



Northern Ireland
Assembly

Committee for Agriculture and Rural
Development

OFFICIAL REPORT (Hansard)

Fisheries Bill: DARD Briefing

29 April 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Thomas Buchanan
Mrs Judith Cochrane
Mrs Jo-Anne Dobson
Mr William Irwin
Miss Michelle McIlveen
Mr Oliver McMullan
Mr Ian Milne
Mr Robin Swann

Witnesses:

Mr Ian Humes	Department of Agriculture and Rural Development
Mr Mark McCaughan	Department of Agriculture and Rural Development
Mr Kenny Parker	Department of Agriculture and Rural Development
Mr John Terrington	Department of Agriculture and Rural Development

The Chairperson: I welcome from the Department John Terrington, grade 7 principal officer; Mark McCaughan, grade 7 chief fisheries officer; Ian Humes, grade 7 principal officer; and Kenny Parker, deputy principal. You are very welcome to the Committee to discuss the new fisheries Bill. Members will have had a chance to read your briefing paper. I ask you to take up to 10 minutes to address the Committee and members to keep their questions concise and to the point. You may ask a supplementary along with your question if needed. Members will ask questions following the presentation. Without further ado — I am not sure who is leading off; is it you, John?

Mr John Terrington (Department of Agriculture and Rural Development): I drew the short straw.

The Chairperson: OK. Go on ahead.

Mr Terrington: Thank you for giving us the opportunity to address you on the policy proposals for a new fisheries Bill, which, subject to Executive agreement, we hope to consult on later this year, thereafter with the aim of bringing the legislation through the Assembly by the end of the current mandate, recognising that that is a fairly tight timetable. I am grateful for the opportunity to bring this to your attention as part of the process of engagement as we develop the proposals.

As you said, I have with me Mark, who is chief fisheries officer, and Ian and Kenny, who are on the sea fisheries and aquaculture policy sides. By way of background, as you will be aware, the current legislative position is that sea fishing for the main exploited commercial species is regulated through

the EU common fisheries policy (CFP). That is implemented here through powers set out in legislation that, in general, applies across the UK. That legislation has been updated across the UK on a number of occasions. However, the most recent update to the legislation was in 2009 through the Marine and Coastal Access Act for England and Wales and a couple of changes subsequently in Scotland, which modernised enforcement powers. However, as this is obviously a devolved matter, the changes did not extend to Northern Ireland on this occasion.

While the EU legislates for most sea fishing activities, the Fisheries Act (Northern Ireland) 1966 regulates inshore fishing, primarily the six-mile strip of sea adjacent to the coast. It covers fishing vessels that target mainly shellfish via potting. As well as inshore fishing, the 1966 Act regulates the licensing of fish farms, both on land and at sea, for which the Department is responsible. Industry stakeholders, through the fisheries forum, recommended back in 2010 that legislation here should be reviewed and, where appropriate, brought into line with recent changes in primary fisheries legislation elsewhere in the UK; namely, the Marine and Coastal Access Act 2009. The forum also recommends a review of the agriculture regulatory regime. In developing proposals thus far, we have had some brief informal meetings with industry representatives who are part of that forum.

The Act to which they refer introduced for England and Wales certain changes to fisheries Acts that otherwise apply across the UK. The 2009 Act amended legislation to ensure that inspection powers applied directly to enforceable community obligations and extended powers to allow for the imposition of conditions on sea fishing licences for marine environmental purposes and not just for fishing. This is in recognition that the EU legislation may require restrictions on fishing vessels to protect the environment. The Act modernised and consolidated some enforcement powers in so far as they relate to vessels in British waters and vessels registered in England and Wales, wherever they may be. Similar changes were made in Scotland in 2013. It also increased the deterrents for breaching fisheries legislation.

As noted, subject to the approval of the Executive, we propose to consult on proposals that would bring forward a new fisheries Bill that would amend sea fisheries legislation primarily to bring forth the changes in parallel to those made in Britain, recognising that this is, of course, a devolved matter but that there is a need for common approaches as enforcement is often common, for example, in the Irish Sea.

I can go through half a dozen of the key proposals if you want and if there is time.

The Chairperson: Yes, of course.

Mr Terrington: I will not go into any great detail.

It is proposed to, in parallel with England and Wales, allow for the direct enforcement of the EU rules; that is both EU obligations and restrictions. It would apply in Northern Ireland waters and to Northern Ireland boats wherever they may be. It would also, as in the rest of the UK, extend the direct enforcement of enforceable EU obligations and restrictions from fishing boats to anyone, such as fish dealers, whose activities are subject to EU rules on the regulation of commercial sea fisheries.

We also propose to align the common enforcement powers that were made available to the rest of the UK. Details of a number of those are provided. One of the key changes that we propose is to allow the powers in the 1966 Act to be extended to specifically allow for permit schemes. That is in recognition that the Department may, for example, need to limit the number of permits for certain fishing activities whose activities may adversely affect the integrity of a European protected site. We can make permit schemes now, but we cannot limit the number of permits that were issued. There may be a time when that would be necessary.

