



House of Commons
Committee of Public Accounts

Fisheries enforcement in England

**Forty-third Report of
Session 2002–03**

*Report, together with formal minutes,
oral and written evidence*

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The Committee of Public Accounts

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Geraint Davies MP (*Labour, Croydon Central*)
Mr George Howarth MP (*Labour, Knowsley North and Sefton East*)

Powers

Powers of the Committee of Public Accounts are set out in House of Commons Standing Orders, principally in SO No 148. These are available on the Internet via www.parliament.uk.

Publications

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at http://www.parliament.uk/parliamentary_committees/committee_of_public_accounts.cfm. A list of Reports of the Committee in the present Session is at the back of this volume.

Committee staff

The current staff of the Committee is Nick Wright (Clerk), Christine Randall (Committee Assistant), Leslie Young (Committee Assistant), and Ronnie Jefferson (Secretary).

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Summary

Sustainable fish stocks are essential for the economic survival of the fishing industry. Yet some stocks, such as North Sea cod, are in danger of collapse and there is over-capacity in European fishing fleets. The European Commission has acknowledged that the Common Fisheries Policy has failed to conserve fish stocks in European waters, and that more effective control and enforcement are required.

The value of fish landed by the United Kingdom fishing fleet each year is some £400 million, including fish worth £150 million landed in England and Wales. The Department for Environment, Food and Rural Affairs (the Department) spends around £11 million a year enforcing fisheries regulations in English and Welsh waters, and a further £17 million on conservation. The Sea Fisheries Inspectorate co-ordinates and directs fisheries inspections in English waters, including inspections carried out by the Royal Navy, aerial and satellite surveillance, and on-shore inspections covering landings of fish and documentation of catches.¹

On the basis of a Report by the Comptroller and Auditor General,² we took evidence from the Department on fisheries enforcement in England.

Fishermen, and fisheries inspectors, work in harsh and sometimes dangerous conditions. Our report seeks to support their efforts, and those of the Department, to develop an industry which meets the challenges of economic survival while sustaining the fish stocks on which its future depends.

We draw the following main conclusions from our examination.

- The Department should aim to reach a greater consensus with the fishing community on a longer-term vision of a sustainable fishing industry, and the catch levels, mix and quality that it might be able to support. They should seek to promote greater understanding of the measures needed to achieve such an outcome, as a basis for enlisting fuller voluntary cooperation in fisheries conservation and management.
- The probability of a fishing vessel being subject to physical inspection at sea or on landing fish is low, being just 1 and 6% respectively on any day of fishing. The probability of documentary checks being carried out is higher, at some 60–70%. If detected and prosecuted fines are on average only some 1.7 times the value of the infringement. The low probability of detection and of prosecution may encourage some fishermen to conclude that the potential economic benefits of over-fishing outweigh the risk of detection and penalty. The Department should therefore increase the options for pursuing and penalising infringements.

¹ Enforcement of regulations in England (and Wales on behalf of the Welsh Assembly) is carried out by the Department's Sea Fisheries Inspectorate. Local authorities also have statutory responsibilities under the Sea Fisheries Regulation Act 1966. In Scotland, the Scottish Fisheries Protection Agency is responsible for enforcement, while the Department of Agriculture and Rural Development undertakes this role in Northern Ireland.

² C&AG's Report, *Fisheries Enforcement in England* (HC 563, Session 2002–03)

- Discarded fish is often already dead or dying when thrown back in the sea. Discards may arise because, for example, the fisherman's quota has been exceeded, or because of a desire to land only the best quality fish, or through bi-catches. **Such discard practice is wasteful, and undermines the credibility of fishing regulations. The Department should consider whether there would be benefit in seeking changes in current European Union enforcement legislation to allow the landing of discards and over quota catches but with proceeds being used to fund research or greater enforcement activity, as is already the case in Iceland.**
- Some countries have greater success in conserving fish stocks, though as in the case of Iceland and New Zealand they may benefit from waters and fish stocks which are more isolated and less open to fishing from foreign vessels. Nonetheless, the Department should be alive to opportunities to identify and share best practice on fisheries enforcement with other countries, both within and outside the European Union, and to maximise the effectiveness of enforcement through co-operation with other fishing authorities.

1 Working together

1. Fisheries enforcement is one of three main ways to conserve fish stocks: scientific advice is needed to monitor stock levels and underpin the need for action; the capacity of the fishing industry needs to be regulated to avoid too many ships chasing too few fish; and enforcement is needed to ensure that fishermen are catching the right quantities and types of fish. Some countries outside the European Union, such as Iceland and New Zealand, report more success in recent years in conserving their stocks, perhaps because they have greater freedom of action and their fishing grounds are more isolated. The UK vessels fish in more crowded waters, with diverse fish stocks, and international co-operation is vital if conservation is to succeed.³

2. Effective enforcement and conservation of fish stocks depends on all European Union member states applying common standards. The Commission has acknowledged the need for effective enforcement by member states, and regulations have been progressively tightened up. Co-operation between member states has started to improve, for example through joint exercises to patrol adjoining waters. The Commission is developing measures to bring about more uniform controls and sanctions, for example by benchmarking and better targeting. All these factors make this an opportune time for the Department to play a role in helping the Commission to develop these measures.⁴

3. Fish stocks are, nevertheless, in danger. There has been widespread recognition that some aspects of the Common Fisheries Policy have not worked, and that the enhancements proposed by the Commission will take time to bed down. Enforcement of regulations is most effective when those subject to regulation have respect for the rules and the methods adopted to enforce compliance with them. The Department needs to work in tandem with the industry to promote conservation of fish stocks and enforce fisheries regulations. Experience in Australia has shown that better training in, and awareness of, conservation issues can improve compliance with fisheries regulations, and that peer pressure amongst fishermen is also an effective deterrent.⁵

4. Twenty Producer Organisations, involving some 1300 vessels, have collective responsibility for managing 95% of the United Kingdom quota. A Producer Organisation is effectively a collective body of vessel owners. Each has a key role in monitoring and enforcing the quota of individual vessels within the Organisation. The Department acknowledged that fishermen had a financial incentive to understate catches, and it therefore test-checked the accuracy of landing declarations through, for example, inspections and review of log books. The Department did not know, however, the extent to which Producer Organisations had taken disciplinary action against fishermen who had breached their individual quota limits. The Department had sometimes taken action against Producer Organisations where, for example, the total quota had been exceeded.

3 Q 16

4 Qq 15, 70

5 C&AG's Report, Appendix 3

Without assurance that action is also taken by Producer Organisations against members who exceed their individual quota, regulations may not have much of a deterrent effect.⁶

5. Experience in Iceland and New Zealand had shown that individual transferable quotas increased compliance, and fishermen were more likely to inform on known offenders. The Department considered that its current system had a similar effect as fishermen could buy and sell quotas, often for significant sums of money, and so had a sense of ownership. Operating quotas on behalf of the industry collectively also allowed the country to swap quota with other countries.⁷

6. Administering and enforcing the Common Fisheries Policy cost the United Kingdom some £87 million in 2002–03, of which £28 million was spent by the Department in England and Wales. These sums exclude any expenditure by the Royal Navy on its fisheries protection squadron not met by payments from the Department. They also exclude the costs incurred by the industry in complying with regulation. Expenditure on fisheries conservation and enforcement represents more than 17% of the value of fish landed (Figure 1).⁸

Figure 1: Cost of administering and enforcing the Common Fisheries Policy in 2002–03

	UK £ million	England and Wales £ million
Fisheries conservation, including research and development, fish stock monitoring, grants.	63	17
Enforcement including monitoring the activities of foreign vessels operating within British fishery limits.	24	11
Total cost of enforcement	87	28
Value of landings in 2002	490	157
Enforcement as a percentage of landings	17%	17%

Source: National Audit Office

7. In an academic study,⁹ nearly 70% of fishermen viewed the violation of quotas as “basically wrong but an economic necessity”. Fifty of the 69 fishermen surveyed had exceeded their quota landings. Fishermen may infringe fisheries regulations because economic returns exceed the risk of detection or because they do not respect the regulations. Regulations may lead fishermen to act in ways they regard as unnatural, for example throwing fish already dead back to sea to keep within their quota. The European Commission has estimated that discards may account for nearly 70% of fish mortality in some species or locations, and the volume of discards poses a serious threat to the conservation of fish. Other countries such as Iceland allow the landing of over-quota fish but the sales proceeds are used to fund further research into fish conservation.¹⁰

8. The Department had engaged with the industry at a number of different levels, for example through formal consultation before introducing new regulations. The Department recognised that industry confidence in the quality of science is vital to effective

6 Qq 2–4, 56–66, 145–147, 158; Ev 19

7 Qq 117–125

8 Qq 95–100; Ev 18–19

9 Hatcher, A. et al (2000) *Normative and social influences affecting compliance with fishery regulations*, Land Economics, 76(3):448–461

10 Qq 21–22, 105–108, 110; C&AG's Report, Appendix 3

enforcement. Fishermen considered that scientists' judgements about the levels of fish stocks were out of date, and that stocks were healthier than reported by scientists.¹¹ Proposals being considered by the Commission would put greater emphasis on fishermen and scientists working together to identify ways of achieving sustainable fisheries. Experience in Iceland had shown that closer working in this way could help conservation efforts.¹²

11 C&AG's Report, para 11

12 Q 16; C&AG's Report, Appendix 3

2 Improving control and better enforcement

9. The Department acknowledged that the number of inspections was not as high as it would have liked, or sufficient to deter over-fishing or misdeclaration of catches. On average there was only a 1% chance of a vessel being inspected on any one day at sea, and a 6% chance of a catch being inspected on landing. The probability of documentary checks being carried out was higher at some 60–70%. When a minor transgression was discovered, the Department said staff sometimes gave fishermen a verbal rather than a written warning. The Department agreed that it did not record all such cases and so did not have a clear picture of the scale of offences. The Department considered that a 'zero tolerance' approach, which penalised very minor offences, would not be in the Department's or the public's interest. Without information on the number and types of offence dealt with by verbal warning, however, the Department cannot monitor whether each district is dealing with infringements fairly and consistently. These data might also better inform the targeting of enforcement action, or put in place enforcement action in cases where earlier verbal warnings had been ignored.¹³

10. The majority of other transgressions resulted in a written warning, with only a small number of cases leading to prosecution through the Courts. The Department issued written rather than verbal warnings only when the evidence about the offence was robust enough to stand up in court even where legal remedy was not sought. Recent data on the outcome of cases are shown in **Figure 2**.¹⁴

Figure 2: Outcome of cases 2000–02

Outcome	2000		2001		2002	
	Number	(%)	Number	(%)	Number	(%)
Taken to court	86 ¹	33	51	20	44	17
Written warning	131	51	141	57	102	38
Case dropped	40	16	50 ²	20	18	7
Action pending	0	0	7	3	102	38
Total	257	100	249	100	266	100

Notes 1. Includes one not guilty case

2. Includes six offences involving foreign vessels transferring to the flag state authorities for action.

Source: Department for Environment, Food and Rural Affairs [Ev 17–18]

11. Delays have occurred in progressing cases, with 15% of cases in 2001 taking more than 3 months to get to court. The time taken to prosecute may result in cases being dropped or a lesser sanction being applied, and additional offences may be committed before the case has been heard. The European Commission reported that fines imposed by United Kingdom courts were amongst the highest in the European Union, Magistrate's Courts in England have the power to impose fines of up to £50,000 for some offences. Fines additional to the value of the catch can also be applied and fishing gear confiscated. In practice, however, the average penalty imposed was just 1.7 times the value of the catch.

