



# **Cynulliad Cenedlaethol Cymru** **The National Assembly for Wales**

## **Y Pwyllgor Amgylchedd a Chynaliadwyedd** **The Environment and Sustainability Committee**

**Dydd Iau, 4 Hydref 2012**  
**Thursday, 4 October 2012**

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Yn y golofn chwith, cofnodwyd y trafodion yn yr iaith y llefarwyd hwy ynnddi. Yn y golofn dde, cynhwysir trawsgrifiad o'r cyfieithu ar y pryd.

In the left-hand column, the proceedings are recorded in the language in which they were spoken. The right-hand column contains a transcription of the simultaneous interpretation.

**Aelodau'r pwyllgor yn bresennol**  
**Committee members in attendance**

Mick Antoniw	Llafur Labour
Yr Arglwydd/Lord Elis-Thomas	Plaid Cymru (Cadeirydd y Pwyllgor) The Party of Wales (Committee Chair)
Russell George	Ceidwadwyr Cymreig Welsh Conservatives
Vaughan Gething	Llafur Labour
Llyr Huws Gruffydd	Plaid Cymru The Party of Wales
William Powell	Democratiaid Rhyddfrydol Cymru Welsh Liberal Democrats
David Rees	Llafur Labour

**Eraill yn bresennol**  
**Others in attendance**

Sibylle Grohs	Cyfarwyddiaeth Gyffredinol yr Amgylchedd, y Comisiwn Ewropeaidd DG Environment, European Commission
Dr Peter Jones	Coleg Prifysgol Llundain University College London
Astrid Schomaker	Pennaeth Uned—Amgylchedd Morol a Diwydiant Dŵr, Cyfarwyddiaeth Gyffredinol yr Amgylchedd, y Comisiwn Ewropeaidd Head of Unit—Marine Environment and Water Industry, DG Environment, European Commission
Yr Athro/Professor Lynda Warren	

**Swyddogion Cynulliad Cenedlaethol Cymru yn bresennol**  
**National Assembly for Wales officials in attendance**

Alun Davidson	Clerc Clerk
Catherine Hunt	Dirprwy Glerc Deputy Clerk
Gregg Jones	Pennaeth Swyddfa'r Undeb Ewropeaidd Head of the European Union Office
Nia Seaton	Y Gwasanaeth Ymchwil Research Service

*Dechreuodd y cyfarfod am 10.33 a.m.*  
*The meeting began at 10.33 a.m.*

## Cyflwyniad, Ymddiheuriadau a Dirprwyon Introductions, Apologies and Substitutions

[1] **Yr Arglwydd Elis-Thomas:** Bore da a chroeso i'r Aelodau, a chroeso i Dr Peter Jones a'r Athro Lynda Warren, ein tystion ar gyfer dechrau tymor newydd. Gan fod hwn yn gyfarfod cyntaf y tymor, fe wnaaf ailadrodd y rhybuddion ynglŷn â'r larwm tân a dilyn cyfarwyddyd y tywyswyr, ac am ddiffodd ffonau symudol a BlackBerrys. Ers ddoe, mae gyda ni ieithoedd swyddogol, ac felly rydym ni'n gweithredu'n ddwyieithog—fe glywch y cyfieithiad ar y pryd ar sianel 1 a darllediad gair am air gyda sain uwch ar sianel 0. Nid oes rhaid inni ymyrryd â'n meicroffonau. Nid wyf yn ymwybodol bod neb eisiau datgan buddiannau o dan y Rheol Sefydlog berthnasol, ond rydym wedi derbyn ymddiheuriadau gan Keith Davies, Julie James ac Antoinette Sandbach. Yr wyf yn sicr y byddech am i mi anfon ein dymuniadau gorau i Keith, a byddaf yn gwneud hynny drwy anfon cerdyn priodol ar ôl y pwyllgor hwn ar ein rhan. Yn yr un modd, rwy'n siŵr y byddech am gydymdeimlo ag Antoinette yn ei phrofedigaeth lem o golli ei thad. Rwyf yn barod wedi anfon cerdyn â neges debyg o gydymdeimlad ati. Rydym yn dymuno'n dda i Keith, hefyd.

