



Environment, Housing and Infrastructure Scrutiny

Panel

P.115/2022 – Draft Sea Fisheries (TCA – Licensing of Fishing Boats)
(Amendment of Law and Regulations) (No.2) (Jersey) Regulations 202-

Witness: The Minister for the Environment

Wednesday, 25th January 2023

Panel:

Deputy S.G. Luce of Grouville and St. Martin (Chair)

Deputy R.J. Ward of St. Helier Central (Vice-Chair)

Connétable M.K. Jackson of St. Brelade

Deputy M.R. Le Hegarat of St. Helier North

Witnesses:

Deputy J. Renouf of St. Brelade, The Minister for the Environment

Mr. P. Chambers, Head of Marine Resources

Mr. M. Berry, Senior Legal Adviser, Law Officers' Department

[11:31]

Deputy S.G. Luce of Grouville and St. Martin (Chair):

Minister, welcome to this public hearing to discuss the replacement vessel policy. Thank you for coming in this morning. Before we start, just a little bit of official housekeeping. We will just go around the table introducing ourselves as normal. I am Deputy Steve Luce, chairman of the panel.

Deputy R.J. Ward of St. Helier Central (Vice-Chair):

Deputy Rob Ward, vice-chair of the panel.

Deputy M.R. Le Hegarat of St. Helier North:

Deputy Mary Le Hegarat, member of the panel.

Connétable M.K. Jackson of St. Brelade:

Mike Jackson, panel member.

The Minister for the Environment:

Jonathan Renouf, I am the Minister for the Environment.

Head of Marine Resources:

Paul Chambers, Head of Marine Resources for the Government of Jersey.

Senior Legal Adviser, Law Officers' Department:

Matthew Berry, senior legal adviser in the Law Officers' Department.

Deputy S.G. Luce:

Thank you very much. Minister, we are going to cut to the chase, we only have an hour, but you will be aware that we have already met with the president of the Fishermen's Association this morning, who was very complimentary about some of the interaction he has had with you and your department officers particularly. I think that will be historic going back, certainly I am aware, through previous Ministers as well. But one thing that the president of the Association did say is that he has not managed to discuss with you in any great depth at all the replacement vessel policy. The first question to you is: have you spoken to the industry about this; and if not, why not?

The Minister for the Environment:

Yes, I have. I listened to the hearing so I was aware of what he said. I seem to recall we had 2 quite lengthy phone calls over the Christmas period to discuss these issues. The only time that I have declined a meeting was the one that you invited us to, to discuss to have a 3-way meeting. That is the only time I have not accepted a meeting otherwise I have picked up the phone whenever Don has called or asked for a call, and we met, as he said in the meeting ... 3 times, I think he said, we have met. So I do not really accept that. I am slightly disappointed he feels that. I would expect us to have continuing phone conversations or meetings after this hearing.

Deputy S.G. Luce:

That is very clear. We cannot backwards and forwards finding out the ins and outs so we will leave that one there. Before we get down to some of our other questions we may as well go straight to some of the issues that the president had. One we could deal with straightaway was the president said that historically, and I think I can talk to one of the officers on this one, we had spent a long time in the past when we did not have technology really helping us. A long time trying to work out how

much tonnage - and we use the bream and we spoke about other species - were being taken from our waters. When the data finally started coming back from the French side we found that we had under-estimated that. Do you have a response to that or maybe can I put it in a different way? Moving forward now, how has technology changed, how can we be sure we are going to be doing a better job given that we are hoping the technology is going to allow us to monitor how much is being taken from our waters in the coming years?

Head of Marine Resources:

Historically, yes, there were issues around data sharing through the Bay of Granville Agreement, which then existed. It came down to several factors really. The agreement did require data sharing but the resolution at which it was provided was not terribly useful for us because the French statistics are sort of collected using these enormous geographical rectangles within which Jersey waters would form a proportion of it. We did set up systems for being able to estimate or approximate the amount of ... certainly with regard to mobile gear boats and things that are satellite-tracked, we were able to estimate the amount that was taken. To be honest, we never really knew whether it would be an over or under estimate because we never got the full figures for Jersey waters in the end. We realised that was an issue. Part of the T.C.A. (Trade and Co-operation Agreement) includes a requirement for data sharing and so from 1st January 2021, when it came into effect, we required French vessels to submit their catch data and the gears that they use within 48 hours of operating. It took a little while to get that going but we have got a very high level of compliance at the moment. Because all vessels ... since 1st July any vessel entering Jersey waters on the French side has to have V.M.S. (vessel monitoring system) fitted and V.M.S. is a system which uses satellites to track where the boats are. It pings every hour so you can see where it is in real time. Literally we have an electronic chart on the wall that shows where everything is happening at once now. Because of that, we know when a boat has been in our waters, when it has been fishing, and if they have not submitted their log sheets and things within 48 hours we chase them. As I say, through doing that and through compliance or recommendations of compliance at the level of the committees in Normandy in Brittany we now get the information that we need. Whether what we are getting is an under or over-estimate compared to the past, I cannot tell you right at the moment because I have not analysed the data and compared to the modelling that we did a few years ago.

Deputy S.G. Luce:

Sticking with V.M.S. and A.I.S. (automatic identification systems), one of the things that the president told us not much more than an hour ago, was that as far as he was concerned, certainly at around Christmastime, there were a large number of French vessels which did not still have at that point V.M.S. fitted. Are you satisfied that every vessel that is coming into our waters does have V.M.S. now?

Head of Marine Resources:

I cannot answer that one conclusively in the sense that I just do not have the information that is available here. As far as I am aware, or what we have been told, is that the vessels entering our waters do have V.M.S. fitted. There are a number of vessels, and again I cannot give you a number because I do not know it, where the vessels do not have the units fitted but they are not fishing in our waters currently. They have been informed by their own authorities that they will need to get it fitted if they want to come into our waters.

Deputy S.G. Luce:

Just to interrupt, just to be very clear then, if a French fishing vessel which does not have a permit or licence to fish in Jersey waters transits through our territorial waters it still will require a V.M.S. unit?

Head of Marine Resources:

If it is on passage I do not think so because there are international conventions covering the passage of boats through territorial seas.

The Minister for the Environment:

The indications we have, I think, from talking to Paul, is that several of the smallest French boats have effectively said to their own fisheries committees that they do not intend to fit the equipment and do not intend to carry on fishing in Jersey waters as a result. So they are fully aware that if they do not have that equipment they are not allowed in Jersey waters.

Deputy S.G. Luce:

Are we actively taking our fisheries protection vessel to see and comparing radar with V.M.S. data? I presume we have V.M.S. data on the fisheries vessel?

Head of Marine Resources:

Yes, we have that. We have A.I.S., we have radar, and we have other sorts of things as well in order for tracking boats. Yes, we do. I think the advent of the V.M.S. rule - I mean it always applied to over 12-metre boats but it now applies to all French vessels - is a bit of a revolution in terms of the way that we conduct our monitoring and enforcement in the sense that it is now very much intelligence-led. So rather than taking the boat out and hoping that you come across the boats that you want to board and check, now we can see where they are fishing and so when planning a patrol you say: "Right, today we are going to go here and these are the three vessels we are interested in." But also when you start looking at historical patterns and things, using V.M.S. data you can determine obviously where a boat is fishing depending on the pattern that it produces, the speeds it is going and everything else, you can pretty much tell what it is fishing, for how long it is fishing, and

everything else, and so that gives you an indication as to what is going on and, in some cases, compared to what they are supposed to be doing. If we think that there is an issue then obviously we can target that boat and check.