¹³ Qq 5–7, 17, 20–21, 34–51, 92–93

¹⁴ Q 94

Such penalties may not be a sufficient deterrent, especially as the offence detected may not be the only one committed. The courts also had the power to suspend a fishing licence where there had been a breach of licence conditions, but had done so only in four cases. Other countries' fisheries authorities have a wider range of penalties available which may be more likely to dissuade fishermen from over fishing. These penalties include immediate suspension of a vessel's fishing licence on detection of an offence (Iceland), and escalating administrative penalties (Denmark).¹⁵

12. In targeting enforcement resources around the country, the Department takes account of landing tonnages, the length of coastline, the number of landing sites and the number of vessels over 10 metres falling within the jurisdiction of each of its regions. The number of inspectors based in each region is, however, inconsistent, with an officer in the North East or North West monitoring landings of around £1.4 million compared with £3.8 million and around twice the number of vessels over 10 metres for an officer based in the South West (**Figure 3**). The Department's ability to relocate staff between ports was limited, other than on a short term basis. Permanent transfer of inspectors was reliant on individual co-operation and goodwill, as compulsory transfer was no longer a part of the inspectors' terms and conditions of employment.¹⁶

Figure 3: Sea Fisheries Inspectorate resources, by district, in 2001

	In each region, one inspector would be responsible for:				
	No. of vessels less than 10 metres	No. of vessels over 10 metres	Total no. of vessels	Quantity of landing (tonnes)	Value of landings (£ million)
North East (8 inspectors)	30	9	39	889	1.4
Humber (8 inspectors)	25	15	40	2,942	3.0
East (6 inspectors)	64	17	81	4,047	2.2
South East (10 inspectors)	91	8	99	1,300	1.7
South West (15 inspectors)	49	21	70	3,133	3.8
North West (4 inspectors)	38	11	49	2,167	1.4

Source: National Audit Office, based on Sea Fisheries Inspectorate Annual Report

13. Some offences involve collusion between fishermen and buyers of fish, for example where buyers knowingly accept inaccurate paperwork from fishermen. In countries such as Norway and the Netherlands the ability to buy and sell fish had been restricted to registered individuals. This approach had reduced the opportunity for collusion and made it easier for authorities to carry out checks on sales documentation and to strengthen controls over quota management. The Department acknowledged the benefits of registering buyers and sellers. It was considering the merits of designating sales agencies, with registered buyers and sellers and a system of traceable sales notes to help track fish consignments, although no decision had been made.¹⁷

15 Qq 8–9, 155

16 Qq 12–13, 25–27; C&AG's Report, para 3.9

17 Q 89

14. Effective quota management depends on fishermen making accurate declarations of their catches. The relatively low risk of inspection may result in fishermen having little or no incentive to make accurate declarations. Fishermen in the United Kingdom have 48 hours from the time they land at port in which to submit their landing declarations. In Australia boats radio the port before landing to report the quantity of fish on board, thereby allowing fisheries officers to target specific landings and increasing the incentive for accurate declarations.¹⁸

15. The Department targeted its inspections in areas of particular risk of infringement, using local intelligence about the abundance of fish and the most restrictive quotas. The Department had taken steps to manage some of these risks. For example the Department required all vessels over 20 metres to make landings at a Designated Port, to counter the risk that illegal activity increased with the size of the vessel. The Department did not, however, fully capitalise on its record of past infringements to help target its enforcement activity.¹⁹

16. Since January 2000 fishing vessels over 24 metres have been required to have satellite monitoring equipment on board, and satellite surveillance enhanced, as part of a package of measures adopted under the reform of the Common Fisheries policy. All vessels over 18 metres will be monitored by satellite from January 2004, and vessels over 15 metres from January 2005. The European Commission has not, so far, established standard specifications for tamper-proof equipment on board vessels, however, and some vessels had turned off the transponders which indicate their position. In response, from January 2002, the Department had required vessels to report their position by radio every two hours where satellite equipment had been disabled, and once they arrived at port to remain until the equipment had been tested.²⁰

17. Countries such as Australia attribute part of their success in conserving fish stocks to reducing fleet capacity. The United Kingdom has sought to reduce capacity through licensing, and no additional licence capacity has been issued since 1993. As a result, the number of vessels has reduced from 11,000 vessels in 1991 to 7,200 in 2000, and the number of large fishing vessels has decreased by almost a third in the last 6 years. However, the average tonnage and power of the remaining vessels has risen, making them more efficient at catching fish and putting greater economic pressures on fishermen to recoup the considerable financial investment in their vessels. The Department agreed that there is still excess fishing capacity.²¹

18. In comparison with many other countries, the Department has a difficult task in enforcing regulations. The British Fisheries Limits extend up to 200 miles from the coast or to median lines with other member states. Vessels from other member states and other countries also fish in British Fishery Limits up to the seaward limit of United Kingdom territorial waters, and some foreign vessels have historical rights to fish within territorial waters. The diverse mix of fish within British waters, together with quotas and fishing

18 Qq 135–137

19 Qq 138–139

20 Qq 10–11, 52–55; C&AG's Report, para 3.3

21 Qq 24, 100

seasons which vary between species, mean that it can be difficult to catch just one species of fish.

19. Inspectors therefore face a challenging task, and some risk of intimidation.²² The Department's record in implementing and enforcing the Common Fisheries Policy regulations nevertheless compares reasonably well with other member states. A European Commission review in 2001 suggested, however, that the resources available for land-based enforcement could be improved and the penalties imposed on those who break the regulations could be more effective (Figure 4).²³

Figure 4: The adequacy of fisheries control in member states

	UK	Ireland	France	Denmark	Netherlands	Belgium	Spain	Portugal	Germany	Sweden	Finland	Italy	Greece
Control system meets European requirements	✓	✓	✓	✓	✓	✓	✓	✓	✓	x	x	✓	x
Sufficient resources for sea operations	✓	✓	✓	✓	x	x	✓	✓	✓	✓	x	✓	✓
Sufficient resources for land operations	x	x	x	✓	x ⁴	✓ ⁶	x	✓	✓	✓ ⁷	x	✓ ⁷	x
Implementation of satellite monitoring	✓	✓	✓ ²	✓	✓ ⁵	✓	✓	✓	✓	✓ ⁷	✓	x ⁷	x
Implemented monitoring requirements for catches and fishing effort	✓	x	x	✓	✓	✓	✓ ³	✓	✓	✓	✓	x	x
Systematic cross-checking of catch information	✓	x	x	✓	✓	x	x	x	✓	✓	x	x	x
Measures in place to control fleet development	✓ ¹	✓	✓	✓	✓	✓	✓	✓	✓	x	✓	?	✓
Penalties effective as deterrent	x	x	x	✓	x	?	x	x	✓	x	x	x	x

Notes

? Insufficient information existed to allow the Commission to make an assessment

1. Cross checking done on an ad hoc basis
2. Inspections at point of discharge are not given priority instead inspections focus on catches sold at auction
3. Satellite monitoring not used to assist authorities to carry out fisheries surveillance/inspections
4. Not sufficient at time of report
5. Insufficient in terms of landings from foreign vessels
6. Technical limitation of patrol vessels prevent efficient inspection at sea
7. Inspectors need to be better trained in order to enable them to perform their role more efficiently

Source: National Audit Office analysis of COM (2001) 526, final Report on the monitoring of the Implementation of the Common Fisheries Policy, Fisheries Control in Member States

22 Q 75

23 Qq 15, 70–74; C&AG's Report, para 2.38

Conclusions and recommendations

Working together

1. To improve compliance, the Department needs to better engage with fishermen on the importance of conservation and regulations aimed to support fish stocks. The Department should enhance consultation with fishermen and Producer Organisations at local level, and encourage greater discussion between scientists and fishermen to achieve a shared understanding of conservation issues. The Department could, for example, engage fishermen more actively in the collation of scientific data on stock numbers, and consider deploying scientists as observers on fishing patrols.
2. The Department should make clear how it intends to address the over-capacity in the United Kingdom fishing fleet in the long-term, drawing on best practice from other countries.

Improving control and better enforcement

3. The Department should check periodically that Producer Organisations have robust and effective quota management systems, and require better reporting of the action taken against individual fishermen. The Department should also work more closely with Producer Organisations at each port, for example by sharing data on enforcement problems.
4. **The Department should also consider, in discussion with its European partners, whether alternatives to quotas, such as restrictions on the number of days boats might spend at sea each season, might provide a more effective way of limiting catches and the depletion of fish stocks.**
5. The Department should record and analyse all breaches, even where they only result in a verbal warning, to improve its understanding of the nature and scale of infringements and to better target its enforcement activity.
6. The Department should issue clear guidance to staff on the types of offence and standards of proof that are appropriate for verbal or written warnings rather than prosecution.
7. The Department should use its records of past infringements to identify patterns of offending behaviour, to better inform the targeting of its enforcement activity.
8. The Department should match the regional deployment of inspectors more closely to the pattern of fishing activity and the risk of infringements, and should review whether the terms and conditions of employment for inspectors are sufficiently flexible in this respect.
9. The Department should explore the option of imposing other penalties such as on the spot administrative penalties or withdrawing a boat's licence to fish for a fixed time period.

10. **The Department should reach a conclusion quickly on its consideration of whether controls over fish landings could be enhanced through a system of registration of buyers and sellers, designated sales agencies, and traceable sales notes, drawing on the experiences of Norway and the Netherlands who use such an approach. In addition, the Department should consider extending the scheme whereby boats land their catches at designated ports, who would be empowered to police the accuracy of catch declarations.**

Formal minutes

Monday 20 October 2003

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon
Mr Ian Davidson
Mr Brian Jenkins

Jim Sheridan
Mr Gerry Steinberg
Mr Alan Williams

The Committee deliberated.

Draft Report (Fisheries enforcement in England), proposed by the Chairman, brought up and read.

Ordered, That the Chairman's draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 19 read and agreed to.

Conclusions and recommendations read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Forty-third Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select Committees (Reports)) be applied to the Report.

Adjourned until Wednesday 22 October at 3.30 pm

Witnesses

Wednesday 4 June 2003

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Sir Brian Bender KCB, Stephen Wentworth CB, and Mr Malcolm Macdonald,
Department for Environment, Food and Rural Affairs

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Fourth Report	Private Finance Initiative: redevelopment of MOD Main Building	HC 298 (<i>Cm 5789</i>)
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Thirteenth Report	Ministry of Defence: progress in reducing stocks	HC 566 (<i>Cm 5849</i>)
Fourteenth Report	Royal Mint Trading Fund 2001–02 Accounts	HC 588 (<i>Cm 5802</i>)
Fifteenth Report	Opra: tackling the risks to pension scheme members	HC 589 (<i>Cm 5802</i>)
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Nineteenth Report	The PFI contract for the redevelopment of West Middlesex University Hospital	HC 155 (<i>Cm 5961</i>)
Twentieth Report	Better public services through call centres	HC 373 (<i>Cm 5961</i>)
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Twenty-third Report	Innovation in the NHS—the acquisition of the Heart Hospital	HC 299 (<i>Cm 5961</i>)
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Thirty-second Report	The Highways Agency: Maintaining England's motorways and trunk roads	HC 556 (<i>Cm 5962</i>)
Thirty-third Report	Ensuring the effective discharge of older patients from NHS acute hospitals	HC 459
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The reference number of the Treasury Minute to each Report is printed in brackets after the HC printing number

Oral evidence

Taken before the Committee of Public Accounts

on Wednesday 4 June 2003

Members present:

Mr Edward Leigh, in the Chair

Mr Brian Jenkins
Mr George Osborne
Mr David Rendel

Mr Gerry Steinberg
Jon Trickett
Mr Alan Williams

Sir John Bourn KCB, Comptroller and Auditor General, further examined.

Mr Brian Glicksman, Treasury Officer of Accounts, HM Treasury, further examined.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL: Fisheries Enforcement in England (HC563)

Mr Brian Bender CB, Permanent Secretary, **Mr Stephen Wentworth**, Fisheries Director and **Mr Malcolm Macdonald**, Deputy Chief Inspector of Fisheries, Department for Environment, Food and Rural Affairs (DEFRA), examined.

Q1 Chairman: Good afternoon, welcome to the Committee of Public Accounts. Today we are looking at the Comptroller and Auditor General's Report on fisheries enforcement in England, obviously a subject which is of great interest to many people. We are delighted to welcome back Mr Brian Bender, the Permanent Secretary at the Department. Would you like to introduce your colleagues please?

Mr Bender: On my left is Mr Stephen Wentworth, who is the Director for Fisheries in the Department. On my right is Mr Malcolm Macdonald, who is the Deputy Chief Inspector of Fisheries. I might just add that the reason why the Chief Inspector is not on the front bench is that he only took up his job at the end of March. He is behind, having a learning experience.

Q2 Chairman: Thank you very much for coming. Perhaps we could start by turning to page 12 and paragraph 1.11 entitled Quota Management: the role of producer organisations. Why do you leave enforcement to the producer organisations?