**Lord Elis-Thomas:** Good morning and welcome to Members, and to Dr Peter Jones and Professor Lynda Warren, our witnesses at the start of a new term. As this is the first meeting of our new term, I shall repeat the instructions regarding the fire drill and following the instructions of the ushers, and switching off mobile phones and BlackBerrys. Since yesterday, we have official languages, therefore, we are operating bilingually—you can hear interpretation on channel 1 and verbatim with amplified sound on channel 0. There is no need to touch the microphones. I am not aware that anyone needs to declare any interests under the relevant Standing Order, but we have received apologies from Keith Davies, Julie James and Antoinette Sandbach. I am sure that you would wish me to send our best wishes to Keith, and I will do so by sending him an appropriate card on behalf of us all after this meeting. Similarly, I am sure that you will wish to send Antoinette your sympathies on the loss of her father. I have already sent a card with a similar message of condolence to her. We send Keith our best wishes as well.

10.36 a.m.

### Ymchwiliad i Bolisi Morol yng Nghymru—Gwybodaeth Gefndirol Inquiry into Marine Policy in Wales—Scene Setting

[2] **Yr Arglwydd Elis-Thomas:** Dyma gychwyn antur newydd yng ngwaith y pwyllgor hwn. Rwy'n edrych ymlaen yn fawr at y ymchwiliad hwn, oherwydd fy mod yn cynrychioli llawer iawn o fôr. Mae hynny'n wir am lawer ohonom ar y pwyllgor hwn, gydag un eithriad. [*Chwerthin.*]

**Lord Elis-Thomas:** This is the beginning of a new adventure in the work of this committee. I very much look forward to this inquiry, because I represent a great deal of sea. That is true for many of us on this committee, with one exception. [*Laughter.*]

[3] Do you have any sea at all, Mick?

[4] **Vaughan Gething:** Do you still want a marina in Pontypridd?

[5] **Mick Antoniw:** With global warming, our ambitions for a marina may one day be fulfilled.

[6] **Lord Elis-Thomas:** I know that Russell has a very good piece of estuary, because he shares it with me—and with Elin Jones. [*Laughter.*]

[7] Diolch yn fawr i'r Athro Lynda Warren, sydd yn athro emeritws mewn cyfraith amgylcheddol, am ymuno â ni. Mae hi'n ddirprwy gadeirydd y Cydbwyllgor Cadwraeth Natur, yn aelod o'r Pwyllgor ar Reoli Gwastraff Ymbelydrol ac yn aelod o Bartneriaeth Arfordir a Môr Cymru. Mae Dr Peter Jones yn uwch ddarlithydd o fewn yr adran ddaearyddiaeth yng Ngholeg Prifysgol Llundain. Mae gennym, felly, arbenigwyr nodedig ac rydym yn ddiolchgar iawn iddynt am eu presenoldeb.

Thank you very much to Professor Lynda Warren, professor emeritus in environmental law, for joining us. She is deputy chair of the Joint Nature Conservation Committee, a member of the Committee on Radioactive Waste Management and a member of the Wales Coastal and Maritime Partnership. Dr Peter Jones is a senior lecturer at the geography department of University College London. We have, therefore, notable experts with us, and we thank them for their attendance.

[8] A oes rhywbeth yr hoffech ddweud ar y dechrau, oherwydd ein bod yn gosod cynfas eang, gan nodi rhai o'ch blaenoriaethau o ran diddordeb polisi cyn i mi ofyn i Aelodau am eu cwestiynau?

Is there anything that you would like to say at the outset, as we are setting out a broad canvas, noting some of your priorities regarding policy interests before I ask Members for their questions?

[9] **Professor Warren:** I should say that I am no longer deputy chair of JNCC—that term has now finished.

[10] **Lord Elis-Thomas:** I am sorry about that, because it is one of my favourite organisations. It will not stop us from asking you about it. [*Laughter.*]

[11] **Professor Warren:** As you said, my background is as an academic environmental lawyer. However, I am also a marine biologist, so I look at things from both sides. I was thinking of what the main points would be that I would want to get across to you—broad, top-level points. The first, and the most important for me, is that we need to start thinking of the marine domain as being an equivalent domain to the terrestrial domain. We spend too much time thinking of the marine domain as a sector, albeit a big sector like agriculture, but it is not. We have as much sea as we have land.

[12] Added to that is the fact that doing anything in the marine environment is so much more difficult than doing anything on land, whether you are talking about research and survey, about managing it, or just working and trying to earn a living on it. It is an alien environment, which means that it is much more expensive to do anything. That means that you need to rely much more on expert knowledge, modelling and opinion than you might in comparison with a terrestrial environment.