The proposals would also cover an extension of fixed penalties to cover inshore offences. The Department first consulted on this in 2007, and it is in place for EU offences. However, for this to be extended to cover domestic offences, a change to the primary legislation will be needed. Again, this is in place in Britain for inshore offences. It is also proposed to align the maximum penalties available to the courts for breaches of fisheries legislation with those that apply in the rest of the UK.

Other proposals include a power to set maximum size limits for sea fish where, for example, there is evidence that releasing larger shellfish would help their stocks. We would also allow for an owner who is suspected of having committed a certain offence to enter an agreement to have his gear released so that he can continue to fish pending a court's consideration of the case.

On aquaculture, the key change is the introduction of a single aquaculture licence. At the moment, there are two licences for marine environments: a fish culture licence and a fishery licence. This is just to tidy up that situation and make it better regulated. We would also like to formalise and regularise the administrative process related to the transfer of licences. The legislation does not say that we cannot, so we have set up an admin process to allow that to happen where, for example, within a family, or by sale to an outside party, there may be a wish to transfer the licence. This would provide both parties with legal protection during that process.

In line with DFP policy on fees and charges, we propose to include a power to allow us to charge to cover the cost of fish farm licensing. The introduction of any charges may have the effect of preventing speculative applications, which are currently made by parties not wishing to pursue long-term aquaculture business, which, in turn, may have detrimental effects on the level of potential development.

Finally, it is proposed to extend licensing to cover the farming of seaweed and other marine resources — and not just, as it currently is, fish and shellfish — in order to give potential developers the exclusive rights afforded to licensees of shellfish and finfish farms at their sites.

We will also take the opportunity to make amendments to legislation that relates to the Loughs Agency. In 2012, following the St Andrews Agreement, the North/South Ministerial Council made a commitment to allow for fixed penalties for angling offences in the Foyle area. Fisheries legislation would allow us to do that at the same time.

I should also mention that DCAL, which has responsibilities under the 1966 Act for inland fisheries, is considering changes related to its responsibilities. We are discussing with DCAL officials what scope there is for bringing amendments through at the same time, albeit DCAL will be responsible for that.

Work continues on developing these proposals, and we are taking legal advice. Subject to that being clear, and with the agreement of the Executive, it is anticipated that the consultation will begin over the summer recess. Following full consultation and consideration of the responses, a Bill will be drafted with the aim of introducing it to the Assembly this time next year and, thereafter, the legislation would come into force within the lifetime of the current Assembly.

We will, of course, keep the Committee informed of progress in the development of the consultation and further brief the Committee on the outcome and the detailed proposals that we hope to include in the draft Bill. We are content to come back to the Committee prior to that if the Committee finds it helpful. In the meantime, we are happy to take any questions and comments you have.

The Chairperson: John, thank you very much for that detailed presentation, which was delivered within time. I have a number of questions to ask before I open the discussion to members. Obviously, we are the people who will scrutinise the draft Bill, so this discussion is at the pre-consultation stage. How do you propose to consult with the stakeholders, not just to tick a box to show that you have consulted, but to delve into the heart of the stakeholder groups and speak not only to, for example, the producer organisations (POs), but to circumvent groups to make sure that you are hearing everything and every voice. Do you see that as a barrier or a factor that you will have to concern yourselves with?

Mr Terrington: From a personal point of view, I think it is essential. As I said in the presentation, we kicked off by having some conversations with quite a wide and diverse set of people to get a feel for their issues. To be fair, in some cases, there was not an awful lot. A lot of the concerns were about the subordinate legislation that the power is already there for, and my colleagues are having ongoing conversations with them on that. However, in doing that, we set out very clearly that that was the first part of an ongoing conversation that we saw happening. We set out when they would have the opportunity to feed into it, both formally, perhaps with the Committee, but also before that. It is certainly my intention to reconvene those sessions and widen them, as necessary, to explain better what we are trying to do and hear better what they say and believe.

The Chairperson: After you consult on the principles of a fisheries Bill, will you consult on the draft Bill?

Mr Terrington: I do not imagine that timing will allow for full consultation on the Bill. If it were possible, yes, but, at this stage, looking at the timetable and the constraints on the likes of the Office of the Legislative Counsel (OLC), it might be difficult to do that. Hopefully, their involvement during the

drafting of the Bill will see at least some of their concerns — where appropriate, relevant and possible — addressed.

Miss M McIlveen: Just to pick up on that point: I am concerned that you have not left yourself enough time to do that consultation. The Committee is looking at the Reservoirs Bill, and the consequences of not scrutinising that Bill with stakeholders at that particular stage, in advance of coming to us, has proved a challenge.

You mentioned the overlap with DCAL. Wearing my DCAL hat, we looked at salmon conservation and referred to the Fisheries Act (Northern Ireland) 1966. You said that officials are considering changes. Are you aware, at this stage, what they may be and the level of such changes?