Mr Bender: We do not leave it entirely to the producer organisations, but a significant part of the quota is allocated to the producer organisations, of whom there are 20, and they account collectively for over 95% of the quota. That is the proportion. The answer is that we believe the government's interest in this lies in effective management of the quotas which requires the involvement and the buy-in of the industry. We believe that a flexible arrangement, in which the industry manages the day to day issues, that where one fishing vessel over-fishes they can be compensated for by deduction subsequently or be required to add quota, is a more effective way than policing every fish individually, on the clear understanding that we ensure that the catches landed by the members of that organisation are properly recorded.

Q3 Chairman: Are you not asking them to be both poacher and gamekeeper? Is there not a risk that they will seek to maximise catches rather than conserve stocks?

Mr Bender: The overall allocation to the producer organisation is fixed. The question is how they manage that amongst themselves. Providing they do that, providing what they land is properly recorded, that risk is minimised and it seems to the Department a risk worth taking in order to maximise the prospects of involvement and buy-in by the industry.

Q4 Chairman: As long as, having made that decision, you receive sufficient information, are sufficiently involved in the process. Are you so involved to a sufficient degree? Do you have all the information you need and are you chasing it up?

Mr Wentworth: The way it works is that we, through our Fisheries Inspectorate, are checking all the landings of these members of the producer organisations and checking their logbooks. That is the point at which the enforcement and compliance with the Community obligation to stick within quotas is imposed. The producer organisation is effectively managing the quota within their membership. The way they do that is not of direct concern in terms of actually complying with the total quota they are allocated.

Q5 Chairman: Let me ask a couple of questions about deterrence and detection. Could you turn now to page 15 and look at paragraph 2.3? This is an important point which hits you in the face when you read this Report. What are the chances that vessels will be inspected? There is only a 1 in 100 chance of being inspected, is there not? Do fishermen not feel free to break these regulations knowing that there is very little chance of being caught?

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Mr Bender: There are different ways in which they may be caught. The first is inspection at sea, the second is through the cross-checking between the satellite surveillance, the aerial surveillance and what their documentation says when they land. The third is what happens when they land. There is a whole series of other measures we have taken through satellite surveillance, through designated ports for the larger vessels, through working with other enforcement agencies, to maximise the prospects.

Q6 Chairman: On any particular catch what are the chances of actually being inspected either at sea or on land? Is it 1 in 100, is it 1 in 50, is it 1 in 25?

Mr Wentworth: It is about 1% on any one day at sea. Of course fishermen are at sea for many more than one day per year so over the year as a whole they may be inspected more than that. The Royal Navy is directed by us and tasked to focus on fisheries where we think there are particular risks.

Q7 Chairman: The industry can work that out. They can see there is a particular risk this month with cod or something. They are not idiots. They can work out that the Royal Navy itself might be thinking that and lay off that particular scam at that time.

Mr Wentworth: Fishermen go where the fish are and the Royal Navy knows where they are. The satellite monitoring gives us data instantly on where groups or fishermen are fishing so we can target in that way and that is what our fisheries enforcement management is all about. Obviously the checking on landing is a much heavier proportion and the designated port system provides a way in which we can ensure that fishermen can have quite a strong incentive to fill in their landing documentation accurately.

Q8 Chairman: Can we turn to page 28 and look at paragraph 2.35? Once they have been caught, if they are caught, and they are prosecuted, we can see the level of penalty is on average 1.7 times the expected gain. Is that not too low to be effective? First, there is very little chance they are going to be caught. Secondly, if they are caught they know they are only going to be charged on average 1.7 times the gain.

Mr Bender: May I say first of all, that according to our calculations, that is equivalent to about seven times the profit that they would earn on the ship. So if the fine is compared with the profit the deterrent effect is a bit higher. Secondly, the European Commission's Report on infringements shows that our fines are in fact amongst the highest in the European Union. For example, for logbook offences, the typical average fine is many times higher than in the rest of the European Union, and a few months ago there were two cases in which the owners of three vessels involved in false declarations were fined £1.6 million. There have been significant deterrent fines, but the issue which is raised in the NAO Report, as to whether we should also look at administrative penalties, is one we are pursuing and we hope to come out with proposals.

Q9 Chairman: That could be more effective, could it not, in terms of encouraging compliance, if you say you are going to withdraw a boat's licence for 10 days or something like that? It is something worth looking at.

Mr Bender: If we get it right. It is worth looking at and it is being looked at.

Q10 Chairman: You mentioned satellite surveillance. If you turn now to page 34 and paragraph 3.3, having read that paragraph it is clear that there is nothing to stop these fishing boats turning off their transponders. Why do you let them do that?

Mr Wentworth: We do not "let" them in the sense of accepting it and there have been prosecutions which have dealt with that. It is an issue which we are seeking to address and seeking to get it addressed at the European level as well, because, of course, the satellite monitoring is a relatively new development over the past few years.

Q11 Chairman: May I push you further on that? Other countries' governments install the transponders. You allow our fishing boats to install transponders which can be turned on or off. That is true is it not?

Mr Wentworth: There are ways of interfering with electronic equipment regardless of who installs it. It is an issue we are continuing to look at and the Commission is continuing to look at. We are making progress on it. As with any technological development—and as one sees with computer hackers or whatever—there is a continuous battle to be fought and we are fighting it.

Q12 Chairman: Thank you for that. On a slightly different issue can we look at page 37 and paragraph 3.9? Why can you not switch inspectors to ports where there is perhaps more of a risk, where the majority of the fish is landed? Can you do that?

Mr Bender: We can do it a little more than maybe the first impression which comes out in the Report. The resources need to take account of a number of factors: the tonnage landed, the length of coastline, the number of landing sites, the number of vessels over 10 metres in each district. In practice, we have now negotiated contracts with our staff which allow a bit more movement. We have succeeded in moving staff through level transfers, promotions, recruitment and so on to almost the same degree over the last five years as the Scottish Fisheries Protection Agency have. We have actually transferred 16 inspectors; they, with a larger inspectorate, have transferred 25 inspectors. There is more flexibility than perhaps is apparent.

Q13 Chairman: But not complete?

Mr Bender: Not complete.

Q14 Chairman: May I turn to the Treasury on this and look at paragraph 3.7? Why do you constrain the way in which the Department can switch resources between sea and land-based surveillance? Why not leave it to the Department?

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Mr Glicksman: There are several things which departments can only do with the Treasury's approval and this is one of them. That does not mean the Treasury would necessarily object to it; indeed in this case the Treasury has made clear that we have no objections to this.

Mr Bender: I may have misled the Committee on the last point. I was speaking about moving human beings from one place to another. On the difference between scheme and administration expenditure, the Treasury have now given us the authority and the question is whether we wish to take that up and we are looking at it actively.

Q15 Chairman: May I finish by looking at a very important figure, which I want to draw to the attention of the Committee, Figure 16 on page 29? This gives us a very useful insight into what other countries are doing. As you know, there is a constant complaint from our fishermen, as indeed from our farmers, that we are imposing enforcement on our fishermen in a way that other countries are not enforcing their regulations. What are you doing to ensure that all Member States apply common standards of control and enforcement?

Mr Bender: May I say first of all that if there are shortcomings elsewhere, we would not regard it as a reason for us to condone infringement. It is plainly a matter of concern to us that there is effective enforcement across the European Union. There is a long history of the British Government pressing for that. A major package on control and enforcement was agreed in 1993, which included, for example, satellite monitoring. There has been progressive tightening up and in March the Commission published a new action plan for enforcement which provides for further welcome improvements and strengthening, including some of the issues touched on in the NAO Report, such as benchmarking, better targeting, better working with other agencies and so on. This is a progressive process.

Q16 Chairman: We know what the policy is. It is to conserve fish stocks. We are all agreed about that and the policy is clearly not working. If you had a free hand, if you did not have to work through the Commission, what would you do differently? A propos that, why is it that New Zealand or Iceland, which run their own fisheries policy, appear to be so much more successful in conserving fish stocks than we do, when we have to work with the Commission? What would you do differently?

Mr Bender: I shall ask Mr Wentworth to answer your last point about Iceland. The answer lies in the combination of the capacity of the industry, which has fallen less quickly than the quotas; action to address excess activity; restraining the growth of capacity; avoiding the wrong fish, small fish, being caught; engaging with the industry and persuading them that the science is right; and having effective enforcement underpinning it. The application of the Common Fisheries Policy (CFP), not necessarily the policy itself but the application of that policy, has not succeeded in protecting stocks. That is a self-evident point that we are discussing. In one way or

another we are talking about policing activity in an area where we need international co-operation. If there were no Common Fisheries Policy, we would have to invent something else which provided for that international co-operation where we could have three or four different countries involved in one activity: the flag state of the ship, the coastal state, the ownership of the vessel, the port of landing. It is getting measures which achieve that and then achieve it effectively, which is what the Common Fisheries Policy is seeking to do.

Q17 Mr Steinberg: When I read the Report, I got the impression that really you were not all that bothered whether you caught them or you did not catch them. There was not a great deal of urgency and it was more by good luck than by good management that the quotas were kept to. I have a certain amount of sympathy with that anyway, because I find it very difficult to understand the reasons why we stop fishermen fishing, but never mind. My argument seems to be borne out by the very fact in paragraph 2.3 on page 15 where it states quite clearly "Across the board there is less than 1% chance that, on any day of sighting, a vessel will be inspected at sea and around a 6% chance of being inspected on landing". Frankly that is not much of a deterrent, is it? If those figures are correct—and you have not disputed them—it seems clear to me that there is not much chance of them being caught; no matter how many days they go out, there is still only a 1% chance of being caught on the day they go out, so it seems to me that is pretty irrelevant.

Mr Bender: There are different circumstances in which a vessel would be inspected. There is inspection at sea, where this 1% figure is right, though that may well mean that the same vessel is inspected three or four times over a year. There is cross-checking on landing. There is the inspection on landing, then there is cross-checking against other data such as the data from aerial surveillance and so on. Then there are the penalties for infringement. Whether we get this balance right is difficult to tell. Certainly the industry feels we are over-zealous in our enforcement, but I suppose they would, would they not?

Q18 Mr Steinberg: Despite all that, if you are right and you are over-zealous and the deterrents are there, the Report tells us that 70% of fishermen exceed their quotas. They do not seem to take much notice, do they? They do not seem to be very afraid that they are going to be caught, because 70% actually do it.

Mr Wentworth: There is another way of coming at this and that is that strikingly a lot of operators in the industry are prepared to pay very large sums of money to buy quota to ensure that they operate within quotas. Fishermen will be spending hundreds of thousands, millions in some cases, to ensure that they have the quota within which to operate. It is misleading to give the impression that there is not a real impact from our enforcement activities.

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Q19 Mr Steinberg: I am sorry, you have lost me. I do not understand that. Are you saying that they pay huge amounts of money to buy extra quota? How does that answer my question that 70% of them are still over-fishing?

Mr Wentworth: The point I am making is that if they were not concerned to comply with quotas, they would not spend any money buying them.

Q20 Mr Steinberg: I see the point you are making but it still does not seem to have a bearing.

Mr Macdonald: May I go back to the 1% inspection rate? That is an average figure. Where fisheries are at risk, you would find that many fishermen are boarded many more times than those figures imply. We agree that where fisheries are not at risk, for instance in certain fisheries like a cockle fishery, there is no reason for us to inspect, so we would not be inspecting as there is nothing to inspect for.

Q21 Mr Steinberg: Would you agree with me that it is not very much of a deterrent, is it? If 70% of the population claimed benefits to which they were not entitled, there would be alarm, would there not? Or would there not? Would that be acceptable that 70% of people who claim benefits claimed one to which they were not entitled? Would that be acceptable? I do not think it would really, would it? So how is it acceptable that 70% of fishermen break the law? There is not much of a deterrent, is there? There cannot be. I have proved my point. Let us move on. I have to say that I have quite a lot of sympathy with the fishermen. Common sense tells you that clearly they must have huge investment in boats; they are obviously not cheap. If they buy a boat they have to pay for that boat, there are plenty of fish in the sea and they are not allowed to fish for them and then you have the even dafter situation where if they catch fish and they are over the quotas and the fish are dead, they still have to throw the fish back in the sea. How can that be justified? Is that not just plain stupid?

