chairman: Thank you very much, indeed, Minister.