Mr Terrington: I am not too sure how far they have gone in being cleared with their own Ministers, so you will forgive me if I am not aware. However, I know that they were talking to Loughs Agency along the lines of having fixed penalties for domestic angling offences — for want of a better term — and decriminalising fishing out of season with a rod and line or without a licence and things like that. That is in line with what the Loughs Agency had looked to do.

Beyond that, they have been involved in a fairly long exercise with their stakeholder groups. That work is ongoing and is at least well advanced, but I cannot say for sure what the outcome of that will be. I have had some indication of some of the things that they might want, but they have copied us in only out of courtesy, and I do not know how far up the clearances it has gone or whether it is in line with what their stakeholders have looked at.

Miss M McIlveen: OK. There are also overlaps with DOE round the habitats directive, aquaculture and so on. Will the consultation being done by a different Department cause you a timescale issue?

Mr Terrington: We had initial conversations with the marine unit in DOE, and one of the next things to do after this is to make it a bit more formal once we start to finalise the proposals. Besides that, we have an ongoing conversation with both sides of the house. I was going to say primarily with aquaculture but it is not. If we cannot get agreement to what we propose, it could cause timescale difficulties. However, we do not foresee that what we propose will cause that. In fact, some of the things provide additional protections. Time will tell.

Miss M McIlveen: OK. You will be aware that I represent a fishing village, and this will obviously be quite close to the hearts of some of my constituents. I will want to speak to a number of the stakeholders about this. However, I am concerned that, perhaps in the absence of a long-term vision for a sustainable fishing fleet in Northern Ireland, those who currently skipper boats will feel that this could add a further level of bureaucracy and burden on a hard-pressed industry. Do you foresee that this could create a further issue for them?

Mr Terrington: No, I do not foresee that, but others may have a contrary view. However, the likes of the permitting power, which is mentioned, is certainly something that inshore fisheries people are keen to see. That is because, at some point, rather than reducing the take that any individual can have to the point where it is non-economic, it may be more appropriate to base the limit on historical fishing, for example. So, particularly for the inshore, where a lot of our industry has been driven, there has been a call to increase and improve enforcement or at least modernise. That is really the aim. I do not think that there is an awful lot, at this point, that I would see as being further. However, that is what consultation is for, and, if they see it differently, we will certainly report back.

Miss M McIlveen: I know that it is early days, but do you foresee any cost to the industry from its implementation?

Mr Terrington: As I said, the only potential is our seeking full cost recovery for licensing, which we do not have the power to do. I could not put a cost on that because it would be a subordinate power, so we would be able to put a cost on it only when it had gone through the rigours of that part of the scrutiny. There are very few new licences in aquaculture anyway, so it is not a massive burden. I am trying to think whether there would be anything else, but I do not think so. Most of it is about our enforcement and would be done within our resources. Not an awful lot in the proposals will be put on the industry. That is not the intention.

Miss M McIlveen: Do you feel that the legislation is necessary at this stage?

Mr Terrington: If we do not align with the Marine Coastal Access Act 2009, we could be left in a difficult position because we would have different enforcement powers in the long term from the rest of the enforcement agencies across these waters. In fact, some or most of the powers would also align with the South of Ireland, which already holds most of these powers.

Mr Byrne: I welcome the presentation. First, what is the objective of the Bill? Is it to have more EU regulation and compliance, or is it about growing a fishing industry?

Secondly, how much consultation has taken place with the private sector? Some larger-than-life characters, such as Mr Rooney, have lobbied us in Brussels and here about the lack of urgency, desire or appetite by the Department to listen to their concerns or issues in developing a more viable, growth-based fishing industry. Over to you, guys.

Mr Terrington: I cannot remember the first part of your question. Apologies.

The Chairperson: It was about EU regulation.

Mr Terrington: Yes, the objective of the Bill. My opening two or three points were about aligning with the legislation in the rest of the UK and are, we believe, things that we are duty-bound to do. Once that has been done, it will give us an opportunity to look at other areas, including, for example, the licensing of aquaculture.

I do not think that any of the EU references are about bringing in more EU legislation. Rather, it is EU legislation that would apply, and it is about having a more effective way of introducing it, because we would be able to do so directly. If we had to wait to introduce further regulation rather than being able to do so directly, we might run the risk of infraction.

We have spoken widely to representatives of the fishing industry and noted their concerns about whether there is sufficient urgency in the aquaculture licensing process in the Bill. It is what it is.

Ian, do you want to say something about the longer term?

Mr Ian Humes (Department of Agriculture and Rural Development): The main area of interest for me in sea fisheries policy is inshore fishing, the permitting of that and providing some clarity in that area. It is appropriate that, if we have those powers, we then introduce permit schemes that are properly negotiated and consulted on with the industry.