Deputy S.G. Luce:

I appreciate all that but the question I was trying to get to was are we actively, in these early days, making sure that every French vessel that is fishing in Jersey waters has V.M.S. on because it is fine saying we can look at the V.M.S. system and see where the boats are and what they are doing but the point I am making is are there still vessels out that you cannot see because they do not have V.M.S. fitted?

Head of Marine Resources:

The way we would do that is not by checking the V.M.S. units, but obviously if we encounter a vessel and it does not have a corresponding V.M.S. track that goes with it then you would know. I am not aware ... the first answer to your question; yes, patrols are still continuing. I believe the guys will be out today, for example. So that pattern and things has not changed. I am not aware or I have not been informed that we have yet come across a vessel that does not have V.M.S. There is one thing worth stating in terms of you asked about inspecting the units and things like that, which is the current law is on the French side of the Channel so it is a requirement under French law that these vessels have V.M.S. Our law is in the process of being drafted at the moment and should come in later in the year.

The Connétable of St. Brelade:

Are you satisfied that the V.M.S. coverage for our prescribed waters is comprehensive?

Head of Marine Resources:

Yes. It is satellite-tracking and so there are a network of satellites. The vessels are permanently in contact. I.V.M.S. (Inshore vessel monitoring system), which does not apply to French boats, it applies to Jersey boats, runs off the mobile phone network and is a different matter. But even with that, if a boat is out of range the unit is still working and the moment it comes back into range it uploads all the information. In our waters there are very few areas where you can go out of mobile signal range for more than a short period of time.

The Connétable of St. Brelade:

The other point is in terms of resource, do you have the resource to manage this and keep this monitoring going on or have you had to increase the resource to do that?

Head of Marine Resources:

We have, as a consequence of the sort of changes and things that have occurred as a result of Brexit, and the team has increased the number of officers that we have. We are now a team of 10 people. When I joined we were 5 people. In my view, yes, we do have the resources that we need. We brought on board a data officer, very competent person just before Christmas, who is now in charge of all aspects of our data processing and monitoring and things. I am confident at the moment that we have got a good team and that we are quite capable of handling things that have been thrown at this.

The Connétable of St. Brelade:

Finally, before the chair takes it back. Do you work with Jersey Coastguard, and picking up the point about radar identification vessels which may not be using the kit, shall we say, they have available, do you work with Jersey Coastguard in that who will have better radar coverage of the area?

Head of Marine Resources:

We work with them but not usually to that level of capacity in the sense that when we are about to go out on patrol it would normally ring up and ask what they can see on radar and what they cannot. We have used radar. I do not want to go into details, if that is okay; I can explain off-camera. We have used radar and enforcement operations before but it is not a routine thing for us to do. We would normally rely on our own information.

The Connétable of St. Brelade:

Do you think there is merit in working close with the coastguard who obviously have the kit?

Head of Marine Resources:

I think that is probably a question that one of my operational officers would need to answer in terms of actually how that would operate and what would be involved in terms of how can we help them, how can they help us. It is something certainly I can raise as a possibility. I am not sure at the moment how; as I say, it is something one of the other officers would need to answer.

Deputy R.J. Ward:

Can I just check then? Just to confirm, there are no French vessels that use the I.V.M.S. system?

Head of Marine Resources:

No.

Deputy R.J. Ward:

Every French vessel should have the V.M.S. in because that is French law?

Head of Marine Resources:

It is French law at present.

Deputy R.J. Ward:

At present. But there will be a Jersey law that requires that of all vessels, both French, Jersey or anywhere else that may fish in our waters, and that is coming into the pipeline. But that is coming after this legislation?

Head of Marine Resources:

It is coming after this legislation, yes.

[11:45]

Deputy R.J. Ward:

Just to confirm that, sorry.

Deputy S.G. Luce:

We might come back to that but I am just trying to come back to the issues raised by the president. One of the things he said was that it is fine having technical data to try to assimilate how much a French boat is taking and it may well be that an electronic log will say we had 1.3 tonnes. The president claimed that French boats are landing - how shall I put this delicately - more than they should be. How do we monitor that or is there any way that we can monitor that other than the returns? If a boat, for example, has a licence to land 1.3 tonnes and lands 2 tonnes, what can we do about that?

Head of Marine Resources:

I think it goes back to the intelligence-led monitoring. This happens already so this is not something that is about to come in; it is something we do already, which is if you have boats and they are satellite-tracked and you are aware of the permits that those boats have because remember that all fishing activity and fishing effort going forwards for T.C.A. licensed vessels is controlled by fishing permits. Those permits have a limit, as you say. A lot of the mobile gear ones do have a daily catch limit, 1.3 tonnes of scallops, that kind of thing. If you know roughly what the hourly take for scallops is for a scallop dredger - I have a feeling I would need to confirm this afterwards - I think it is 60-something kilos an hour on average. You can work out when you look at the activity of these things roughly how much they are taking. If it starts to look suspicious, if people are fishing very long hours and in a pattern that looks unusual, at that point we go in and say: "Right, we need to board this boat, we need to check." That 1.3 tonnes is the catch in Jersey waters obviously. When it goes into French waters and it is a restriction on landing, we do not have any control over what happens there.

What we are interested in is to make sure they are sticking within the limits on the Jersey side of things.

Deputy S.G. Luce:

Can you board boats in French waters?

Head of Marine Resources:

No.

Deputy S.G. Luce:

No, so once the French fishing vessel has left our territorial waters we can no longer have any jurisdiction over it.

Head of Marine Resources:

That is correct and obviously the same the other way round.

The Minister for the Environment:

This is true, regardless of a replacement vessel policy of course.

Deputy M.R. Le Hegarat:

How many prosecutions have we had in relation to excess catches?

Head of Marine Resources:

That will be in the annual report.

The Minister for the Environment:

The permits are not in yet, are they?

Deputy M.R. Le Hegarat:

No, but in the last 2 years, just as a ballpark to have an understanding, how many prosecutions have we had in relation to people's catches?

Head of Marine Resources:

As the Minister says, the permits are not in place yet - that is the point of extent and nature - and they will be from 1st February, which is next week. At the moment the limitations that the French vessels are operating under come through their own permit system, which is one of the slight oddities left over from the Bay of Granville Agreement, was that French vessels fishing in Jersey waters were operating under limits that were set on the French coast rather than the Jersey one because it was

a joint-management agreement, so it made it difficult for us to adjust it. But we never had any powers to be able to because the permits were French in origin. We did not have any authority to be able to enforce any of the conditions on their permits. In terms of excess catches, I cannot tell you. We have about 50 prosecutions a year all told, and that includes recreation as well. But those will not refer to maximum daily catch limits because those will not apply until 1st February.

The Connétable of St. Brelade:

One of the issues we gleaned from the president of the J.F.A. (Jersey Fishermen's Association) was the lack of confidence our fishermen have that French nationals fishing will adhere to the quotas that are prescribed, and that is evidenced by we are told that significant catches in excess of the quotas are regularly landed. Can we get any information from the Criée¹ in Granville or Cherbourg as to what the landing figures are? Can we understand what their process for prosecution is? I do not know in legal terms whether Matthew has got any contribution to make on that. Do we understand what the French process is for sanctions against excess landings?