Mr Wentworth: Discards happen for a number of reasons. You have mentioned one, which is if they do not have the quota for it. What I can say is that it is obviously a frustrating and difficult situation for exactly the reason you have described. On the other hand, if you are going to limit catches, which you do need to do in order to protect stocks, you have to have some sort of rule which tells people when to stop.

Q22 Mr Steinberg: So you think it is perfectly acceptable to catch fish, the fish which you have caught above the quota are dead but you throw them back in the sea. Do you think that is acceptable?

Mr Bender: No, it is very unsatisfactory. The more flexible the arrangements within a producer organisation, the better the prospects of avoiding discards because fishermen would not be catching fish they could not use, they could compensate for it with a change in their quota within the producer organisation.

Q23 Mr Steinberg: Is there any move afoot to do something about it? Do you accept that the reasons why the fishermen appear to over-fish are economic reasons?

Mr Bender: Yes.

Q24 Mr Steinberg: Have you looked into those economic reasons, how the fishing industry can be helped? To me it does not help to catch fish which then have to be thrown back into the sea. That seems quite crazy to me. Have you looked at things which can be done to offset that?

Mr Bender: Essentially the heart of the problem is that there is too much capacity for too few fish in the sea being chased by too many boats. One of the things the government has done over the period is paid grants to remove capacity. We operated decommissioning grants between 1984 and 1986, 1993 and 1997, again 2001–2002 and another scheme is in progress. That has, overall, just between 1996 and 2002, reduced the percentage number of vessels over 10 metres by 28%. That is the sort of way in which we have used taxpayers' money to try to address the problem. Not by a direct subsidy to the industry, which would not be an appropriate use of money, but as a means of reducing the economic incentive of too many fishermen trying to catch too few stocks.

Q25 Mr Steinberg: Move on to pages 36 and 37 if you would. Here I picked up the theme I started off with, which it did not seem to me you took very seriously at all. Paragraph 3.9 says "Figure 21 shows the current deployment of inspectors. Ten inspectors cover landings of 13,000 tonnes in the South East, but there are only 15 inspectors covering landings of 47,000 tonnes in the South West and eight inspectors covering landings of 23,500 tonnes in the Humber region. I did a little arithmetic and if we look at Figure 21 and the number of boats each inspector has, for example in the North East, if my figures are correct, each inspector has 40 boats to look after, similarly in the Humber; in the East my figures show that one inspector had 80 boats to look after and in the South East they had 100 boats to look after, South West 70 and North West 50. I would imagine that is a huge number of boats for one particular inspector to have to keep a track of. That to me does not show a lot of commitment on the part of the Department, whoever is responsible for these inspectors. There seem to be far too few inspectors around to even hope to do a reasonable job. Am I totally wrong?

Mr Bender: If you look at it from the point of view of the most important vessels, which are those over 10 metres, then actually the same arithmetic would show that each inspector is responsible for between 10 and 20 vessels wherever they are located. They know their customers, they know the fishing circumstances, they know the local pressure points. The way we deploy the resources needs to take account of the tonnages, the length of coastline, the number of landing sites and in particular the number of vessels over 10 metres in the district.

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Mr Macdonald: It is possibly a bit misleading to look at the number of vessels by vessel size because fishing vessels are very different depending on the fishery they are going to. For instance, a large vessel which can stay at sea for 10 days or whatever obviously lands a lot more fish, whereas in another port, perhaps in the South East, where the vessels traditionally fish maybe one tide, maybe 12 hours, they do not require the same amount of attention, there is less to inspect.

Q26 Mr Steinberg: Continuing in paragraph 3.9, at the end it says “The Inspectorate can move staff on a temporary basis for specific operations or short periods, but the compulsory transfer of staff is no longer a part of the Department’s human resources policy”. Surely this must restrict you? What you are saying here is that you have certain problems in certain areas and you are over-staffed in one area but you cannot move staff to another area to cover those shortages. That seems a crazy policy.

Mr Bender: I was trying to explain earlier when I was answering the wrong question from the Chairman, that in practice we do do it, it is just that we do not make it compulsory. Looking back over the last few years, we have actually managed to transfer 16 inspectors between one place and another as well as promoting another seven. We do manage to do it, but we do not make it an obligatory part of their work conditions, we do it through a more—

Q27 Mr Steinberg: That is point I am making. I heard what you said to the Chairman, but if you do not make it obligatory, presumably they can say no, can they?

Mr Bender: The fact that we have managed to achieve this number of moves suggests we are managing to do it without actually imposing the sort of conditions which may make people these days say they do not want to work in this organisation any more.

Q28 Mr Rendel: How many of the Inspectorate are ex trawler men?

Mr Macdonald: I do not have the figures to hand, but I would say within the Inspectorate we probably have somewhere between five and ten who are ex fishermen.

Q29 Mr Rendel: That is out of how many?

Mr Macdonald: That is out of about 65.

Q30 Mr Rendel: I ask this question partly because Table 8 on page 19 makes it clear that the fishermen themselves know of a number of ways in which they can avoid the inspections. I would have thought that if there are obvious ways in which fish can be hidden from inspectors it would be no bad way to have a few ex fishermen amongst your staff who can point out these ways and perhaps give some training even to those who are not ex fishermen in where to find fish being hidden.

Mr Macdonald: We do run comprehensive training courses for all our staff and ex fishermen would participate in those training courses. We feel fairly confident that we know possibly not all but most of the places fishermen could hide fish.

Q31 Mr Rendel: So can you explain why the reported levels of compliance are relatively high and yet apparently the fishermen think that they are getting away with quite a lot more?

Mr Macdonald: Perhaps because the level of inspection is not as high as we should like.

Q32 Mr Rendel: Do you mean the number of inspections as opposed to the quality of the inspections is not as high as you would like?

Mr Macdonald: Yes.

Q33 Mr Rendel: So what you are saying is that we could overcome a large part of this problem of non-compliance if you simply had more inspectors.

Mr Macdonald: Possibly.

Mr Bender: There is always the question of the degree of non-compliance. There is a largish percentage who say they over-fish. According to other information we have it is a much smaller percentage which was claimed to have exceeded quota by a significant amount. So there are degrees of this which are very different from Mr Steinberg’s question about defrauding the taxpayer.

Q34 Mr Rendel: How do you ensure that the vessels do not know whether their catch is going to be inspected until after they have filled in the forms?

Mr Macdonald: Do you mean inspection at sea or inspection ashore or both?

Q35 Mr Rendel: Anywhere. It says in the last bit of Table 8 “. . . fishermen only accurately recorded catches when they knew that they are going to be inspected”.

Mr Macdonald: I will concentrate on at sea first. At sea the vessel would be identified, radio contact would be made before the vessel was boarded. On boarding, the boarding officer would instruct the fisherman to make sure his logbook was up to date for the fish which had been retained on board.

Q36 Mr Rendel: So the fisherman can make sure that the log is up to date after they have been boarded.

Mr Macdonald: After they have been boarded.¹

Q37 Mr Rendel: So effectively they just put in whatever they had caught up to that time. Had they not been boarded they would not have bothered to fill it in.

Mr Macdonald: You would think so, but in our experience that does not always happen.

Q38 Mr Rendel: I am glad to hear it does not always happen. I would be sorry if it ever happened. Surely this is the point: you cannot properly inspect and

¹ *Note by Witness:* This is explicitly provided for in EU Regulations.

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regulate what is happening unless you can be sure that the figures you are going to be relying on are filled in accurately and before an inspection takes place rather than only when an inspection takes place.

Mr Macdonald: On landing the inspections would be targeted or random inspections, so hopefully the fisherman does not know when his vessel is going to be inspected.

Q39 Mr Rendel: I am sorry, but you said “hopefully” there. I am rather sorry that government should be relying on “hoping” that the fishermen are going to be doing their job in the way you would like them to. It seems to me that if all they have to rely on is “hopes” that the fishermen are doing their job, it is hardly surprising that according to Table 8 a lot of fishermen are getting away with it.

Mr Bender: For all vessels over 10 metres it is a requirement that there should be cross-checking in the sense that a logbook return is checked against the landing declarations, sales notes and the data from satellite and aerial sea patrols. That is an additional route; in addition to physical checking, there is also the paperwork checking which is a cross-check and which last year was very close to 100%.

Q40 Mr Rendel: You are saying that the logbook of what they have done during their voyage is checked against what they say they have landed at the end of the voyage.

Mr Bender: Against the declaration of sales and against the data which has just come in from satellite and aerial and sea patrols.

Q41 Mr Rendel: How accurate is that data going to be about how much is caught? Can you from the air check exactly how many tonnes are being taken on any particular vessel?

Mr Bender: We check in that case where they have caught it and we know where the fish stocks are. The landing declaration and sales note would record the volume. There are two forms of cross-check.

Q42 Mr Rendel: What you seem to be saying is that the log that they take as they sail, which records how much they are catching at any time, is checked against what they tell you they have caught at the end of the voyage, both of which, for all you know, might have been filled in at the end of the voyage, in which case of course they will be compliant with one another, but are not necessarily compliant with what has been caught.

Mr Wentworth: The bit which matters most is what is landed in terms of compliance with the quota regulations. We have the landing declaration and the requirement is that they land at designated ports. If they land at a designated port at a time when it is not manned, there are requirements for them to give notice in advance and there are also requirements for them to submit a copy of their log sheet before they start unloading. At the point of landing it is possible to do a very thorough check of what is landed on a basis that is not predictable to the fisherman.

Q43 Mr Rendel: If a vessel comes into a port which is not its designated port in the middle of the night and has told you an hour in advance it is about to do so, if it then arrives at the port and finds there is nobody there to look at it, is it not pretty certain that it can offload and then fill in its forms according to what it wants to say it has offloaded, which may be rather less than it has offloaded?

Mr Wentworth: Subject to correction by Mr Macdonald, they are required to give four hours’ notice.

Mr Macdonald: Yes, four hours.

Mr Wentworth: Obviously that time has been established in order to give us the option, if we wish, to ensure that someone actually turns up at the port to check what is going on. If we have a reason to doubt whether this particular vessel may be operating accurately, we can put the effort into ensuring that there is someone to do a check. Somewhere in the NAO Report, there is a case described of a vessel submitting an inaccurate documentation on landing which on checking on the vessel turned out to be wrong and there was a successful prosecution. It is a basis for prosecutions.

Q44 Mr Rendel: How often have you turned up in port and found that all the documentation is there and has been completed in advance of any offloading?

Mr Macdonald: Into a designated port?

Q45 Mr Rendel: Either.

Mr Macdonald: Vessels which land into one of our designated ports during designated times have to submit a copy of their log sheet into a specific port landing box before they are permitted to discharge.

Q46 Mr Rendel: Does that always happen?

Mr Macdonald: I am not saying it always happens. If it does not happen, then they are contravening a rule and our inspectors, as you will see in the case of one of the NAO examples in the Report, actually found that this had not happened before they boarded a vessel.

Q47 Mr Rendel: Is there any leeway in terms of the amount of stock they have offloaded, if they say they have offloaded, say, 500 boxes of fish and you discover they have actually offloaded 505?

Mr Macdonald: The quantity landed has to be accurate.

Q48 Mr Rendel: Accurate to what level?

Mr Macdonald: Has to be accurate.

Q49 Mr Rendel: Precise; exact.

Mr Macdonald: Precise; yes.

Q50 Mr Rendel: To the number of boxes.

Mr Macdonald: No, to the weight of fish put ashore. There is a tolerance on inspections at sea because the regulations give a tolerance of plus or minus 20% because fishermen at sea, putting fish down below, cannot be expected to be entirely accurate. It is not easy to weigh fish at sea.

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Q51 Mr Rendel: How easy would it be for a vessel to offload at one port and then sail onto another port with the rest of its documents and give its documents at a second port?

Mr Macdonald: It would not be impossible.

Q52 Mr Rendel: What controls do you have over that?

Mr Macdonald: Satellite controls.

Mr Bender: And intelligence.

Q53 Mr Rendel: Do you monitor every vessel sailing? Do you know exactly where it has been on every occasion?

Mr Macdonald: No.

Q54 Mr Rendel: So the satellite does not monitor that.

Mr Macdonald: Satellite does, but you said every vessel and not every vessel is subject to satellite control.

Mr Bender: Every vessel which has satellite equipment, and that is being extended, is subject to monitoring of the sort you are after.