I picked up what you said about south Down and a plan for the industry. The vision is of an industry based on sustainable fishing. It also has to be based on sustainable fish stocks. That is a prerequisite. If you do not have a healthy fish stock, you will not have a healthy fishing industry. Other difficult factors come into play, including market conditions and the cost of fuel. Those are external factors that affect the viability and economic sustainability of the industry. Fundamentally, we are talking about having a healthy and properly managed fish stock.

The inshore area has been the growth area in recent years. From about 2007 to 2011, about another 40 or so vessels joined the under-10 metre fleet fishing for crabs and lobsters off the County Down coast. On the other hand, the larger fleet fishing for prawns has remained reasonably constant, and that is based on a quota system. There is no quota for crab and lobster, and that is the area of pressure now. The more people who are involved in that, the more difficult it becomes for others to make a decent living. Whether you limit the amount of effort on the fishery by having seasonal closures, by the number of pots that can be deployed or by the length of the animals that they can take can be built into a permit scheme on which we can consult the industry.

At the moment, we make licence variations. There are fishing licences with a general permission to fish, and we can introduce prohibitions, for example, to prevent licence holders from fishing in certain places. However, that can apply only to the vessels that we license; we cannot apply some of those conditions to, say, visiting vessels from Scotland or the South. Under our permit scheme and this new framework of legislation, we can provide a better system for the protection of the inshore fisheries and the resources that we are there to manage.

It is in everyone's interest to have a healthy and prosperous fishing industry, but the starting point for that, which underpins it all, is to have healthy fish stocks. As far as I can see, that is what the

legislation will do. A number of other aspects of the legislation, which concern the monitoring, control and policing of the industry, fall to Mark and his fisheries officers. I am interested in fisheries management and the management of our wild stock, which we must exploit sustainably if there is to be a fishing industry for the longer term that will contribute to the economic well-being of the coastal communities that depend on it.

Mr Byrne: I accept what is being said about the external factors involved in fishing under the common fisheries policy and that we are at the mercy of what happens at sea. Is DARD pursuing the objective of having a fishing development plan? What is the Department doing about promoting fish farm development?

Mr Humes: As far as a fisheries development plan for wild fisheries is concerned, the answer is no. I am not sure what would be in such a plan. We have a number of stocks that are scientifically monitored and for which the safe harvest rate is established. For aquaculture, it depends on individuals who are willing to invest in aquaculture opportunities coming forward.

Mr Mark McCaughan (Department of Agriculture and Rural Development): You mentioned an individual in South Down, Mr Rooney, who has just obtained licences from DARD to enable him to cultivate oysters in Carlingford lough. Ian is absolutely right that we must understand that there are only a certain number of fish in the sea and, consequently, the industry can be only a certain size. In the past 30 years, we have seen a great deal of pressure on that natural resource and a great deal of contraction in the fishing industry.

The Department has decommissioned vessels, and many individuals who took advantage of such schemes bought smaller boats and now operate in the inshore arena in what we call minus 10 — under 10-metre — boats. They are potting and fishing for crab, lobster and a few other species in the inshore area because they are fishermen and it is in their blood. They have got rid of their trawler and moved into the inshore sector. Some of the adaptations to the Act will enable us to take better control of the inshore sector. At the moment, we are under considerable pressure in Strangford to introduce a restrictive permit scheme in line with our obligations to the EU. That is against a backdrop of infraction. The complainant is more or less content with the arrangements that we have put in place so far, with the exception of the permit scheme, which we have yet to devise properly with local fishermen.

An upcoming argument is about intertidal shellfish harvesting. There is a great deal of opposition from environmental groups, for a variety of environmental reasons. The amendments to the Act will allow us to control that so that we can demonstrate to others that it will be sustainably exploited.

On occasion, we face pressure to introduce aquaculture licences. Currently, the Department puts enormous effort into this. We have to carry out habitat regulation assessments on the development and combination assessments on other existing aquaculture activities. People who apply for these licences face no cost; the Department bears the cost. I would say that 50% of the consents that the Department has worked to produce over the past 25 years have not led to a development. So it is a waste of our investment and a waste of the time and money spent for AFBI to carry out the assessments.

Importantly, for people who are more genuine about developing, and I include John Rooney in that, the land licensed to aquaculture is locked out from other development because of the existing consent, even if it is not developed. So I think that we could think through with our stakeholders such options as an appropriate charging structure — maybe a two-tier charging structure whereby individuals do not pay anything until they are in production. Change is needed to get the sort of future investment and industry that we all want.

Mr Byrne: Thanks, Chairman. I will not keep going in case I get a red herring.

The Chairperson: Very good, Joe.

Mr Swann: Where does the new Bill sit with the 1966 Fisheries Act?

Mr Terrington: It will amend, in part, the 1966 Fisheries Act. I mentioned the UK-wide legislation, and the Sea Fish (Conservation) Act 1967 is the key legislation that it will amend. There will also be some subsequent changes.

Mr Swann: Has DARD set aside a resource to proceed with the Bill?

Mr Terrington: Yes. I am the head of a small Bill team tasked with that.

Mr Swann: Is it a Department priority?