Head of Marine Resources:

I will deal with the first bit, if that is okay with you. It is possible to get landing information from the Criée. That said, as with these things, it has to be by request. We do not get automatic access to it and by and large those requests are only made in relation to prosecutions. If we are trying to work out what a particular vessel caught in a particular day, we can request it. It is not routine. What we are hoping to have set up is automatic access to what they call the e-log system, which is an electronic recording system that the French vessels have to fill in as they go along, and it now includes these particular zones for Jersey and Guernsey. Going forwards, for the vessels that are equipped with it, we should get that in real time. But in terms of the landing, no, that has to be through request.

Senior Legal Adviser, Law Officers' Department:

Just to come to the second point there, and I think it comes back to a point that Paul was rightly making a moment ago, which is that of course under the Granville Bay system and prior to the introduction of the new permit framework, there have not been controls on daily catch limits and effort limitations which are applied on the Jersey licences and permits. We have, to some degree, been relying upon the French enforcing their own limits on their own permits. That changes with the Trade Co-operation Agreement because Jersey is now the licensing authority and it is issuing permits with effort limits and limits on the amount of gear for static gear vessels and limits on the number of days at sea for mobile gear vessels and catch limits. The approach to monitoring and enforcing those limits, the limits need to be set based on a quantification of the effort that took place during the reference period, so that is the process that we have been going through to make sure

¹ Criée – French fish auction

that those permits are set in the right way. But inevitably because those have not been in force yet, the process to monitoring and enforcement needs to evolve. What Paul is saying is that the team has been bolstered with additional staff and capacity to be able to handle the data. There has already been data coming in - and Paul can perhaps say a bit more about that - but data coming in on catches from French fishers because that is a condition of their licence that they have been granted temporarily while this is all being introduced. I think we need to continue to work with the E.U. (European Union) and French authorities to make sure we are getting the data and that we have effective methods of enforcing these limits. To the extent that we cannot sort of say today this is exactly how this will all be done going forward; that is something that still needs to be continued to be worked on but there is a lot of work that will be going on.

The Minister for the Environment:

Politically I think, importantly, this is a much better system than we had before.

Deputy R.J. Ward:

Can I just ask about those permits?

Deputy S.G. Luce:

I was going to ask but you go first then.

Deputy R.J. Ward:

Yes, probably the same question you will be asking. The permits before were for French permits, which were a region and Jersey was just one part of a larger permit that those French fishing vessels had. We will issue a permit for fishing in Jersey waters. Theoretically that permit could change and it could increase the amount that is allowed to fish if evidence is produced in the coming months and years to say that that is what should be allowed from the French side, yes or no, or will Jersey decide on those limits entirely?

Senior Legal Adviser, Law Officers' Department:

If it had been decided in the extent and nature discussions, that is what we have been creating.

Head of Marine Resources:

I was going to say it is the fishing effort, the limits that are on these things, have to be based on demonstrable fishing activity during a reference period between February 2017 and January 2020. In that respect, it cannot increase or decrease below that and the extent and nature process we have been through over the last year or so has been in determining what those levels are going to be once they are fixed; that is it. This is what we are going through, the very last stages at the moment, is determining the extent of the fishing effort that can happen.

Deputy S.G. Luce:

Because my question, Minister, was going to be the licences were issued some time ago, we know how many boats got them. We are now discussing nature and extent. Permits are going to be issued on 1st February and we know there are limits on tonnages and days at sea. Can I just ask: was there a negotiation over, let us say, tonnages on a particular permit? Did the vessel in question come to you and say: "I took 100 tonnes, I fished 50 days a year"? You went back and said: "We do not think so, we think you did A, B or C." Was there to and fro? I think the question I am trying to ask is: the permits that are going to be issued on 1st February, how was, for example, the tonnage arrived at? Was that a process of negotiation?

Senior Legal Adviser, Law Officers' Department:

Have long have they got? I mean ...

Head of Marine Resources:

I can give you a précis really, which is, firstly, there were no negotiations. We certainly had meetings and discussions and things. The negotiation was over the agreement itself. What we were discussing was really some of the definitions associated with it, so it requests demonstrated fishing activity, while the discussions you end up having are: what does a demonstration constitute? What does fishing activity constitute and all the rest of it? Right from the outset we said that because there were these permits in existence during this reference period and that those permits very tightly defined the activities and amounts of fishing effort that individual vessels could expend, the logical thing for determining extent and nature was to use those permits as a basis for extent and nature going forward. There is no overall tonnage involved in this in the sense that if a boat caught 50 tonnes, or whatever it happens to be over a year, does not enter into it because what we were looking at was the limitations associated with the permits themselves. To give an example, in terms of limiting fishing effort for static gear every permit had a fixed number of pots, for example, that each individual vessel could use and that would vary from vessel to vessel, the same with the length of net. When it comes to mobile gear there were limitations on the amount that could be caught - not for every permit but for dredging permits - it is the amount that could be caught in a single day. In addition to that, we determine that - and there was a long discussion over this - the actual activity is based on the number of days at sea. Because vessels are satellite-tracked that is very accurate; you can tell how many days a vessel has spent in Jersey waters and how many it has not, so that is really what it is built around. Going forwards ...

Deputy S.G. Luce:

The permits being issued on 1st February reflected very closely the permits that were issued previously for nature and extent.

Head of Marine Resources:

Yes.

Senior Legal Adviser, Law Officers' Department:

Yes, exactly.

Deputy S.G. Luce:

Were there any changes? Did you find that boats had permits which they were not using properly and they were not fishing on as many days as they were entitled to?

Head of Marine Resources:

No, because it is a 2-part process. The first part was licensing and in order to be able to qualify for a Jersey fishing licence going forwards, French vessels had to demonstrate 11 days of fishing activity within one of 3 12-month periods. Separate to that is extent and nature, so we have licensed 136 boats. Those boats have their licence, they have access to Jersey waters. But the second part of it is determining what they can do here. What can they target, what gears can they use and the extent to which they can use them? The fishing effort side of things, and that is covered by the permits themselves and that is the second part of what we are doing.

Deputy S.G. Luce:

The number of days at sea is on the permit, not on your licence.

Head of Marine Resources:

The number of days at sea will be attached to the permits, the number of pots will be attached to the permits and length of net will be attached to the permits.

Deputy R.J. Ward:

That determines the quantity, the biomass ...

Senior Legal Adviser, Law Officers' Department:

Maximum, yes.

Deputy R.J. Ward:

... that can be removed.

Head of Marine Resources:

Correct.

Deputy R.J. Ward:

They are given a figure on that.

Head of Marine Resources:

Correct. Because if you have got 1.3 tonnes a day of scallops that can be taken and you have got 10 fishing days, then that should be 13 tonnes I hope.

Deputy S.G. Luce:

But just to be clear, there are no limits on non-quota species.

Head of Marine Resources:

Do you mean most of our species are non-quota? So scallops ...

Deputy S.G. Luce:

That is what I mean. For example, we are talking about tonnages that can be removed but that is on scallops, whelks but there is no limit on what can be removed on lobster and crab, for example, other than the fact that you can only have so many pots.

Head of Marine Resources:

I was going to say a pot will catch in fact a fairly steady rate. With lobsters, for example, the average pot will catch just over 0.1 of a kilo. The number of pots you have got determines the amount that you are liable to catch.

Deputy S.G. Luce:

Okay, it is a sort of a different way of doing it.

Head of Marine Resources:

Yes. With static gear it is very difficult to do days at sea for several reasons. Firstly, the day that you drop the gear off, well that counts as a fishing day, even though you are not fishing technically. But also it creates problems in the terms that different people fish using different gear types. Some pots need rebaiting every 3 days, some can go for 5 days and that determines the number of days, et cetera, et cetera and it ...