Q55 Mr Rendel: So if it had called in at two ports to offload, you would check both ports as to how much it had offloaded and whether it was still within the quota.

Mr Macdonald: Yes.

Q56 Jon Trickett: These producer organisations are in receipt of quotas, as I understand it. Do they bid by tender or something for the quotas? How is that determined?

Mr Wentworth: The calculation starts with an historic track record of fishing taken from several years ago. On that basis vessel owners are allocated something known as fixed quota allocations. All the vessel owners within a particular producer organisation have those fixed quota allocations reflected in the amount of quota which is then allocated to the producer organisation. There is no charge for it.

Q57 Jon Trickett: So the producer organisation is a kind of co-operative body, bringing together all the vessel owners.

Mr Wentworth: That is a fair description.

Q58 Jon Trickett: They are then required to police the quotas they have been allocated.

Mr Wentworth: As a matter of good management, they then want to police the way the quota is used between their members. The legal obligation for us is to ensure that the total quota for the producer organisation is not exceeded.

Q59 Jon Trickett: I am trying to understand the relationship between the vessel owner and the producer organisation. Effectively it is the same body, is it not? The producer organisation is a collective body of the vessel owners.

Mr Wentworth: Yes.

Mr Bender: Yes.

Q60 Jon Trickett: They are allocated a quota on the basis of historical fishing patterns and then it is distributed between the vessel owners according to an agreement which is made between them all. Is that how it works?

Mr Wentworth: Yes. The producer organisation collectively decides on the management regime it is going to operate. At one extreme they could operate something which is sometimes described as Olympic fishing, that is to say they tell all their fishermen that they have a quota for whiting and they all go out and catch whiting, report back how much they have caught, it is summed up and after whatever period the producer organisation says all the whiting quota has been caught and catching whiting must stop. That is one extreme. There are other ways they can allocate it.

Q61 Jon Trickett: Presuming that it is in the economic interests of the vessel owners to produce more catch than the quota, it might be unethical but it might be in their economic interests, you are actually asking people to police themselves on the basis that if they fail to police they will get a higher salary or higher income than they would if they effectively policed themselves, are you not?

Mr Bender: We still police.

Q62 Jon Trickett: You do cross check.

Mr Bender: We ensure that the catches landed are properly recorded.

Q63 Jon Trickett: You do cross-checking.

Mr Bender: What they do amongst themselves is part of this collective you have described.

Q64 Jon Trickett: You do cross-checking, but the fact is that it is possible for them to swap quotas, is it not?

Mr Bender: Yes.

Q65 Jon Trickett: If you were to catch somebody appearing to be over quota for that particular vessel, it is possible for them to come to a meeting in the pub or on the golf course, or wherever fishermen go and swap quotas when they socialise, is it not?

Mr Wentworth: We would regard it as helpful to management and to good marketing if there were flexibility within the producer organisation in the management of the quota. We were talking earlier on about discards. If the producer organisation allocates a rigid amount of quota to each member, he is more likely to be discarding at some point.

Q66 Jon Trickett: I understand that. I am simply saying that they are policing themselves in effect, though I know you are doing cross-checking, and it seems to me that it is in their economic interests to secure a higher landing than the quota. It would be unethical, but it is something which would be in their economic interest. Yet the system you have chosen to use is to allow them to police themselves and then

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to allow a system whereby they swop quotas internally in the producer organisation. Beyond that, you also allow them to sell quotas to vessels which are outwith the producer organisation, do you not?

Mr Wentworth: That would be possible. At the end of the day—

Q67 Jon Trickett:—the sum of the quota is still the same. I agree with that but I just want to follow the logic of that. How many vessels under a foreign flag have been sold quota within British policed fishing areas?

Mr Wentworth: That is not feasible. We are managing British flagged vessels with UK quotas and they can only sell quota to other British flagged vessels.

Q68 Jon Trickett: So there are no foreign flags fishing for British quotas in foreign fishing grounds.

Mr Wentworth: No. They may be foreign owned, but not foreign flagged. They will all be UK flagged.

Mr Bender: I gather there were 116 in 2002.

Q69 Jon Trickett: Let me just be clear on what you are telling the Committee. They are foreign owned, but they are sailing under a British flag.

Mr Wentworth: Yes and complying with rules which we require.

Q70 Jon Trickett: Table 16 on page 29 looks at the various national control systems and analyses eight or nine components of any control system. When we look at it, the UK does have a control system which is as rigorous or more rigorous than any other comparator nation. Am I to understand from the answer you just gave me that anybody operating under a British fishing quota would operate under the first line there, under the UK provisions which are as rigorous as anybody's? I am not clear about this foreign owned and British flag business and how it would apply. For example, if you look at Italy, they are barely compliant on any single thing.

Mr Bender: There was quite a controversy a few years ago which became known as quota hopping. In 1999 the government attempted to tackle that and introduced an economic link so that a vessel which fished against UK quotas, whatever nationality the owner, needed to maintain a real economic link with the coastal communities which could be done in various ways. Compliance was achieved on that in 2001. A report will be published for last year later this year. That is the sort of way we try to address what became a major problem a few years ago.

Q71 Jon Trickett: Somewhere in this Report, I cannot quote the paragraph, it actually describes fishing quota being sold by producer organisations to vessels outwith that producer organisation and then landing the fish elsewhere, outside the UK entirely. Therefore the policing regime, whatever flag they were operating under—and I am slightly confused about the ownership and flag issue—meant that the levels of compliance and levels of control could not possibly have been as effective and

certainly your cross-checking, which you described as a virtue for ships over 10 metres, does not apply, does it, if they are landing abroad?

Mr Wentworth: Mr Bender commented at some earlier stage that you can have a very international situation, if I might put it that way. You can have a UK flagged vessel, owned by a foreign owner, fishing in Irish waters, landing into Spain, whatever. In the situation I have just described, several Member States would all have some role in policing what was happening. If one of our vessels is fishing in Irish waters it is the responsibility of the Irish authorities to police it when it is there.

Jon Trickett: The UK is the only one which operates to any degree of rigour. I have just tabulated across Table 16 and we comply on all but two of the tests which the NAO described. There is not one single test with which we comply which is universally accepted. If you go down the line, wherever we have a tick you will see two or three nations which have a cross. Therefore it is possible for the other nations not to be complying with some or all of the various components of the test, yet, on the top line it says that the control system meets European requirements in all cases except Sweden, Finland and Denmark, for obvious reasons.

Q72 Chairman: The last column reads Denmark in the Report but it should read Greece. Greece, as you might expect, is a serial offender. I hope I do not get taken up on that. If you read the earlier column, Denmark is a serial good boy

Mr Bender: I could not possibly comment.

Q73 Jon Trickett: It seems to me therefore that the UK are applying the highest standards. We have gone far beyond what the European requirements actually require since everybody else has acquired ticks yet they are not complying with some or all of the tests and the fish are being fished by foreign owned vessels and landed elsewhere. It does strike me that a higher level of compliance is being imposed on British based fishing vessels than any others. That seems to be the evidence of this Report, does it not?

Mr Bender: We do have things we can learn from others, the Dutch and the Danes in particular. We can learn from what they do and there are interchanges to do that.

Q74 Jon Trickett: You are wanting to learn from nations who are even more rigorous than we are. Why should we do that if everybody else is fishing in our waters, landing them abroad and simply ripping off our fishing communities.

Mr Bender: The best reply I can give to that is to repeat the sort of points I made in reply to one of the Chairman's questions. First of all, shortcomings elsewhere are not a reason for us to condone infringements in our waters and our ports. Second, there has been progressive tightening up across the EU, most recently in the Commission's plan for enforcement published in March, which has better close working of enforcement agencies, targeted enforcement activity, better utilisation of resources, benchmarking, the establishment of a joint

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inspection structure to allow pooling of collaborative action, many of the sorts of points recommended in the NAO Report. The answer is yes, we want to improve enforcement elsewhere but that is not a reason for slackening enforcement in Britain.

Jon Trickett: It seems to me that we either want to volunteer to be more compliant or not volunteer to be more compliant. It seems to me that rather than pursuing increased rigour ourselves, which we obviously have been doing with some enthusiasm, perhaps we ought simply to take our foot of the accelerator until the other nations at least catch up, particularly as there are 116 foreign vessels fishing in our waters and probably far more than that landing fish abroad where the regimes are clearly much less rigorous than ours.

Q75 Mr Jenkins: May I pass a vote of thanks to some of these people who actually do go out to sea, they do drop on these inflatable boats, they go out in quite nasty weather and they try to board a fishing vessel, sometimes in the dark as well, and clamber on board that boat. It is not an easy operation. It is very dangerous and we owe them a vote of thanks for undergoing that procedure to try to enforce these regulations.

Mr Bender: I am grateful for that. I will not take up your time but simply say that these people do not have an easy job. They do it in very difficult conditions, sometimes on land as well, with some intimidation. I welcome what you have said. Thank you.

Q76 Mr Jenkins: One of the questions I have at the back of my mind is: who pays for the regulation? Who pays for the enforcement? I know the Department pays £11 million, but where does the money come from?

Mr Bender: The £11 million comes courtesy of the Department's Vote, that is to say the Departmental Expenditure Limit. A mixture of resource scheme expenditure and administration expenditure is allocated to this £11 million and within the Department the business planning process will reach a view for succeeding years as to whether that should be the same, increased or reduced. The industry itself does pay for some aspects of it, that is to say they pay through a levy to the Sea Fish Industry Authority² and they pay for the cost of the transmitted satellite reports. For the most part this is a taxpayer cost.

Q77 Mr Jenkins: If the fishermen pay towards the cost of this enforcement—as you say they do—does this incentivise them to comply with the regulations or does it have no effect?

² *Note by Witness:* The Sea Fish Industry Authority is funded largely by a levy on landings (including imports) of fish. Its main activities are provision of research and development, technical advice, training and promotion in support of the industry. It is not involved in enforcement.

Mr Bender: I think the answer is probably no.

Mr Wentworth: I am not sure that it would incentivise them to comply. It is a cost they are having to meet to comply with various requirements and they see that just as a tax.

Q78 Mr Jenkins: Do we get anything from Europe as this is a Europe-wide policy? If we are enforcing a Europe-wide policy, should there not be some sort of budgetary contribution to each Member State from central European funding?

Mr Wentworth: Yes, there are some grants which can contribute towards the cost of enforcement resources.

Mr Bender: And there can be grants towards restructuring on land, that is to say the regional effects of the decline in fishing communities.

Q79 Mr Jenkins: Are these grants dependent on the money being spent or are they just sent to each country to do what they want with them?

Mr Wentworth: They are dependent on actual projects being run. They are not just a cash handout that we then decide what to do with.

Q80 Mr Jenkins: Who decides when these fishery protection vessels, particularly the Royal Navy ones, go to sea?

Mr Wentworth: Unusually, the Royal Navy is under the control of DEFRA in the shape of our inspectors of fisheries. They decide what the Royal Navy should do.

Q81 Mr Jenkins: On intelligence you say that you feel it is time to go to sea and this is the area it should be in.

Mr Wentworth: Exactly.

Mr Macdonald: The way it works is that the Royal Navy are contracted to us to provide so many days on patrol per year. Those days are then profiled into the 12 months; for instance we do not want so many days in bad weather, in Christmas holidays, round about there. Those monthly profiles are then divided into however many ships we have available and into what areas they are going to be patrolling.

Q82 Mr Jenkins: Do you decide where they are going to go and when they go?

Mr Macdonald: Yes.

Q83 Mr Jenkins: I am glad I found you. What day would you not put a ship to sea? On any day in the year would you decide not to put these ships to sea?

Mr Macdonald: I would not put a ship to sea on Christmas day.

Q84 Mr Jenkins: Anything else?

Mr Macdonald: I would not put a ship to sea in extreme weather.

Q85 Mr Jenkins: How about New Year's Eve?

Mr Macdonald: I might put a ship to sea on New Year's Eve.

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Q86 Mr Jenkins: You did. You sent two to sea this New Year's Eve. Did they make a landing? No. Did they see a ship? No. Every fisherman was in the pub celebrating New Year and they were the ones out at sea. Why?

Mr Bender: I thought you were going to ask a different question. You could have asked: if the fishermen know that it is unlikely that there will be a vessel out then they just might go out. It seems to me there is a game of double bluff in all this.