Mr Terrington: I am led to believe that its being resourced means that it will be one of the priorities.

Mr Swann: Michelle, Oliver and I were on the CAL Committee when it worked on the salmon review, and that gives rise to one of the biggest concerns. At that time, the Minister of Culture, Arts and Leisure said:

"A review of the Act would be resource intensive for DCAL and is not currently a priority for the Department." — [Official Report, Bound Volume 68, pWA351, col 1].

Will you review the entire Act or only as it is pertinent to you?

Mr Terrington: It would be for us. I hope that I am not speaking out of turn by saying that DCAL will certainly see whether there are some things that it could do in parallel that would not be a full review of its powers. Out of good nature, I thought that I would point out that that is the case because, if the papers do come forward, they will cover both issues, but, obviously, it is DCAL's responsibility to put them forward. I presume that DCAL views it not as a full review but as an opportunity on the back of the changes that would be made.

Mr Swann: If DCAL did not do that, John, would you be left with a difference between inland and offshore fisheries? I am thinking of prosecution more than anything else. You might have convergence with England, Scotland and Wales but a completely different system onshore and offshore.

Mr Terrington: Some overlapping enforcement powers in the 1966 Act apply to DARD's area of responsibility and, in respect of salmon and trout, to DCAL. At this stage, there is no suggestion that many, or any, of those be changed. If we were to change them to our advantage, we would have to clear that with DARD as a consequential. For the most part, DCAL's interest will, primarily, be in angling, in which we have no interest or concern. I do not see that being a particular issue.

Mr Swann: Mark talked about aquaculture licences. Do you see any amendments that would increase the potential for more salmon farms offshore?

Mr McCaughan: We have had an approach from individuals who are interested in salmon farming. The industry went through a growth phase in the 1980s, a consolidation phase in the 1990s and an acquisition phase in the 2000s, when the industry matured and small farms were bought by bigger farms. I think it unlikely that there will be significant investment in that sector because it is so capital intensive. One salmon farm in Northern Ireland has been recapitalised a couple of times, and it survives on its organic status and the quality of its produce. We have a very limited ability to provide sites for salmon farms because we do not have the natural topography necessary to provide sheltered inshore waters. A great deal of our marine habitat is designated, which is inconsistent with salmon farming.

Proposed amendments to the Act streamlined the licensing process. It was necessary to have two licences because aquaculture, when it was initially developed, concentrated on native species and natural animals in the marine environment here. The two-tier licensing process is to give someone who is licensed to produce shellfish or oysters ownership of the shellfish or oysters in the site on which he operates. Ostensibly, in law, they would be public property unless there was this two-tier approach. Now, animals and aquaculture are largely non-native, including rainbow trout and the gigas, or Pacific, oyster, and we can dispense with the two-tier process if we make the amendments. For the reasons that I have mentioned, I do not see that the amendments themselves will lead to a demand for additional salmon farming.

The Chairperson: Further to Joe's point, we understand that fisheries have to be sustainable, which goes back to the number of fish and creatures available. That concept is a given, but how can you convince the Committee and me that this is not just a refreshing of regulations to enable you to tighten

your grip, to sharpen your sword and dip it in gold? We speak to the fishing industry. As recently as yesterday, for example, we met members of the fisheries forum, and they were crying out for better facilities to teach young people the craft of fishing. Is there nothing to help to build capacity that could be placed in this fisheries Bill so that it is not all about permits, regulation, licensing and control? Basically, those words all mean regulation, and everyone is sick to the back teeth now of regulation, not least fishermen, trawlermen and farmers.

Also, what will the Bill do to help Mr Rooney, whom we have mentioned? Many months ago, we met him when we were in Brussels. His was the only company representing Northern Ireland at the exhibition there, but he told us about the problems that he was having because of the time taken to obtain licensing and permits for Carlingford. I am glad that that has been resolved now. However, you can understand the build-up of frustration that the delays had caused for a businessman simply wanting to make money and increase employment, which, in my mind, is most important.

Over the past two seasons, work has been done on the north coast around Rathlin to bring structure and regulation to pot fishing. I do not have an update on that, but it was proving difficult. Where does the Bill tie in to all the work that needs to be done and speeded up, and to all the capacity building, schooling and infrastructure that need to be in place for the fishing industry moving forward? Where is that in the Bill? Is this all stick? Where is the carrot? The Bill will have to be passed. It will be us who scrutinise it and the Assembly that passes it. If it is all pain, you will have a hard task doing that, even if it is about sustainability and the long-term betterment of fisheries. Try convincing us.

Mr Humes: You raised issues of concern to the industry. I am not so sure that the Bill will tackle some of those issues. You mentioned, for example, an individual applying for a licence. There were issues there with neighbours and, as I understand it, environmental assessments and other things, which, in some respect, are due process.

A provision for schooling does not have to be in the Bill. It can be achieved in other ways: for example, through an element of the European Fisheries Fund (EFF) that is for developing sustainable fishing communities. A fisheries local action group (FLAG) in Downpatrick has received several calls for a grant. We have supported one project that will result in considerable financial support for the skippers of the future.