Deputy S.G. Luce:

Can I just ask just before we finish on days at sea limit: does the days at sea on the permit apply to static and mobile gear or is it designed for one or the other?

[12:00]

Head of Marine Resources:

Days at sea is just mobile gear.

Deputy S.G. Luce:

Mobile gear.

Head of Marine Resources:

Yes.

Deputy S.G. Luce:

Static gear, is there is no limit to the number of days you can fish?

Head of Marine Resources:

No, the limitation is in the quantity of gear.

Senior Legal Adviser, Law Officers' Department:

It is the number of pots.

Deputy S.G. Luce:

Yes, okay. Minister, I just want to move over to talking about not necessarily the French side but the U.K. (United Kingdom) and the other side. Before we get to talk about the management agreement, can I just ask about Guernsey? Because in the debate last week you said: "Similar replacement vessel policies were agreed by Guernsey and the U.K. and also with the E.U. This is in fact going to be in large measure reciprocal, so it will apply to our boats fishing in French waters as well."

The Minister for the Environment:

Yes.

Deputy S.G. Luce:

Can I ask about Guernsey because the president of the Fishermen's Association told us this morning that a limited number of Jersey boats have licences to fish in Guernsey waters but when they come to an end they will not be replaced? How does that fit in with replacement vessel policy that sits similar to ours?

The Minister for the Environment:

I think what we are talking about is the access of the E.U. to Island waters; that is the key parameter here. Those agreements all have to be ... well not quite identical but very similar because the boats move freely between those different waters. I know that the president of the J.F.A. made the point that Guernsey had not really initiated any policy itself and it just followed ours but that is irrelevant. The point is that the policies all correlate and have to correlate.

Deputy S.G. Luce:

Because Jersey boats are not part of the E.U. fleets there is no policy that refers to the replacement of them when it comes to Guernsey licences then, is that correct? Because I know this is a ...

The Minister for the Environment:

I do not think I quite understand the question.

Deputy S.G. Luce:

I have always found it complicated. Obviously we have a relationship with the U.K., we have a relationship with France and Normandy and Brittany and Guernsey as well and everything seems to be slightly different. But I am just trying to work out why, when Guernsey has a replacement vessel policy, which is very similar to ours via the T.C.A., why Jersey boats cannot get their licences renewed to fish in Guernsey waters.

The Minister for the Environment:

I do not know; you will have to take that. That was not an issue, it is not so much to do with replacement vessels.

Head of Marine Resources:

Yes, I think I can. I do not know Guernsey's laws intricately but if you look at the Jersey policy that we are talking about at the moment that refers only to T.C.A.-licensed vessels, the French vessels; it doesn't cover Jersey ones and it does not cover Guernsey ones that are in our waters either. Assuming - and I will have to find out for you - that the Guernsey situation is the same, in other words, the policy that they are bringing in for replacement vessels in relation to the T.C.A. applies only to those ones, then Jersey boats would not be covered by it. But beyond that I certainly cannot help you, unless you know.

Senior Legal Adviser, Law Officers' Department:

No. The discussion, as you said, is focused on E.U. vessels access to Jersey waters and Jersey vessels access to E.U. waters and the same in respect of Guernsey. Our discussions have not been in respect of Jersey vessels access to Guernsey waters and vice versa. If there is an issue there

then that might be something to take separately and find out what is happening in practice because it has not been part of the discussions.

Deputy S.G. Luce:

Okay, I will not go there any further. Just another very quick question about Channel Island licences. Am I right in thinking, Minister, that Jersey has had a policy for some time now of not allowing any fishing vessel licences over 12 metres and that the vessels that we did have over 12 will be phased out by 2029?

The Minister for the Environment:

I do not think that is true and Paul can take this. But for the technical dates and whatever, I believe that there was a short period when we had a 12-metre restriction but I do not think that is currently in place. Paul, would you ...

Head of Marine Resources:

As I remember it, it was in place for a very short space of time but there were objections to it from various quarters and so it was removed.

Deputy S.G. Luce:

Okay, so the current situation is that if a fisherman decided he wanted a 14-metre boat there is no restriction on that happening, provided he has got the units and the licence to do that.

Head of Marine Resources:

Yes, as far as I am aware. If a Jersey fisher wants to replace his vessel with a bigger one that is purely a licensing issue and it is just a case of making sure that they have got the correct paperwork in respect of the U.K. side of things.

Deputy R.J. Ward:

That is part of the overall tonnage of the U.K. because Jersey is a part of that, so they would have to give some up or be given a little bit more to have that bigger vessel.

Head of Marine Resources:

Yes, we are part of the U.K. system. I do not have an intricate knowledge of it but essentially what happens is that our vessels have to be able to, in effect, buy the necessary engine power and things that they need from what is a fixed U.K. market. That used to be very cheap and now it has become extremely expensive, which obviously presents a barrier. But, again, that has nothing to do with the T.C.A.; that is something that predates it.

Deputy R.J. Ward:

No, it is not but if there is an increase in vessel size because of the T.C.A., there may be a requirement for an equivalent in Jersey fishing fleet, which is one of the issues. It is important that we understand how that might happen and that is the reason I asked the question.

Senior Legal Adviser, Law Officers' Department:

If I have understood correctly, if we apply the replacement vessel policy reciprocally then there will be an overall cap on gross tonnage and engine power for the Jersey fleet operating in E.U. waters. Yes, the same principle would apply in the sense that we are applying an overall cap on gross tonnage and engine power to E.U. vessels that would be coming into Jersey waters and it would be the same in respect of Jersey waters.

Deputy R.J. Ward:

That is the intention to have that reciprocity, is the word.

Senior Legal Adviser, Law Officers' Department:

Yes, that is the objective.

Deputy R.J. Ward:

How would that fit into the overall tonnage with the U.K. that Jersey has? It just keeps a proportion of it and that is the overall tonnage that we cannot exceed.

Senior Legal Adviser, Law Officers' Department:

We have not worked this all through in detail but I think based on what we are saying here, essentially the extent to which the Jersey vessels could increase in size will be affected by the U.K. policy. If they did increase in size, to the extent that those vessels are fishing in E.U. waters, we would have to square that with the replacement vessel policy that is being applied there. But of course it is a relatively small number of Jersey vessels which are fishing in E.U. waters.

Deputy R.J. Ward:

Of course but if they get bigger they might, so there is sort of a double whammy of acceptance. Do the French have that as well or just would have to meet our replacement vessel policy?

Senior Legal Adviser, Law Officers' Department:

I do not know whether the French have a cap on the overall size of the French fleet generally. Yes, I could not say ...

Deputy R.J. Ward:

Okay, just thinking of the context.

The Connétable of St. Brelade:

We gather that the French system of managing tonnage and engine power is significantly different to ours but there is a framework in place. But what it seems as though when a vessel changes hands or leaves the fleet, the units revert back to the authority. My question really is: is that an intention or are we leaving it to the free market to put these high values on these units and how will new entrants come into the fleet?

The Minister for the Environment:

What we are talking about here is the French management of their own fleet.

The Connétable of St. Brelade:

It is quite significant because I mean in terms of the gross tonnage and horsepower that is really what we are talking about when it comes to replacement vessels.