Q87 Mr Jenkins: No; no. Every single fisherman and the sailors knew that it was a pointless exercise you sending them to sea.

Mr Macdonald: No, I disagree with that. The reason was that we were faced with a possible breakdown of the Common Fisheries Policy at the end of the year. There could have been foreign vessels coming into areas where they had no access rights. We had to have a contingency for that. I believe the ships which were at sea were actually allowed to go to anchor, but I would have to check that with my staff.

Q88 Mr Jenkins: They were put to sea and to tell the Navy to go to sea on New Year's Eve and not give them a reason why—

Mr Bender: I am sorry, what Mr Macdonald was trying to say in his last reply was that there was a reason, because of the circumstances around the turn of the year, access to the North Sea and the need to police what looked like a very tricky situation. In practice it was not necessary, but it might have been.

Q89 Mr Jenkins: If they had had a good catch and boarded several ships it would have been a worthwhile exercise. The fact that there was nothing out there confirmed their belief that it was a pointless exercise and that was the trouble. There is a spin-off for the Royal Navy and I thought you would get together with the MOD to maintain this link because they have to train naval personnel around the shores of this island. I shall not go down the discards route unless I get time to come back to it. When looking at the land side, one of the things some countries try is to make fishermen channel all their catches through a set auction, through a set agency, so they can be controlled by that method. Do we have any plans to control the purchasing of fish in this country so we can regulate the industry that way?

Mr Wentworth: Yes, we do in fact have plans on the stocks for just that kind of arrangement so buyers and sellers will be registered with a system of sales notes and the documentary tracing of fish. It will certainly strengthen the position of the inspectorate in being able to track fish and if you can track them in the market you can track them back to vessels.

Q90 Mr Jenkins: Excellent. I know the patrols are a very good idea, even when they do not board ships, because when they are out there they do act as a deterrent when they are seen to be in the area. I think it is an excellent idea. On the Scottish side, which DEFRA do not run—

Mr Bender: Correct.

Mr Wentworth: No.

Q91 Mr Jenkins: The Scottish side have a different regime and they certainly have a lower cost regime with a larger fleet and a larger turnover. Is Scotland a success story which you would like to see us emulate? Although they have a tremendous number of offences detected, the vast majority is on land rather than at sea.

Mr Wentworth: Perhaps I might make one or two comments, but Mr Macdonald might want to say more about the operational arrangements. Making comparisons between the English and Scottish situations is actually rather complicated because the Scottish Fisheries Protection Agency—it operates as an agency—owns its own vessels and that affects how some of the comparisons look. In Scotland they also do not have the arrangements we have for sea fisheries committees in the coastal areas, so they are doing work there as well. Factors of that kind will affect some of the statistical comparisons, so it is quite difficult in that way.

Q92 Mr Jenkins: The statistics I am looking at on page 38, Figure 22, show that offences at sea were 150 for Scotland and 171 for us, but on land 1,361 against 86 for us. Why should that be? Does it mean that they breach the regulations more or does it mean they are getting caught more? Should it not be relatively the same figure?

Mr Bender: This comes up somewhere else in the Report. The answer to that is that we do not record minor transgressions and the Scottish Agency does. There is the question of whether we should record minor transgressions, but that would explain this seemingly massive difference.

Q93 Mr Jenkins: What you are telling me is that we do not know the scale of the problem because you are failing to record the transgressions. Is that fair enough?

Mr Macdonald: No, I would not agree with that.

Q94 Mr Jenkins: That is what Mr Bender has just said.

Mr Macdonald: If I might explain about the minor transgressions, the way we operate in DEFRA, to go up one level to the written warnings, is that we will only issue written warnings in England if we are confident that the evidence would be sustained in a court case.

Q95 Mr Osborne: I suppose I should begin by declaring a sort of interest in that I was a special adviser in the Ministry of Agriculture, Fisheries and Food. What struck me at the time—and this is a good opportunity to find out from a different permanent secretary an answer I was unable to find out from the previous permanent secretary—was what do you think is the total cost of administering and enforcing the CFP in Britain?

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Mr Bender: If you would like me to give an estimate in a written note to the Committee I shall try, but I do not have the figures available.³ Plainly, as the Report says, the cost of the Inspectorate is £11 million, there are then the administrative costs of the rest of the Fisheries Directorate.

Q96 Mr Osborne: Mr Wentworth, do you know how much your department gets from Mr Bender?

Mr Wentworth: I would prefer not to throw figures around because there are many different elements in this which can be allocated in different ways. For example, quite a large amount of money is spent on fisheries monitoring and scientific work. There are also fisheries grants which in effect form part of it. One is into quite significant figures.

Q97 Mr Osborne: I should like to see a note, but I am going to try to do a back of an envelope calculation. You spend £11 million on the actual enforcement, right?

Mr Bender: Yes.⁴

Q98 Mr Osborne: The Royal Navy writes off another £10 million which it claims is training and things it would do. I can see another official there behind you nodding his head, so I am going to take that and it is in the Report as well. So £10 million which the Royal Navy accepts as a cost. Then there are the fisheries grants. Do you know how much money we spend on fisheries grants?

Mr Wentworth: That figure varies quite substantially from year to year. On the decommissioning for example, we have announced this year that we are spending £5 million, but I think the note will be quite useful.

Q99 Mr Osborne: I am going to get to my point. Then there is the cost of running your directorate. Do you know the costs to the EU of running their fisheries policy or the proportion?

Mr Bender: Of course we do not know that.

Q100 Mr Osborne: Then there is the whole question about whether these Royal Navy vessels would actually exist if they were not going to be used for fisheries protection work and presumably they are really rather expensive, since I spent a day on them and I know what they are like. Indeed the day I was treated, when I was hoisted down onto one at sea and went out on a boat, it was a pretty expensive day. Then there are the compliance costs to the industry of enforcing these regulations, which may be impossible to quantify. The point I am getting at is that we are talking about a very high percentage of the economic value of this industry. This industry, according to this Report, in England lands fish to a value of £148 million. Even if you add up some of the figures in this Report, we are looking at between one fifth and one quarter of the costs of that industry going on the enforcement of a policy which almost everyone accepts is not working. It is not a very happy state.

Mr Bender: No, it is not; it is a declining industry, declining in numbers of boats, declining in numbers of people employed in it, but still more capacity than the fish in the sea and it is therefore over the application of the policy and the costs of the policy are intended to conserve the fish stocks. It is failing to do that. That means that the application of the policy is not working. What is the answer?

Q101 Mr Osborne: Thank you. That is why I pay my taxes: to employ people like you.

Mr Bender: The answer is the answer I tried to give earlier to the Chairman, of addressing the underlying problems which are several: the excess capacity, the excess fishing activity, the growth of capacity, not catching the wrong fish, that is small fish, having the right science, the best science that the industry itself accepts and buys into and effective enforcement underpinning it. Whether one has a Common Fisheries Policy or any other policy, one is going to have, in a world of too many people chasing too little resource, a mix of these policy instruments.

Q102 Mr Osborne: Yes, but the object of the policy when it was first devised was both to preserve fish stocks, which it has failed to do, and to prop up fishing communities, provide an economic prop to fishing communities. It has failed to do that as well. In effect we have a policy which costs us quite a lot of money to operate, which is widely held up by most thinking people as an example of a crazy policy which does not work and you could argue brings into disrepute aspects of the European Union and how that operates and so on. Surely, as the permanent secretary in charge of this policy, you must have looked at it when you first arrived and said this thing is a complete mess, are there not better ways we can operate this policy?

Mr Bender: Very little would give me better pleasure than not needing to spend as much resource for the size of the economic sector concerned, but what price on conservation of stocks and what are the alternatives? The alternative must be to try to make this policy be applied better at European level. That is why the negotiations last December in which Elliot Morley was involved, and the new Commission document on improving enforcement, and the improved science, must be the right ways forward.

Q103 Mr Osborne: Mr Wentworth, I know you have worked in this area for a while, certainly since when I was at MAFF when you were in charge of the policy. What are your personal observations on the operation of this policy?

Mr Wentworth: Mr Bender has described the present situation quite correctly. Fish stocks fluctuate quite substantially over periods for reasons which may be extraneous to fisheries. I am not saying that is the only thing which is happening now, but some of our problems with fish stocks at present must be to do with the temperature of the sea and other factors.

Q104 Mr Osborne: That makes the policy even more ridiculous.

³ Ev 18–19

⁴ Ev 18–19

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Mr Wentworth: It makes it more difficult and the challenge is greater, but what we certainly want to do is try to avoid the stocks being in a state of complete collapse as we have had in the Canadian situation. What one can say is that if we have not had the controls we have had over the past 20 years, the situation would be very much worse than it is now. I do believe it has had a real effect in constraining the adverse effect on stocks and indeed in managing the restructuring of the industry.

Q105 Mr Osborne: Take an example. I do not know whether Mr Bender had been on the trip I did when you go out to see fisheries inspection at work.

Mr Bender: It is a treat still in store for me.

Q106 Mr Osborne: You should do it. The extraordinary thing which comes home to you when you actually see it, is the discards; fishing vessels, even with the then Minister of Agriculture on board, and half the Royal Navy on board, chucking tonnes of fish overboard when they pull in catches. Do you have any estimate what volume of fish is discarded every year?

Mr Wentworth: The level of discards can be very high in some fisheries and the Commission have produced some documentation pulling together this kind of thing. You may get 70% discards in a fishery where there is a big recruitment of small fish in addition to the population of large fish. Because of the mesh sizes being used, these small fish are being caught and not landed.

Q107 Mr Osborne: From what I saw the mesh size does not really work. The net pulls up all sorts of other things such as rocks which block the nets and if you are a little fish caught in the middle of it you do not have a chance of slipping through the little hole.

Mr Wentworth: I do not think I will speak on behalf of little fish. If you talk to fishermen, they have quite strong views about the mesh size and I can tell you when increases have been made to the mesh sizes, it has been an issue of huge debate and disagreement. It is a difficult issue and if it were easy, it is such an obvious problem that we would have found ways of addressing it.

Q108 Mr Osborne: It undermines the policy in two respects, does it not? First, it destroys the conservation aspects of the policy because you are discarding a load of dead fish. Second, it actually undermines the economic viability of the industry because they are not allowed to sell large parts of the catch they land.

Mr Wentworth: That is right; indeed they are not allowed to land it if they are undersized fish, so they put them back. The progress we have made is that the enormity of this problem is now recognised and is being addressed. We have had a valuable document from the European Commission on the whole problem of discards and the many reasons they happen for. We have been talking about one reason; there are other reasons why you get discards. For example, fishermen may catch fish early on in the voyage, later on during that trip, they find similar

but slightly better fish and they discard the ones they caught earlier. There is nothing illegal about that under EU regulations. Clearly it is not a good practice; it is not helpful. We need to find not one golden bullet but a raft of different solutions to try to prevent this happening and that is what the Commission, we and other Member States are now intent on doing.

Q109 Mr Osborne: If you had arrived from Mars and you had a look at the way we operate the fishing policy in this country and indeed across the whole European Union, would you not take the view that earthlings had gone off their heads?

Mr Bender: It is a very difficult area of policy, dealing with too many people from different countries chasing too many creatures in a series of waters. The only countries which are really cracking this are ones where they are not in similar situations. The comparisons with New Zealand are not quite the same.

Q110 Chairman: Exactly, which is why I asked you that question earlier about Iceland and New Zealand. As they are in control of their own affairs, they seem to avoid this ridiculous policy which the public cannot understand.

Mr Wentworth: There are two very short points I could make in commenting on that. If you take either Iceland or New Zealand, both those countries actually have a much less complex mix of fish stocks which makes it easier to manage the fisheries in that way. Some of these issues to do with discards are related to the mixture of the stocks.

Q111 Chairman: You are not seriously saying that if we did manage our own affairs we would not be able to make some progress on this, are you? You are not saying that just because we have a wider range of fish stocks we could not make any progress at all in avoiding this ludicrous level of discards to which you have alluded?

Mr Wentworth: There is another factor which is related. I do think the nature of the mixture of stocks makes it quite difficult to manage the individual fisheries within those different stocks. The other factor is that it is a matter of history that we have other countries which all have historic rights to fish in the waters surrounding the British Isles. Whatever management regime one has, it has to acknowledge the fact that there is a multiplicity of countries fishing here using many different fishing methods as well, which is another factor.