We recognise that training opportunities are in short supply. You do not go into every town and find a training facility for a skipper. We must make sure that we have another generation coming through. The projects that the FLAG can support will help to build on the fish that is landed. If you put a large catch on the quayside at Portavogie, what do you do with it? Can your local community benefit from that catch by looking at niche markets and developing opportunities for new products?

It can be difficult to enter the major supermarkets, but there are examples of entrepreneurs involved in fish processing in Northern Ireland doing very well. Walter Ewing and Glenarm Organic Salmon have quality products in top London stores that are sold at a premium, and they are going for markets in the Middle East and the developing markets in China. You could see opportunities to take some of the material going into, for example, breaded scampi products on a supermarket shelf and putting it in a product with a little more value, such as the ready-meal market.

To a large extent, we in the Department cannot force that agenda. If entrepreneurs see an opportunity, we can help and enable that. We can help with bringing some products to market or identifying market possibilities. You mentioned Mr Rooney being the sole representative in Brussels. He is also benefiting from financial support under the EFF to help him to attend such events, to which he generously brings products from other companies. I think that you had the opportunity last year to meet him. That same event is coming up next week, and he will be out there again flying the flag.

From my perspective, providing the right framework for the management of fisheries is about co-management and consultation. We have continuously heard over the past number of years — Mark has been in this business a lot longer than I have — that there has been a change. The industry is calling out for appropriate structures to enable the people working in it to make a living. Sometimes, these rules are welcomed rather than people saying that they place an unnecessary burden on the industry. There are issues to do with quality, and we even need to make regulations for landing white crabs. I see some benefits, in that, instead of getting involved in making legislation simply to replicate something already in European legislation, we have more time to focus on other issues such as Rathlin and the landing of soft crabs. However, we must prioritise on the basis of what will hit us. In other words, if we do not do this, we could get hit with infraction. We would like to be able to do something else for the mutual benefit of everybody engaged in the industry. This will help us, but not

everything needs to be in the Bill. There are other ways in which we can bring about the kind of change that people want.

Miss M McIlveen: You made a point about crab and lobster, and I accept the need for sustainable fishing. However, the Lobster (Conservation of Stocks) Regulations (Northern Ireland) 1997 are already in place. How have they been implemented? Have there been any convictions on that basis? I am wondering how the new fisheries Bill will address that. Are there gaps in those regulations that need to be filled?

Mr Humes: I am not familiar with them.

Mr McCaughan: There is fairly constant activity on shellfish enforcement. In fact, it is probably the area in which we are most active. It is quite usual to have two or three cases of various forms of breach of the regulations with the Public Prosecution Service at one time. So, yes, there will be convictions. One area where the amendment will help is with the fixed penalty. Currently, if a young fellow goes out, behaves foolishly and is unfortunate enough to get caught — it happens every summer — he goes through the court system. That can have quite serious unforeseen consequences. He goes through the court system only if the evidence is robust. Under what is proposed, he will still have the ability to go through the court system, if he believes that the evidence is inadequate for a conviction. However, under what is proposed, he will also have the ability to take a fixed penalty, in the same way as you can with a speeding ticket, and short-circuit everything. With good legal advice, no doubt, he will make his choice to take the fixed penalty or take his chance in court. I appreciate the Chairman's point: it is hard to see any carrots in the Bill, but there may be a shortening of the stick. When managing a natural resource, it is absolutely fundamental that you have an adequate legislative package to enable you to do so. We are dealing with a finite natural resource, and we need a robust Act to enable us to manage it properly. That includes the shellfish sector — lobster and crabs. The proposal to add a penalty to the enforcement activity would be a great help to the fishermen and the enforcers.

Miss M McIlveen: Can you enforce the regulations in place at the moment?

Mr McCaughan: Yes. There are areas where we might want them to be tighter. Without talking about specifics here, such as one person's interpretation of the law or something, we have a reasonable armoury of regulations, and we will have more, going forward. We will have to act in the Rathlin area to prevent mobile gear doing any further environmental damage within the SAC. So, it is not as though we are drawing a line under this and saying, "Going forward, we will not have any more regulations". I am sure that we will have plenty to keep us all amused.

Mr Terrington: I think it is worth saying that the power under which that is made, section 124 of the Fisheries Act, is fairly wide. It is not anticipated that that needs to be changed. There may or may not be a need to change regulations made underneath that section, but I think that that power has served well. There may be lobbies saying that the regulation needs to be tightened or otherwise, but it is an existing power that is unlikely to need to be changed. From conversations we have had with stakeholders, we know that their interest might have been in the detail of some of the regulations. The Department might have to have, or continue to have, a conversation about the details in those regulations, but the overarching power seems to be robust enough.

Miss M McIlveen: With reference to the policy document you sent to us; in paragraph 18, you talk about the need to amend legislation to introduce fixed penalties and so on. I appreciate that there was the introduction of secondary legislation. You said that that was consulted on in 2007. Have you consulted recently on it?