The Minister for the Environment:

But the licences are attached to specific vessels. A vessel that applies for a replacement vessel has to be that vessel and obviously you cannot just pick another one somewhere else in the fleet; it is that vessel. If it wants to get bigger then it will only be accepted by me if it fits the policy, which we have outlined, which is a 10 per cent increase in horsepower or 20 per cent in gross tonnage. If it is bigger and there has not been a committed reduction somewhere else in the fleet historically, then there must a reduction somewhere else.

The Connétable of St. Brelade:

But are you anticipating the units having a trading value as such?

The Minister for the Environment:

I do not know what you mean.

The Connétable of St. Brelade:

The units of tonnage; in France it would appear that the units will revert back to the state authority. If a vessel is sold out of fishing or it changes hands, the authority will have the ability to manage that because there will be no value in the units.

The Minister for the Environment:

But it will not change anything to do with the replacement vessel obviously.

The Connétable of St. Brelade:

It will if they get bigger and that is really the point. I think what we are trying to ensure is that the fishermen at the Jersey fleet have the confidence that this is going to be properly managed and it is not abundantly clear. There is a suggestion just to move away from that, that there would be different levels of licensing, shall we say up to 7 metres, up to 9 metres and up to 10, 12 and so on. Have you considered that in any way so that we can manage this technology creep-in or this tendency to move to bigger boats?

The Minister for the Environment:

I think it is managed within the current framework that we have, which is that under 12 metres, vessels cannot get bigger than 12 metres and they cannot migrate between the 12 metre and the over-12 metre.

Deputy R.J. Ward:

But they can disappear and become part of a larger vessel, yes?

The Minister for the Environment:

They can within the 12-metre category; an 8-metre vessel could become just under a 12-metre vessel.

Deputy R.J. Ward:

You cannot merge 2 8s, it will become a 16.

The Minister for the Environment:

So long as there is a reduction somewhere else.

Deputy S.G. Luce:

Sorry, can I be very clear on this, Minister? You are saying that a licence for an under-12-metre vessel, French vessel, cannot be transferred to an over-12-metre vessel.

Head of Marine Resources:

We are confusing 2 things slightly here, I think. If I understand what you are saying, which is, is it possible ...

Deputy S.G. Luce:

The tonnage and horsepower.

Head of Marine Resources:

... for, let us say, an under-12-metre vessel shrinks by whatever it happens to be, 10 per cent or something like that, can that be then used by an over-12-metre vessel? Theoretically, yes, that is absolutely true but bear in mind for over-12-metre vessels there is a 10 per cent and 20 per cent limit on the amount of engine power and tonnage that it can increase. That is set against the original licensed vessel, so it is not something that can increase every time the vessel gets replaced.

Deputy S.G. Luce:

Yes, I think we appreciate that. We had a long ...

Head of Marine Resources:

But that limits the size that any vessel can reach.

Deputy S.G. Luce:

But you also will accept that given that vessels below 12 metres are quite light, they have considerably lower horsepower potentially, it is not impossible, given that we have a 20 per cent increase in tonnage, 10 per cent increase in power, within the future all the French boats under 12 metres could disappear in favour of larger vessels over 12 metres, which are slightly longer and slightly more powerful and we could end up with a French fleet which is a lot smaller but the same horsepower and the same tonnage, as we have agreed in the T.C.A., theoretically.

Head of Marine Resources:

Theoretically, the boats above 12 metres could all expand by 10 per cent and 20 per cent but that will not affect their efficiency in terms of fishing effort and things.

Deputy R.J. Ward:

That is not what was being asked, I do not think.

Head of Marine Resources:

Yes, but fishing effort and what we are talking about here, which is the capacity of the vessel, are entirely separate under the T.C.A. What we are talking about is making provision for vessels to be able to be replaced there. The permits that they are given are what dictate the level of fishing effort they can have. You could have a boat that will get bigger but if it is on the same permit that it was when it was smaller it will not be able to fish any more.

Deputy S.G. Luce:

What happens, for example, if permits were issued to 10 vessels below 12 metres and the licences were taken by a larger French fishing vessel to get bigger, the capacity, the effort if you like, the tonnage that can be taken out to sea, that is given out by the French, is it not? Are we not going to

say to the French authority there is a tonnage limit of so many scallops, there is a tonnage limit of so much whelks, distribute that as you see fit? That is also a global limit, is it not, that is set?

Head of Marine Resources:

Within the context of the fishing permits, yes, there is because there is a fixed number of permits that are issued; that will never change and each of those permits has a defined amount of effort that goes with them.

Deputy S.G. Luce:

The defined amount of effort could also be taken over by a larger vessel as well.

Head of Marine Resources:

The permits themselves ...

Deputy S.G. Luce:

Notwithstanding the fact that there might be a legal limit on 1.3 tonnes of scallops.

Head of Marine Resources:

Yes. Yes, the permits themselves can be moved between vessels. That is something that we have made provision for, again, in relation to the T.C.A.'s need to maintain this level of effort. It was something that sort of had to be facilitated in that. If we have got 20 crustacean-potting permits and any 20 vessels can have those permits but with each of those permits comes a fixed number of pots that can go with it. In the case of if you were doing other static gear, things like whelks, there is a daily catch limit that goes with it as well and so that defines the effort. Whether a particular permit that has got 400 pots, let us say, goes to a vessel that is 15 metres long or 5 metres long, they have still only got those 400 pots.

Deputy R.J. Ward:

But can I just ask a quick question? When you said the original licensed vessel, when does that original licensed vessel be defined? Because once it has been replaced and then perhaps it is replaced again because ...

The Minister for the Environment:

No, it is not incremental. It is not incremental, it always goes back to the original reference vessel.

Deputy R.J. Ward:

Okay, to the original vessel and if that vessel is lost, they did not say about this now a completely different vessel, it loses its licence and it loses its permit and you have to reapply.

[12:15]

But, theoretically, another vessel could come into it because there is still that available tonnage as part of the T.C.A. You could say: "Okay, I am wiping that vessel out and I am applying for a new licence with a different vessel" and then that becomes the original licence.

Senior Legal Adviser, Law Officers' Department:

I think, if it is helpful, at the point of the coming into force of the T.C.A. is the reference point that we take for this.

Deputy R.J. Ward:

Yes.

Senior Legal Adviser, Law Officers' Department:

You are looking at which vessels are qualifying vessels on that date, so which vessels had a track record? You look at the size, engine power of those vessels that had the qualifying track record on that date and it is always by reference back to those vessels that you were looking at, the 10 per cent or 20 per cent.

Deputy R.J. Ward:

Okay, to that point. Can I just ask, one of the arguments is that it has to increase by 10 per cent because you cannot get an identical vessel, it is almost impossible? We will come to that, I think that is a question later. When you replace a vessel that is 10 per cent larger, we will note later on get an argument to say: "Well, we cannot replace this vessel, so it will have to be replaced by a smaller vessel, which goes against T.C.A. because you are not lowering the limit, you have got to keep it the same" or would that 10 per cent become the new norm because the argument would be: "I cannot replace it with an identical vessel, it will have to be 10 per cent larger again"?

Senior Legal Adviser, Law Officers' Department:

Just conceptually, I think what we are trying to do is to create the capacity to be able to balance, be able to achieve a balance at the same level by allowing some things to increase in size and some things to decrease in size.

Deputy R.J. Ward:

Theoretically, that vessel could increase, as long as another vessel decreases. You could have one vessel growing and growing and growing as it is replaced.

Senior Legal Adviser, Law Officers' Department:

Except that if the vessel is over 12 metres they are limited to a 10 per cent or 20 per cent increase from the original vessel.