Mr Osborne: Could we be sure we get that note on the total cost of the CFP?⁵

Chairman: We are going to get that. We will just ask Mr Williams to try to make some more progress, if he can.

⁵ Ev 18–19

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Q112 Mr Williams: Are we winning or losing?

Mr Bender: We are making progress.

Q113 Mr Williams: How do you tell?

Mr Bender: In the sense that the degree of problem over stocks in certain seas has been recognised, more effective or draconian measures such as closures of certain bits of sea or reduction of fishing effort have been agreed at European level, and the Commission earlier this year introduced a further set of proposals to improve the effectiveness of enforcement across the European Union. In terms of the effective application of the policy, we are moving in the right direction. The stocks have been moving in the wrong direction.

Q114 Mr Williams: How long is it going to take the policy to reverse the situation as far as the stocks are concerned?

Mr Bender: I cannot predict that.

Q115 Mr Williams: So we might have no stocks by the time the policy is working.

Mr Bender: A lot depends.

Q116 Mr Williams: Would you regard that as an administrative success?

Mr Bender: No, Mr Williams; no.

Q117 Mr Williams: Turning to individual items, because colleagues have covered nearly everything, the Chairman referred to individual transferrable quotas. The Report refers to some of the advantages of this system. You have tended in the past to favour fixed quotas and the Report tells us that although you have just carried out a review recently, you still decided to stay with fixed quota allocations until 2006. Why, if the other system is beneficial?

Mr Wentworth: The jargon is a bit difficult. We operate a system now which we call fixed quota allocations.

Q118 Mr Williams: I know what it is. All I want to know is why?

Mr Wentworth: They are called fixed in the sense that the fisherman knows that each year he will get a certain percentage of the national allocation of cod or whatever. So it is fixed in that sense. As we have been referring to earlier on this afternoon, in practice fishermen buy and sell these quotas.

Q119 Mr Williams: They have a sense of ownership.

Mr Wentworth: So there is a sense of ownership and that is actually pretty close to the usual concept of so-called ITQs, individual transferrable quotas. The fixed quota allocations are individual to the fisherman and they are transferrable, as we have described.

Q120 Mr Williams: I understood all that before I asked the question because it tells us in the Report. Now can we get to the answer. Why? Why have you stuck to the one instead of the other? Iceland, according to the Report, say that the individual transferrable quotas have increased compliance.

New Zealand say that since they introduced them they have found that the fishermen are more likely to inform on known offenders. They therefore seem to be effective for reasons related to the sense of ownership and the difference between the two systems is that one gives you actual ownership and the other one gives you a notional parallel to ownership. Why in that case are you not going for the one which is working elsewhere and which the fishermen clearly prefer?

Mr Wentworth: The fact that in some cases the fishermen are prepared to pay millions of pounds for these quotas is evidence of a sense of ownership.

Q121 Mr Williams: Yes, but it also shows how much they value them and therefore how much they will try to defend them. Therefore why do you not use the natural instinct it creates to defend these stocks, defend the value of a quota rather than stick for another few years to a system which is not working.

Mr Wentworth: There are two underlying reasons. First of all, I am not sure many countries have actually given legal ownership to quotas in an absolute way.

Q122 Mr Williams: That is irrelevant. It does not matter what anyone else is doing.

Mr Wentworth: If we are drawing comparisons with other countries, it is perhaps of interest.

Q123 Mr Williams: It is the effectiveness, not whether they do it or not. It is the effectiveness we are looking at.

Mr Wentworth: So far ministers have felt that they wanted to retain the ultimate right to manage quotas.

Q124 Mr Williams: Are you saying this was a ministerial option, a political decision at ministerial level to stick with the system that is not working rather than go for the system which works in other countries? Is it or is it not? You said it was a political decision.

Mr Wentworth: What I am trying to explain is that it is a decision which takes account of the views of the industry and which ministers are aware of and which are discussed with ministers. The system we operate at present provides the flexibility so that, for example, at national level we could decide that we thought we had got too much of one quota and not enough of another and we can do an international swap; we could swap some quotas with France or Ireland or whatever. If we had actually given a legal right to the share of every quota to our own fishermen, operating on behalf of the industry collectively in that kind of way would become a very difficult issue.

Q125 Mr Williams: There we are. In the last two sentences of a nearly five-minute dissertation, you answered the question you were asked in the first place. Now I understand why you did it. Whether I agree with it or not will come out when we make our report, but I now understand why you did it. Let us

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come back then to the issue of the risk that you take when you decide to offend under the system. We are told that the chance is less than 1% in any one day of being inspected at sea. What would be the average tour for a fishing trip out and back? What would the average trip for a trawler?

Mr Macdonald: It could be a matter of hours to several days, up to about two weeks.

The Committee suspended from 4.53pm to 5.03pm for a division in the House.

Q126 Mr Rendel: It is not clear to me how you can check all the catches made by a particular producer organisation you know about, as opposed to how many they just report to you.

Mr Macdonald: Whether or not a vessel belongs to a producer organisation he still has to complete his logbook, documentation, landing declaration documentation. The information from those would be input into our systems and would be checked against the PO allocation.

Q127 Mr Rendel: Suppose that one of the vessels is not inspected at any point during its sailing and simply comes in and passes its catch over to whoever is buying in the port, how can you be sure that each and every one of those catches has been caught within your system?

Mr Macdonald: The answer is that you cannot be sure, because we do not inspect every vessel.

Q128 Mr Rendel: So effectively we have no means of knowing that the reported total catch for a producer organisation is the total catch for that producer organisation, in which case we have zero check on whether the quotas are being met or not.

Mr Wentworth: Any vessel, whether it is in a producer organisation or not, may cheat and that is what you are describing. Any vessel may cheat.

Q129 Mr Rendel: You have no way of checking whether it has cheated or not.

Mr Wentworth: The issue you have described is not unique to a producer organisation: it may happen in relation to a producer organisation, it may happen in relation to an individual fisherman. The whole process of quota management depends crucially on the reported landings and that is why we do have systems to attempt to check them thoroughly and to record the information thoroughly at port.

Q130 Mr Rendel: Are you saying that on those occasions when you have not actually inspected them you have no means of telling whether everything has been reported to you or not?

Mr Wentworth: You will not know categorically, but of course we are developing further arrangements as we were describing, whereby fish can be tracked through using a system of sales notes and designated buyers and sellers.

Mr Macdonald: If I understand you correctly, you are saying a vessel comes in, lands its fish, is not inspected, how do we know he has fished? Is that correct?

Q131 Mr Rendel: Effectively.

Mr Macdonald: If we were not to receive the statutory documentation, the log sheets and the landing declarations, there are still things we would be looking at, for instance, our surface surveillance, aerial surveillance and satellite surveillance.

Q132 Mr Rendel: Some of the ships are not subject to satellite surveillance anyway, so the rest of the surveillance is what you are relying on in the case of a good number of vessels. Are you telling me that on each occasion on which a vessel goes out you will know that it has gone out because of your various other methods of surveillance, apart from satellite surveillance, and secondly that you will check that you have had a report back on what it has caught after the event?

Mr Macdonald: No. What I am telling you is that if a vessel has landed and we had not been present and had not received documentation, our coastal offices as a matter of routine would be going through the surveillance information they receive, aerial surveillance surface, vessel surveillance and anything else. If they were to see that vessel had been at sea on a particular day, they would expect to find documentation relating to that vessel's voyage and landing. If they were not to receive that, they would be enquiring why not.

Q133 Mr Rendel: Are you saying that you are checking for every vessel you can prove, through your surveillance techniques, has gone out of port? Are you saying that for every such vessel you are checking to make sure you have a catch document at the end of the day?

Mr Bender: Yes; surely.

Q134 Mr Rendel: There seems to be some hesitation over it. It seems extraordinary if you do not. If you do not then it seems to me that the vessel can go out, can come back and if they have not been surveyed, then they do not have to report anything. Effectively it means you have no check on what is being caught in total.

Mr Macdonald: They would not always know whether in fact they had been spotted either by surface surveillance or by aerial surveillance. If they did not have satellite terminals aboard they would not know that. What I am saying is that the reports and surveillance information we receive from our ships, from our aircraft, from our satellite, are scrutinised by our staff daily. It may well be that one of the fishing vessels you are talking about may not have been spotted at sea during his voyage and has come into port, was not inspected on landing, therefore could possibly have got away with it.

Q135 Mr Rendel: Are you saying that when they do come back to port, the document saying how much they have landed goes straight to you or do they go to the producer organisation first so the producer organisation takes a note of what they have got under their quota? What is the flow of that documentation?

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Mr Macdonald: They have a statutory requirement to return their documentation to us.

Q136 Mr Rendel: Straightaway?

Mr Macdonald: They have to be submitted within 48 hours.

Q137 Mr Rendel: So they could make up the documentation after they have landed, so long as they get it in within 48 hours.

Mr Macdonald: That would be an offence.

Mr Bender: And we have successfully prosecuted for falsified logbooks.

Q138 Mr Williams: Back to the basic proposition, 1% possibility of being inspected at sea per day, 6% chance of being inspected on landing, say they are out two days, that means there is an 8%, which is a 1 in 12 chance of being inspected. At that rate the odds are in favour of the person who cheats the system 8 to 1. Even if we take into account the point Mr Bender made about profits and so on, rather than just total cash, it still means they lose very little and they only get caught that once. I do not understand your thinking on that.

Mr Bender: That assumes a smooth random distribution of where one should be doing the inspection. The Inspectorate focuses its surveillance and inspections on where we think the greatest risk is, where quotas are limited, where stocks are of high value, where fisheries are seasonal, and also they will operate on the basis of intelligence tip-offs and other reasons. Therefore there are some particular areas considered to be at greater risk, where there will be a much deeper level of inspection and where there is smaller risk and the figure will be much lower.

Q139 Mr Williams: That is right, so the converse is that if you are not one of the biggest cheats and if you are able to keep your information to yourself, you have a very high chance indeed of being highly profitable by cheating. Can we switch to something I do not quite understand, particularly in view of what the Treasury said? Treasury were asked earlier about the fact that the Inspectorate cannot switch funds between scheme expenditure which covers cost of sea and aerial surveillance and the cost of land inspection. That is what it says in the Report, but Treasury say no, that is not the case and all you have to do is ask them and they would agree to such a switch.

Mr Glicksman: The Report does make that point in paragraph 3.7, that they would require Treasury agreement to merge administrative and resource expenditure. It has to be done with the agreement of the Treasury.

Q140 Mr Williams: But you make it sound as though it is virtually automatic.

Mr Glicksman: It is not automatic. They would have to persuade us of the case, but in this particular case they have done.

Q141 Mr Williams: Because this merited enough attention in the Report for there to be a banner headline "There are constraints on the flexibility with which the Department's resources can be used". Clearly NAO took it as being well worth highlighting the serious problem for you which was not to be ignored.

Mr Bender: The Department had not previously regarded this as a particular problem. In the course of the winter, we were in discussion with Treasury about a number of such areas where the Department's administrative costs and scheme expenditure could be put together in a single pot as scheme expenditure. The Treasury response allowed us also to consider doing this in the fisheries area. We had not previously regarded this as a problem. We are now looking actively, given an indication from the Treasury that they would look favourably on this, at whether this is something we would wish to do. We had not previously regarded it as an inflexibility that was hampering effective operation.

Q142 Mr Williams: Can we take it that hopefully there will be a sensible reconciliation of this then?

Mr Bender: I do not think the reconciliation is between us and the Treasury. The question is whether, given the Treasury's indication that they would look at it favourably, we think it is something we wish to pursue and we are looking at it actively.

Q143 Mr Williams: Are you going to do that?

Mr Bender: I have not had an analysis from the Department of the detailed pros and cons of doing this. The NAO have given a view on it. If the NAO view is confirmed in the analysis of the Department, we would be likely to proceed, but I should like to look more carefully at the pros and cons. We may well be doing this.

Q144 Mr Williams: In that case, if you will be looking at it in the reasonably near future, when you have made up your mind, would you put in a note to the Committee so we know what the situation will be in future?