Mr Terrington: No, but it will form part of this work. At that point, the conclusion was that we would introduce it, that we had the primary power, because it came from Europe, to do it for offences that came from Europe, but that we did not have it. Obviously, it will form part of this consultation.

Miss M McIlveen: But, in the interim, you have not done anything in relation to the consultation.

Mr Humes: No.

Mr McMullan: May I quickly come back to farmed salmon? You said that there does not seem to be any expansion of that. I would like you to look at that again, because the salmon farms that I look at

every day have nearly doubled in size and number. Indeed, from what I am told, they are going through another expansion and that another part of the business could be moved to Red Bay.

Mr McCaughan: I am aware of that.

Mr McMullan: Who regulates that? I am told that you do your business through the Crown Estate. Who regulates all that? Fishermen are now asking that question. This can go on and on. It is like a piece of string; there is no end to it. Can we regulate the number of salmon farms in sea water along our coast? We really have only one at the minute.

Mr McCaughan: We have one salmon farm on two sites. There are three consents necessary for salmon farming. There is the permission of the land owner, the Crown Estate. You have to have a lease from the Crown Estate, assuming that the site is in Crown Estate territory. You then need a licence from us to cultivate fish. Then, under the Water Order, you need a discharge consent. You now need an additional marine construction licence from the DOE as well. The discharge consent, required under the Water Order and issued by the DOE, allows you to put substances into the water that feed the fish. It is the Water Order discharge consent that ultimately restricts the number of salmon you can produce, because it will restrict the amount of material that you can add to the sea. So, it is a feed-limited industry. The limiting factor is the discharge consent, which is worked out by the DOE.

Mr Parker: The discharge consent granted under the Water Order will specify the maximum tonnage of fish that can be held in the cages, and the licence holder cannot exceed that.

Mr McMullan: Can you tell me what the maximum tonnage is for the one we are talking about? We went from three to four cages, and we are now up to nearly double figures. I think that we are not far off double figures. From what I am told, other cages are not in yet but will be going in in a short space of time.

Mr McCaughan: The consent issued by DARD does not restrict the number of cages; it restricts the area. That particular method of producing salmon calls for a very low stocking density. There are about a third of the number of salmon per cage that there would be in a conventional system, under their own organic rules. I am not sure. Several bodies authorise it; I think that, in this case, it is the Soil Association. So, more cages does not necessarily mean more fish. However, we know that the Northern Salmon Company or Glenarm Organic Salmon wishes to expand and has an application with DOE under that piece of legislation that I mentioned to alter its discharge consent in order to up its production.

Mr Parker: They have two sites: Red Bay and Glenarm Bay. They wish to let the site at Glenarm go fallow for a period, which is a practice recognised as good husbandry. It enables the seabed or any other benthos in the area to be monitored. Then they can make environmental assessments to check the whole area. In the interim, to keep their business operational, they want to make a temporary increase in the quantity of salmon that can be held in their Red Bay site. Once the fallow period ends, they can revert to the original. They have applied to the NIEA water management unit for that consent.

Mr McMullan: I take it that that will go out to consultation?

Mr Parker: I presume so. I am not 100% familiar with the DOE's procedures but I presume that they will have to do so.

Mr McCaughan: I would think so.

Mr McMullan: There has been no mention of it at all.

Mr Parker: It has been applied for only recently. I understand that an application was made only in the past week, or, at the maximum, in the past two weeks, and with the Easter holiday period intervening, DOE was in touch with us —

Mr McMullan: Could you find that out for me? Can you come back to the Committee on that? We must look at the regulation of fish farms. Notwithstanding it is a good business, environmental aspects

must be taken into consideration. There does not seem to be any consultation done at all on this. I have been watching this, year in, year out; and not once has an elected rep been approached and asked about it.

Mr McCaughan: I can maybe give you some comfort there. There is a group called the Bush and Glens Catchment Stakeholder Group, on which the glens anglers are represented. Last summer, Mr McMullan, it gave a presentation in Armoy relating to the impacts of salmon farming on the east coast of Antrim, which included video stills from the underwater monitoring carried out by the DOE marine division. Divers look under the cages and carry out a proper scientific transect in order to measure the species and the biodiversity.

The people at that meeting were content that the DOE is observing its obligations in relation to monitoring and that the environmental impacts are pretty mundane. There are some physical impacts, though. A number of tyres had fallen off the well boat and were lying on the seabed. There were also a couple of bags. The video showed that one of the tyres was inhabited by a lobster. There were scallops there, and there was some epiphytic growth of algae as well. So, there has been some stakeholder feedback in relation to the monitoring of the salmon farm, but it is wholly a DOE matter. Under section 11 of the 1966 Act, our responsibility is to license the cultivation of fish. The environmental aspects are dealt with by the DOE's marine division.