Deputy S.G. Luce:

From the original vessel.

The Minister for the Environment:

They are limited to a 10 per cent on the original vessel.

Senior Legal Adviser, Law Officers' Department:

They cannot just get 10 per cent and 20 per cent ...

Deputy R.J. Ward:

Always the original.

Senior Legal Adviser, Law Officers' Department:

Always back to the ...

Deputy S.G. Luce:

I think the point that Deputy Ward is trying to make is the argument at the moment is I have got a vessel here that is 13 metres, it takes tonnage, extra horsepower, I cannot replace it exactly like for like, so I have to go a little bit bigger and there has to be some flexibility.

Deputy R.J. Ward:

Yes, that is exactly the point.

Deputy S.G. Luce:

I am sorry for interrupting ...

Deputy R.J. Ward:

But, no, I think you are right, go on.

Deputy S.G. Luce:

If you have a vessel that then comes as a replacement vessel, which is 10 per cent extra horsepower and 20 per cent extra tonnage, when that vessel is replaced the argument is I cannot buy another vessel exactly the same as this; I need to go a little bit bigger.

The Minister for the Environment:

No, because the reference is back ...

Deputy S.G. Luce:

It cannot go a little bit bigger, it will have to be replaced by a smaller boat but what then happens to the global limit when that boat then gets smaller and there is a bit of tonnage capacity and a bit of power capacity left in the global tonnage and the power, that has to go to another vessel somewhere else?

Senior Legal Adviser, Law Officers' Department:

That can go to another vessel somewhere else, yes.

The Connétable of St. Brelade:

But who is going to manage it? Going back perhaps to my earlier question, have these units got any value and will it be your department that manages it?

The Minister for the Environment:

The management from our point of view is the French submit an application, which they currently do, and there is currently a replacement vessel policy and so replacement vessels have it now. What we are doing technically in the legislation is creating an extra category of a replacement vessel policy. I can now approve to a different set of policies to the existing ones. But the way it is policed is they send an application with the paperwork and I judge whether it fits any of the categories that are in the policy. If it does not, as I did say in this debate, I turned down before Christmas a licence because it did not fit within the current policy. If it fits the policy, fine, if it does not fit the policy it gets turned down.

Deputy S.G. Luce:

Can I just ask about, we know there is a global limit on power, there is a global limit on tonnage, is there any global limit on the number of licences? Because, in theory, we could in, say, 20 years' time have a lot less licences issued to the French than there are currently. If they wanted to go the other way and said: "We are not going to exceed the global limit, we are not going to exceed the global power but we want to make our whole fleet a lot smaller", would we be obliged to issue licences, over and above the number of licences that we currently issue?

The Minister for the Environment:

No, because the T.C.A. says you have to have the track record at fishing during that track record period.

Deputy S.G. Luce:

Everything is based ...

The Minister for the Environment:

The only exception to that is the French have never closed with the European Union side, rather have never closed that sort of process. There is still the small possibility that they could identify a vessel somewhere that has previously been totally unknown that can demonstrate fishing in Jersey's waters during that track record period. We think there is a vanishingly small chance of that. But that is the only way in which a new licence could be created.

Deputy S.G. Luce:

Okay. But just getting back to my original point, if in 5 years' time the French have amalgamated tonnage and produced a few bigger boats and lost some smaller boats, the number of licences issued will have reduced. At that point there will be no way that we can issue more licences or can we go back up to the 130-odd that we currently have?

The Minister for the Environment:

But the fishing effort is the thing we have to maintain, so how it is distributed ...

Deputy R.J. Ward:

Yes, so they may have merged those licences.

The Minister for the Environment:

Yes, they may have merged them.

Deputy R.J. Ward:

A simple example, you have got 2 8-metre vessels who have merged their licences and the vessel has produced a 16-metre vessel with a combined ...

Head of Marine Resources:

No, you cannot do that.

Deputy R.J. Ward:

Cannot do that.

Head of Marine Resources:

No, because a vessel under 12 metres cannot become larger or its replacement cannot be larger than 12 metres.

Deputy R.J. Ward:

Okay, so a 12-metre vessel and an 8-metre vessel combined together to have a 16-metre vessel with other parameters, which means it is the same tonnage as the 2 put together and combine their licences; that can happen because one of them is over 12 metres.

Head of Marine Resources:

No ... well, I mean you are talking about length, which is obviously not covered by the policy itself, although it is obviously...

Senior Legal Adviser, Law Officers' Department:

It is tonnage and power.

Head of Marine Resources:

... tonnage and power.

Deputy R.J. Ward:

Okay, tonnage then. You have got one is ... okay.

Head of Marine Resources:

It is up to the 10 per cent and 20 per cent increase and that is against the original vessel. In terms of the amount it can increase, you cannot just merge, you cannot just take 2 random vessels and merge it because there is a ceiling to which vessels over 12 metres may increase.

Deputy R.J. Ward:

I see, okay.

The Minister for the Environment:

It is not a pure addition, they could take a slice out of that 8 metres ...

Deputy R.J. Ward:

You could remove the smaller vessel, have one larger vessel that is 20 per cent bigger but because that vessel is gone the licence can pass the class as well, so that larger vessel can now fish those 2 licensed quantities.

The Minister for the Environment:

I think there is some ...

Deputy R.J. Ward:

If that is a yes I have got a follow-up question you see because the thing is if that is a yes that changes the nature of the fishing. I might have jumped into your question here but one of the concerns is it changes the nature of the fishing to larger-scale fishing, which has more impact. The quantity can be caught quicker, if you like, in an area or at the right time in particular areas and then these boats go off to other areas around Europe to do their fishing elsewhere, leaving behind what is, effectively, a damaged fishing ground - and that is the wrong word, I know that is the wrong word but I am just thinking of a lot of words at the moment - an affected fishing ground for what is left behind. It is a genuine question as a scenario.

Head of Marine Resources:

Do you mind if I answer that?

Senior Legal Adviser, Law Officers' Department:

No, go ahead, please.

Deputy R.J. Ward:

It is all right, do you see what I am getting at? Yes, and this is where it came from.

Head of Marine Resources:

I think in terms of that, bear in mind that there are technical measures that govern the gear and things that can be used. French vessels will be using the same gear that Jersey vessels are, so any damage or disruption, whatever you want to call it, that has been caused by French vessels is the same that can be caused by Jersey vessels.

Deputy R.J. Ward:

It will not be larger gear on the larger boat.

Head of Marine Resources:

No, in terms of if you are talking about dredging and things like that there is a very prescribed design of gear that you can use. In fact, to be honest with you, French vessels at the moment use a larger ring size than us. If you are talking about sort of impact and things like that it has less of an impact than the smaller ring size used locally at the moment and that is ...

Deputy S.G. Luce:

You might want to just explain that that is the size of the hole in the lobster pots.

Head of Marine Resources:

Yes, it is; sorry, it is the size of the holes in the gear.

Deputy S.G. Luce:

It is easier for the lobsters to get into than out.

Head of Marine Resources:

Yes, but this is for dredging ...

Deputy S.G. Luce:

Sorry, ring size; that is where the scallops come out at the end of the boat, sorry, yes.

Head of Marine Resources:

If you have got a larger ring size you pick up less debris and things from the seabed.

Deputy S.G. Luce:

Yes.

Head of Marine Resources:

It becomes a far more efficient way of fishing ...

Deputy S.G. Luce:

The smaller scallops fall out.