Mr Bender: That would not be immediately after the hearing. It may be in the context of the Treasury Minute responding. If it is not in that timescale we will do it subsequently.⁶

Q145 Mr Williams: Fine; just so we know what is happening. In the supplementary brief we get, they make the point that the Department can physically inspect and check the documents of all vessels and prosecute those who make inaccurate or false landing declarations. But it only prosecutes vessels for exceeding quotas if they are not members of producer organisations. Why not?

⁶ *Note by Witness:* The Committee requested a third note on DEFRA's decision in relation to possible changes to the classification of funding in the Inspectorate (as between administrative and scheme (net resource) expenditure). As Sir Brian explained, we will provide this note as soon as we are able, if practicable, in the Treasury Minute.

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Mr Bender: If they are within producer organisations, there is an option for the producer organisation to operate flexibly in the way discussed in earlier questioning to make the particular fishermen compensate in some way, either by buying more quota, or by under-fishing against a subsequent quota, or by some quota swap in some way. That is an alternative to prosecution.

Q146 Mr Williams: The advice goes on to say that it is up to the producer organisations to determine how to deal with their members who exceed quotas. The Department is rarely informed of the action taken. That astonishes me. I can understand you leaving it to them and trusting their discretion on the grounds that they have a self-interest in preserving stocks, but to be so trusting as then not even to want notification of what has happened seems rather strange. Why is that?

Mr Wentworth: We would expect to be kept in touch and normally we would be following what happens. The obligation we are most concerned about is less what the individual members are doing within the producer organisation but the compliance of the producer organisation as a collective with the quota allocated to the producer organisation. There are mechanisms for handling that and if the producer organisation as a whole reaches its quota level, we would close that quota for that PO.

Q147 Mr Williams: It does not matter how serious the offence has been, as long as the overall quota is met, you are not even interested in the fact that an individual may be a persistent offender, you do not want to know about it.

Mr Wentworth: The offence is effectively by that member of the PO against other members of the PO, because it is the collective quota of the PO which is being over-used.

Q148 Mr Jenkins: Mr Osborne invited Mr Bender to do what he did and spend a day visiting some fishery protection vessel. I did not tell the Committee, but I spent three days and two nights on board one of the fishery protection vessels in the Channel and I think, Mr Bender, if you spent a day you would not get the full flavour. You have to spend three days and two nights at least to recognise how they chop, how they cut back, how they go into the Channel, how they know exactly where they are going to be in the morning, when the fleet is coming out. To get the full flavour three days at least.

Mr Bender: I take careful note of your advice.

Q149 Mr Steinberg: I said earlier that 70% of fishermen exceed the quotas and the Report says that 29% significantly exceed their quotas. Is there any evidence of widespread organised fraud by fishing merchants or something like that?

Mr Wentworth: First of all perhaps a comment on the figures you are quoting. They come from surveys where it is difficult to know how accurate they are. Clearly that is what fishermen have said in various situations, but in situations where in some senses it does not matter what they say. They are just

answering the survey, is the point I am making, and different people take surveys more or less seriously. On the rather specific point you are making about collaborative crime, if I can put it like that, there is actually a case described in the NAO Report where there were 15 separate defendants in a case where they had been misdescribing fish. From recollection, the species concerned was sole, which is a very high value fish and they had collectively devised a way of classifying it as a much lower value flat fish. It was going through a market in a situation where the people who needed to know knew that they were buying sole; other people—

Q150 Mr Steinberg: So that was organised.

Mr Wentworth: That was organised crime.

Q151 Mr Steinberg: Do you have any further examples?

Mr Wentworth: Mr Macdonald might have examples.

Mr Macdonald: Yes, there are other examples, some of which are still currently under investigation. We have had examples of log sheets being falsified.

Q152 Mr Steinberg: This is organised fraud by big conglomerates.

Mr Macdonald: I do not know how big they are, but there would be more than one person collaborating in the crime.

Q153 Mr Steinberg: What do you do about this?

Mr Macdonald: We investigate and if the evidence is there we prosecute.

Q154 Mr Steinberg: Has DEFRA got the power to confiscate licences or suspend licences? If you have not, do you think you should have?

Mr Wentworth: There is a power to suspend licences, but that is vested in the courts. That has been used, but only rather rarely.

Q155 Mr Steinberg: My question was: do you think DEFRA should have the power to do that?

Mr Wentworth: Mr Bender indicated that we thought that could be a useful power. There is the example given in the NAO Report of the policy operated in Denmark and that is one we are certainly looking at and we hope to make progress on soon. The ability to remove a licence quickly and have a very immediate impact on the fisherman is obviously a salutary weapon to have in the bag. It is quite a complicated issue in that obviously you have to be able to have some right of appeal; you have to be sure you have adequate evidence to justify such draconian action.

Q156 Mr Steinberg: He gives one hell of an answer, does he not? You ask a very small question and he goes on for 20 minutes. No wonder I do not have a lot of time. What is the organised crime worth, would you reckon?

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Mr Wentworth: The most substantial examples have not been the kind of organised crime we were talking about. The cases where there have been very big fines of the order of one million were where we found that there had been quite long term fraudulent activity.

Q157 Mr Steinberg: How much have they made out of it?

Mr Wentworth: I do not know that we would have the answer to that.

Mr Steinberg: In excess of millions?

Q158 Chairman: Mr David Rendel would like a note on how many producer organisations have ever exceeded their quotas and how many have ever been prosecuted.⁷

Mr Bender: Noted.

Chairman: It just remains for me to sum up this session. As we know, some stocks such as cod, mackerel and whiting in the North Sea are in danger of collapsing. The European Commission has acknowledged that the Common Fisheries Policy has failed to ensure sustainable fisheries. That is the background to which we will conduct our report

when we publish it. Clearly the present policy is not working. We only have to read the National Audit Office Report, for instance in paragraph 2.25, to see "Other countries have sought to engage fishermen more actively in regulating their fishing activity, for example in the collation of scientific data". We have the example we referred to earlier on of Iceland and New Zealand. "Iceland may allow landings of over-quota fish, but require the profits to be used to help fund enforcement or scientific research". So we have lessons from other countries which would help us avoid this ludicrous policy of discards which several members have alluded to. We also know that some countries, France in particular, are prepared to take a political decision to pay fines in order to protect their fishing stocks which may of course militate against effective enforcement by the Community as a whole. We are obviously in a very sorry and difficult situation and we will do our best to resolve the situation in our report and give you useful advice. It only remains, Mr Bender, for me to thank you and your colleagues. Thank you very much.

⁷ Ev 19

 Memorandum submitted by the Department for Environment, Food and Rural Affairs

The data on infringements on page 25 of the NAO Report represent the situation at May 22. The NAO have agreed that the Committee might find it useful to have this up-dated. The following tables provide a summary comparison of May 2003 data with that in the NAO Report together with a more detailed analysis of the current situation.

 TOTAL OFFENCES DETECTED IN ENGLAND BY TYPE OF OFFENCE
 (Position as at May 2003)

2000

<i>Type of offence</i>	<i>Court</i>	<i>Written warning</i>	<i>Case dropped</i>	<i>Action pending</i>	<i>Total</i>
Infringement undermining accuracy	52	67	26	0	145
Conservation Infringement	24	30	9	0	63
Access	5	12	1	0	18
Other	5	22	4	0	31
Total	86 ⁸	131	40	0	257
Percentage	33%	51%	16%	0%	100%

2001

<i>Type of offence</i>	<i>Court</i>	<i>Written warning</i>	<i>Case dropped</i>	<i>Action pending</i>	<i>Total</i>
Infringement undermining accuracy	23	62	27	5	117
Conservation Infringement	20	43	14	1	78
Access	2	1	4	1	8
Other	6	35	5	0	46
Total	51	141	50 ⁹	7	249
Percentage	20%	57%	20%	3%	100%

⁸ Includes one not guilty case

⁹ Includes six offences involving foreign vessels transferred to the flag state authorities for action

2002

<i>Type of offence</i>	<i>Court</i>	<i>Written warning</i>	<i>Case dropped</i>	<i>Action pending</i>	<i>Total</i>
Infringement undermining accuracy	30	49	8	72	159
Conservation Infringement	11	34	4	22	71
Access	2	10	4	1	17
Other	1	9	2	7	19
Total	44	102	18	102	266
Percentage	17%	38%	7%	38%	100%

OUTCOME OF INFRINGEMENTS DETECTED (ENGLAND): SUMMARY POSITION
(Position as at May 2003)

<i>2000</i>	<i>Court</i>	<i>Written warning</i>	<i>Case dropped</i>	<i>Action pending</i>	<i>Total</i>
Number of offences in NAO Report	81	126	34	16	257
Position at May 2003	86 ¹⁰	131	40	0	257

<i>2001</i>	<i>Court</i>	<i>Written warning</i>	<i>Case dropped</i>	<i>Action pending</i>	<i>Total</i>
Number of offences in NAO report	32	130	26	61	249
Position at May 2003	51	141	50 ¹¹	7	249

<i>Type of offence</i>	<i>Court</i>	<i>Written warning</i>	<i>Case dropped</i>	<i>Action pending</i>	<i>Total</i>
Position at May 2003	44	102	18	102	266

20 May 2003

Supplementary memorandum submitted by the Department for Environment, Food and Rural Affairs

Questions 95, 97 and 111 (Mr Osborne):

TOTAL COST OF ADMINISTERING AND ENFORCING THE COMMON FISHERIES POLICY IN THE UNITED KINGDOM

Estimated expenditure in 2002–03 by the Fisheries Departments in the UK on fisheries conservation including research and development, fish stock monitoring, grants for structures and markets, enforcement and related administration amounted to some £87 million of which £28 million was spent by DEFRA. Almost of all this expenditure is directly related to meeting obligations that arise from the Common Fisheries Policy. Some of this expenditure generated receipts from the EU which amounted to some £8 million.

Within the above figures, expenditure on enforcement amounted to £24 million (£11 million by DEFRA) of which a significant proportion is devoted to monitoring the activities of foreign vessels operating within British Fishery Limits. The total includes payments by DEFRA for services provided by the Royal Navy Fishery Protection Squadron. It does not include any expenditure by the Royal Navy beyond that. Nor does it include expenditure by Sea Fisheries Committee in England and Wales who are primarily concerned with the administration and enforcement of local byelaws.

The value of total landings into the UK in 2002 by UK and foreign vessels amounted to £490 million, of which £157 million was landed into England and Wales.

¹⁰ Includes one not guilty case

¹¹ Includes six offences involving foreign vessels transferred to the flag state authorities for action

Question 158 (Mr Rendel):

PRODUCER ORGANISATIONS EXCEEDING QUOTA ALLOCATIONS

Producer organisations (POs) have managed quota allocations on behalf of their members since the 1980s. Allocations are issued annually to 20 POs in respect of more than 70 different fish stocks that may be taken in Community waters. These will vary from less than 1 tonne to over 50,000 tonnes, depending on the size of the UK's quota for a particular stock and the quota entitlements (fixed quota allocation units) held by the PO's membership. During the course of the quota year POs are free to exchange quota and will often do so in the interests of maximising fishing opportunities for their members. Quotas are allocated to their members on the basis agreed by the PO collectively. Typically this might be on the basis of an annual amount or monthly catch limits. It is an internal matter for the PO if individual members breach their limits.

In 2001 14 POs exceeded one or more of their final quota allocations (in total 43 allocations) by amounts ranging from less than 1 tonne to over 300 tonnes. In 2002 12 POs exceeded their final allocations (in total 24 allocations) by amounts ranging from less than 1 tonne to over 800 tonnes. As the UK's quota management arrangements are of an administrative nature POs cannot be prosecuted for exceeding their quota allocations. However, any PO overfishing a quota allocation is subject to a corresponding deduction in its quota allocation for the following quota year.

The uptake of quota allocations is monitored continuously by the Fisheries Departments in the UK on the basis of landing declarations by individual vessels which under Community law have to be submitted to the competent authorities within 48 hours of landing. Where the on going summation of landing declarations indicates that a PO has taken a quota allocation in full, or is about to, the Departments will prohibit members of that PO from making further landings of the stock in question unless the PO takes action to acquire additional quota. The landing declarations submitted by fishermen belonging to POs are subject to close scrutiny by the Fisheries Departments, including the physical inspection of landings and cross checks with other relevant information. Fishermen, who submit false or misleading declarations as to the amounts of fish landed, are subject to criminal prosecution.

19 June 2003