Mr McMullan: I will not dwell on this too much longer, but we need to know a wee bit more about it. If they are going to move from Glenarm to Red Bay and leave Glenarm to lie fallow, we need to know the period of time involved and everything else. This is being done through the back door and without any consultation locally. I feel that there needs to be a bit of consultation with local communities, not just with the fishing community. That needs to be done, because we are only finding out for ourselves, nobody is telling us.

We would like to know how long they are going to take in Red Bay before they move back, if they move back. From what I am hearing, they may not move back. Those are the questions that we need to be finding out about. Whatever way you can deal with that, contact the DOE or whatever, we need to find that out. There needs to be consultation with the local community.

The Chairperson: Again, if you will get the information that you have to Oliver, it can be a private constituency matter as opposed to a Committee matter.

Mr McMullan: Thank you, Chair.

Mr McCaughan: I will undertake to get back to you with something on that.

Mr McMullan: If you could.

Mrs Dobson: I apologise for missing your briefing. I was at Education Question Time, so my question may have been asked or probably has been asked. Obviously, the industry's views will be key to any proposals in the Bill. In 2010, the industry said that the legislation should be reviewed and amended when appropriate. How widely do you plan to consult?

Mr Terrington: We said earlier that, in getting this far, we have had some initial conversations with a range of groups that, by their nature, brought with them members from Strangford to the north coast. I gave a commitment to them that we would repeat and extend that, where necessary, as we develop this further during the more formal consultation period.

Mrs Dobson: How many groups would that be?

Mr Terrington: I will tell you who we have talked to so far. I want to get their names right. As I said, this was in helping us to formulate — it would be different and we would probably extend this, where necessary, to take wider views when we have wider proposals to discuss with them. We talked to the Northern Ireland Fish Producers Organisation; the North Coast Lobster Fishermen's Association; the North East Crab and Lobster Committee and the Anglo-North Irish Fish Producers' Organisation, sea fish as well as aquaculture representatives. At each one of those meetings there were half a dozen or more individuals with their own interests.

Mrs Dobson: So it was quite extensive.

Mr Terrington: I am not going to quality assure that, but we were quite pleased with those that turned up and I think and hope that they were quite pleased with the opportunity to do that, and with the promise to continue that because it was the start rather than the end of a conversation. I guess that time will tell whether that was wide and sufficient enough.

Mrs Dobson: I notice in your briefing that you propose some changes to legislation in relation to inland fisheries, which is obviously cross-cutting with DCAL. How closely have officials been working on this issue? Will initial scoping be completed in time for your proposed consultation?

Mr Terrington: That is a decent question. We had been speaking with them for some time when we, out of good faith, told them that we would be likely to be doing this in the coming months. We have spoken to them, but, on the other hand, we have also said that our responsibility is for sea fisheries and aquaculture, and that that would be our primary concern. If there is an opportunity to do something in parallel, we will certainly be open to that and the resource that they have to put to that.

I explained earlier that I know that they had some initial ideas that they felt they could do, but that they were sounding out their stakeholders. That process is ongoing. Whether it all comes together in time, at the end of the day, we are aware of our timetable and the constraints on it. They are aware of where we are and what they need to do to parallel that process.

The Chairperson: No other members have indicated that they want to ask questions. I know that I am keeping this at a high level, but going back to the carrot and stick and the fact that this may well just be all stick and it may just need to be shortened. With that, it may be hard enough to get a piece of legislation of this nature through any scrutiny body and through any elected Chamber. What happens if this does not pass?

Mr Terrington: There are some issues where we would be at risk and would be in difficulty by having different enforcement regimes with our colleagues in the UK, not so much inshore but wider. We run the risk of infraction by not being able to directly enforce EU legislation. There is a lot of legislation, and you made the point about the amount of regulation. Therefore, things could continue to be regulated as they are.

There was a call for increased or better enforcement inshore among those whom we spoke to and in some of the consultation that went out on the sustainable inshore fisheries. It has been recognised that those who have been doing that for a while are at risk or their livelihood is at risk. To reiterate what both gentlemen on either side of me said about the importance of the stick, I do not know whether there would be entire resistance to refining some of this, because it could be seen as being a greater deterrent or a better way of dealing with the problem. Those who are doing it within the law and are doing it properly are at risk of those who perhaps are not as well behaved.

Mr McCaughan: To add to that, Chairman, there would be relatively little appetite for it, because it is not a bag of carrots; it is a bag of sticks. Where do we lose going forward? We lose competence, and that is the bottom line. If you do not have a decent regulatory structure, you do not have competent management. Therefore, we will not be competent to streamline aquaculture applications, and we will not be competent to offer an admin penalty. If somebody gets done for undersized lobsters down South or over in Wales, they pay a £40 fine; here, they are dragged through the court system. Generally, we stay where we are, whereas the rest of the world moves on. I think that we should not lose an opportunity here, although I acknowledge that it will not be the most popular thing going forward.

The Chairperson: I will leave that up to your invention and your imagination to see what can be done, even at this primitive stage. Thank you very much.