Head of Marine Resources:

... and the smaller scallops drop through and all the rest of it.

Deputy R.J. Ward:

Yes, okay.

Head of Marine Resources:

Because I think France is on ... I think they have just moved to 97 millimetres and we are on 58 at the moment, I think, 67 millimetres.

Deputy R.J. Ward:

Because that was a concern raised and so perhaps that concern needs addressing with fishermen. Something that should come out of this Scrutiny Panel is you taking away something as well as the concern, so that is certainly one that was raised.

The Connétable of St. Brelade:

If I can just drift towards our whelks really and that the J.F.A. raised the point that Ministers should use this replacement policy to highlight the need for France and the E.U. to honour the trade access principle and remove the ban on Jersey fishermen landing gastropods and bivalves. Can you advise further whether this has been raised with France in the discussions underway at the moment?

The Minister for the Environment:

We are talking about 2 very different things and it is ...

The Connétable of St. Brelade:

No, not really.

The Minister for the Environment:

Yes, really.

The Connétable of St. Brelade:

No, the R.V. (replacement vessel) legislation is a tool to use and I think the Minister for External Relations and Financial Services came over quite clearly to say that in the debate that it is a question of negotiation.

The Minister for the Environment:

That is a negotiation but it is a separate negotiation to negotiations which are not actually negotiations under the T.C.A. The T.C.A. are discussions because the legal framework, which is what you negotiate about, has already been agreed. They are discussions that are technical in nature. I have never attended one of them because they are not a political discussion, they are a technical discussion about how you measure extent and nature and that is why they occur at that. But I mean you can add some more points to that but I do not think it is appropriate ...

Head of Marine Resources:

I think I would only echo what you are saying, which is obviously the political moves and things around the sort of export policies and things, they are separate from the T.C.A. and they were not something during the discussions and things that we were having and ...

Deputy S.G. Luce:

Okay, well we will not go further.

Deputy R.J. Ward:

They are not dependent upon this, it is quite important to point out that they are not dependent upon this; they are separate.

Deputy S.G. Luce:

I just want to go back, and I am not going to dwell on it, but the movement of licences, movement of permit, movement of tonnage and power, was there any negotiation on doing along the lines that was proposed by the president of the Fishermen's Association this morning where we would have said anything in the under-12-metre category has to stay there, whether that is tonnage, whether it is power, whether it is permit, whether it is licence, what have you, so that we, in maintaining a level of access, reference period access, the type of fishing that was going to continue and the size of vessels which did that fishing was maintained as well? Was there any discussion about saying there is a 12-metre line and everything below 12 metres has to stay there, it cannot be moved from under 12 to over 12?

Head of Marine Resources:

This goes back to the fact that the permit framework is separate from the replacement vessel one, which is what we are talking about at the moment. In answer to your question, if I understand it, if you are talking about creating 2 global ceilings, in effect, one under 12 and one over 12.

Deputy S.G. Luce:

Or 2 global ceilings, if you like, yes.

Head of Marine Resources:

No, I do not recall that we ever discussed or requested that. But, again, have to bear in mind that it is the permits that dictate what these vessels can do. You could shift the permits between the size of things without ...

Deputy S.G. Luce:

I accept that but the point I think I am trying to make is it would not be impossible for a scallop permit for an under-12-metre boat. I know it could be moved to an over-12-metre boat that is not currently fishing for scallops but could start doing that as part of a whole lot of other stuff. I think it gets back to the point that Deputy Ward was trying to make where not only are we trying to maintain the access that we have during the reference period but we are maintaining the type of boat and the size of boat and the effort and the ability to use the effort during adverse weather and something like that. Because, as we all know, the bigger your boat the less you are affected by weather, the easier it is to be safe and to do all sorts of other stuff. It is clear that the local fishermen are concerned that however it will be done, that the French fleet will increase in size, will increase in its ability to fish at all times of the year and it will, therefore, increase its ability to extract produce from our waters.

Head of Marine Resources:

But they will not be able to increase fishing effort above what it was during the reference period, so in ...

Deputy S.G. Luce:

I accept that completely but obviously it will be much easier for them to take that effort out to sea and extract the product.

Head of Marine Resources:

But we have not issued these sort of fishing permits on the assumption that 20 per cent of the effort will not be used because of gales or whatever it happens to be. They are there because it was demonstrated during the reference period and in the instance where you say you could give a licence or give a permit rather to a vessel that did not have that permit beforehand. Yes, you can but it would have to take it off another vessel and so the effort stays the same, if you see what I mean, so if you ...

The Minister for the Environment:

It does not matter whether it is caught in the stormy days or the non-stormy days, it is still the same amount of scallops or whatever.

Deputy R.J. Ward:

Sorry, I wonder if I can just ...

Deputy S.G. Luce:

Yes.

Deputy R.J. Ward:

But I think that is a slight issue, that I understand what you mean and in those simple terms then, yes, but on other terms, if a vessel is larger it can catch at any time and do so more quickly, get its catch and move away from Jersey waters and fish elsewhere. It is inevitable if you are investing in a larger boat that that is why you are doing it and it could be more pockets of intense fishing when the fishing is good, then those boats go on and do intense fishing when the fishing is good elsewhere and that is the nature of the Jersey fishing stock.

[12:30]

That is, I think, a concern of the Jersey fishermen that it will have that impact on Jersey water, i.e. because the nature of these changes with larger vessels is ... am I getting my point across then? Is that the case or can you say that, no, that is not a risk?

Senior Legal Adviser, Law Officers' Department:

Could I make a point here and to see if you were to come in on this as well, Paul? I think it is important as well, we have sort of come to different stages of the process, we have mentioned different stages of this whole process and it may be just worth seeing this part in context again and just stepping back slightly. What we are doing at the moment is implementing extent and nature access controls based on the level of demonstrated fishing activity that occurred during the reference period. Those will be reflected in the permits from day one. I think one of the key points I am making is that the gross tonnage and engine power in some ways is, potentially, quite a crude method overall of determining capacity because the fishing permits and the limits on the permits are perhaps more important in terms of setting controls on the fishery. But it is important to recognise that Article 502 of the T.C.A., which is what we are implementing now, is what we are doing at this stage, once this is implemented the key thing that the T.C.A. brought back to Jersey was control over management of its waters going forward. Going forward under Articles 494 and 496 of the Trade Co-operation Agreement, Jersey will be able to set management measures on its fishery, which are scientifically-led and based on a number of principles which can include conservation of the fishery. Although all these things are being said now, I think part of your concern is how can this be controlled? If I am understanding correctly is, how can this be controlled into the future? I think the answer is there is the capacity for Jersey to adopt additional measures to control things into the future under the T.C.A.

Deputy R.J. Ward:

Sorry to interrupt, but I think what you have done is you have pointed out perhaps another concern of the Jersey fishing stock, is the controls you are talking about which may be needed in terms of the waters that they fish in will really affect the Jersey fishing stock because the French boats that are going to larger boats will have the option to go elsewhere when those limits are in place.

The Minister for the Environment:

But I mean we are talking about hypothetical so far down the line and the ...

Deputy R.J. Ward:

But that is the key though, is it not, long term for an industry, is it not?

Head of Marine Resources:

But also I do not see in the sense that species are very habitat-driven, so if you are making the sort of point that, well, a bigger boat can go much further offshore and all the rest of it, in terms of where the species are that is where people fish at the moment. The size of boat really does not determine ...

Deputy R.J. Ward:

No, I am not saying that. I am saying that they can go to other areas where those species are, which are in similar grounds and other bays around France, for example, but there may be controls here. I just wondered again in terms of consequences ...

Deputy S.G. Luce:

Can I just ...

Deputy R.J. Ward:

Yes, sorry, go on.

Deputy S.G. Luce:

We are running out of time or we are out of time. I have just got a couple of things I would like to ask. We are talking about species, Minister, climate change, the waters are warming up. We see some species leaving our waters or starting to, others starting to come in. Is it time that we did as the president suggested and dumped the Fisheries Management Agreement we have with the U.K. so we can have more control over the quotas that we might set on some new species coming into our waters?

The Minister for the Environment:

I think that is a discussion that we are very happy to have to see whether that is appropriate. But it is not directly relevant to the replacement vessel policy, which is a future discussion.

Deputy S.G. Luce:

The last one from me is to do with our fisheries protection vehicle and I just want to make sure that on a couple of fronts it is available 24/7 and it goes to sea as and when it is needed, regardless of the time, day or week.

Head of Marine Resources:

Yes, that is true, obviously subject to things like it underwent a refit, which took it out of the water for a few months. But we have got more than one vessel at the moment and we have got 3 that are coded. We have got the Norman Le Brocq, which is obviously the principal vessel, but then we have

got 2 R.I.B.s (rigid inflatable boat) as well, which are available on trailers. When there is a problem we can be in the water within an hour usually.

Deputy S.G. Luce:

Is there any limit on the amount of work that these vessels can do, and I am just cutting straight to the chase? Is there an allocation of finance for fuel, for example? Do you say when you get to certain £1,000 worth of fuel, used it a year, well hang on, we cannot run the boats anymore? Is that a consideration?

Head of Marine Resources:

No, we have never encountered that problem. We do have budgets for fuel. We have budgets for repair, obviously for training and other bits and pieces that are need to keep the boat and the crew in the shape that they need to be to go to sea.

Deputy S.G. Luce:

Okay.

The Connétable of St. Brelade:

Just the last one from me really is: what is the effect of the States not passing this legislation?

The Minister for the Environment:

Matt, you can probably deal with it but I mean I think it would be quite serious in the sense that there has been a long delay for this policy from the European side. They have been asking for this for a considerable period of time because they have at least, I think, half a dozen vessels we are aware of at the moment that they are ready to get new ones and, as I say, they do not just fish here, they fish elsewhere as well. We have fended off the replacement vessel policy because we were not prepared to accept a replacement vessel policy without the caps, without knowing how much effort we would be allowing through the permit system. The European side will now quite reasonably be able to say as of 1st February: "You have got your limits on catches and métier and all the other things, is it not time now that you put in place your replacement vessel policy under the terms of the T.C.A.?" I cannot say exactly what it will be but we are negotiating with the European Union and separately with France, as the Minister for External Relations and Financial Services has made clear, on a number of different issues. You cannot think that it is going to help, can you?

Deputy M.R. Le Hegarat:

I would just like to ask a question because this never seems to sort of come on to the table but this might be an opportunity. Have all of the local fishers been able to get permits to fish in French waters, for example?

Head of Marine Resources:

In fact that was quite neat in the sense I was going to put an addendum on there. You asked about the effect of it. If it is not reciprocated then we have a Jersey vessel with a French fishing licence that fishes in France regularly that is larger than the vessel it replaced and it is fishing on a temporary permit at the moment. If we ditch this and the reaction on the E.U. side is to adopt whatever policy we have in place here for Jersey boats, that would prevent that boat from being able to fish there. In terms of Jersey boats fishing in French waters, we have, as I recall, I think it is 8 at the moment, is it not, Jersey vessels which are licensed for French waters? Again, because it was an evidence-based process, they had to demonstrate that they had fished for 11 days during one of these 3 12-month periods and those were the vessels that could do so. They are the ones that have got ...

Deputy M.R. Le Hegarat:

I just want to make sure from a confirmation point of view, there are no hang-backs, as in there are no people waiting to be granted licence that fit the criteria by the Europeans.

Head of Marine Resources:

No.

Senior Legal Adviser, Law Officers' Department:

No, and just to add on to what Paul said, I think it is right to say as well that, essentially, the permit framework that we are introducing for the E.U. vessels in Jersey waters will be a very similar permit framework to that which is adopted for Jersey vessels in E.U. waters. These are all designed on the basis for reciprocity and I do not believe there are any Jersey vessels which have not been granted licences which applied.

Deputy M.R. Le Hegarat:

No, because there was lots of media about us not giving them licence but there was nothing going the other way, and that is why I wanted to verify that point.

Head of Marine Resources:

That is, I think, a reflection of the fact that traditionally there are more French vessels fishing - or historically I should say - in Jersey waters than the other way around.

Deputy M.R. Le Hegarat:

Yes.

Deputy S.G. Luce:

Okay.

The Minister for the Environment:

Can I make one point?

Deputy S.G. Luce:

You may, Minister, yes.

The Minister for the Environment:

Just in conclusion, because I did listen to what the chairman of the J.F.A. was saying, and he talked about latent effort and the danger that the replacement vessel policy would transfer latent effort into real effort. I think it is important to say that that is an area of disagreement in that I do not really recognise the concept of latent effort. There is the effort of the French fleet that was established through the extent and nature process and the French are entitled to all of that effort. There is not a sort of a latent bit of it that gets held back and so on. We have to make our policies fit that total effort. There is not a bit that can be held back; I think that is a very important point to get across and it is a point of disagreement between us because I think the J.F.A. have this idea that there are somehow some permits that would not be used unless this replacement vessel policy comes in. Those permits are all available to the French fleet as of 1st February and can all be used.

Deputy S.G. Luce:

I appreciate that, Minister. The only thing I would say, and not in his defence or their defence, but the only thing I would say is that it is not very long ago that we were very sure in Jersey that there would be only 70 or 80 French vessels which would qualify under the reference period and that number suddenly or over a period of time became very much larger. I think there still has to be question marks as to whether all those licences that have been issued were issued to vessels which really, really, really did fish in Jersey waters.

The Minister for the Environment:

But the 2 points I would make is, first of all, they did qualify and that is a legal agreement.

Deputy S.G. Luce:

Yes, I appreciate that.

The Minister for the Environment:

The second point is the French when they came to protest in the harbour here were not protesting because they had so many licences that they were super happy, they believed that they were entitled

to a lot more. While we perceive it or the J.F.A. perceive it as a very generous settlement to the French, the French certainly do not.

Deputy S.G. Luce:

I do not know, nobody is disputing the fact that there are 130-odd licences being issued and that will be the number of people who will be entitled to fish. I think the point that the Fishermen's Association are making is that some of those vessels may end up doing more fishing in Jersey waters than they may have done historically. But they have been granted a licence and they will get a permit to do whatever they get to do.

The Minister for the Environment:

Regardless of the replacement vessel.

Deputy S.G. Luce:

That will be as it is.

The Minister for the Environment:

Yes.

Head of Marine Resources:

Yes.

Deputy S.G. Luce:

Okay. I think we are going to leave it there, we are over time. Thank you, Minister, for coming in and your officers and ...

The Minister for the Environment:

Yes, and thank you very much for having us and we remain completely open to further clarification, discussion, whatever you would like from us.

Deputy S.G. Luce:

Certainly there will be some clarification I am sure.

The Minister for the Environment:

Yes, look forward to that.

Deputy S.G. Luce:

Okay, thank you very much.

[12:41]