[13] The third point that I want to get across, which I think is pertinent in Wales with the sustainable development agenda, is recognising that you cannot look at the marine without looking at the terrestrial and vice versa. That interface between coastal zones and the marine environment is going to be crucial. One of your issues is about European directives. I think that the water framework directive and the issues coming from that, such as bathing water quality and shellfish waters, are going to be very much affected by what is happening on land, regardless of what we do in the marine environment. So, those are my main points.

[14] **Dr Jones:** Like Lynda, many people who do research in this area started off as marine biologists and then became geographers, lawyers and so on, looking at it from many different directions. Lynda and I share that multiple perspective. I certainly agree with what Lynda says about the seas being a landscape in themselves—they are a seascape rather than a sector. One of the key trends in the past five to 10 years has been the extending of societal concern out to sea. We used to see the sea as a bunch of resources—somewhere to catch fish, somewhere to ply maritime trade and somewhere to dispose of waste. What we have seen

over the past 10 years is more and more societal and scientific concern for the seas as a landscape, as a seascape. I think that that is quite an important backdrop to this inquiry because many of the initiatives that we have seen, particularly coming out of Europe and out of domestic law, are a reflection of that extension of concern out to sea and our starting to see the sea as a seascape rather than a bunch of resources.

[15] Following on from that, adding to what Lynda has said, a key priority for this committee must be to look at marine protected areas in Welsh waters. You are in the very strong position that 36% of your territorial waters are already designated as special protection areas or special areas of conservation—they form European marine sites. It is difficult to find reliable data on it, but it would seem that approximately half of the conservation features within these sites are in an unfavourable condition due to a variety of factors, some of which are to do with land pollution and some of which are to do with marine activities, particularly fishing. Therefore, my recommendation would be that it should be a priority to put in place policies that will restore these sites to a favourable condition. I know that your remit goes beyond marine protected areas and that you are looking at marine spatial planning, but, from an ecosystem-based approach, marine protected areas are the core of your ecosystem approach. It is important to manage the whole landscape, but these will always be the core from an ecosystem protection perspective. Those are the two key points that I wanted to make this morning. Thank you.

[16] **Lord Elis-Thomas:** I would like to ask you one general or open question before I bring colleagues in. Wales has only recently become legally responsible for its seas. Do you think that the capacity of the Welsh Government to manage marine resources and marine space is adequate?

[17] **Professor Warren:** I know the members of the marine team very well so perhaps I am slightly biased in what I am saying, but I think that they are doing a cracking good job. I think that they are severely stretched because there is so much happening, but I would say that the same is true of the people I meet in the Department for Environment, Food and Rural Affairs. So, yes, they are suffering from lack of capacity, but no more so than other areas within the Welsh Government in trying to deal with issues that were previously dealt with by civil service departments in London.

[18] **Lord Elis-Thomas:** One of the reasons why I am asking this is that, alongside this study, on a much shorter timescale, we are looking at the budget, and we will want to have serious assurances on the Government's capacity to carry out the European obligations and all the other aspects of policy implementation.

[19] **Professor Warren:** In that case, following on from that, I would say that, if we are going to carry on in Wales with not only designating but protecting marine conservation zones, doing better with the European sites and doing some marine spatial planning, there is not enough resource within the Welsh Government centrally to do that at the moment.

[20] **Dr Jones:** One thing I would add to that is that the key issue with resources is that you can make marine management as resource-intensive as you want it to be. There are certain ways of managing the seas that need not necessarily reduce the seascape to lots of conservation features, requiring loads of research to tell us what the status of these features is and what the status of these features will be if we protect them. At the end of the day, you protect areas of the landscape and you can throw as much or as little resource at it in terms of science. It is possible to over-resource—to be too demanding in terms of resources. There are less resource-intensive ways of conserving and managing marine landscapes.

10.45 a.m.

[21] **Professor Warren:** That follows on from what I was saying at the beginning about how difficult it is to work in the marine environment. I think it would be impossible to come up with strong and legally robust proof of the conservation status over time of anything in the marine environment without spending a ridiculous amount of money on it. That is taking an extreme view, but I think that Peter is quite right—there is a danger of throwing more and more money and not getting a great deal more information for it.

[22] **Lord Elis-Thomas:** Therefore, it is not appropriate for us to compare the development over the years of land-based conservation with the issues facing us in the marine environment. Both Bill and I have been involved with different national parks—us two in particular—so we think that we know everything about land management on the ground, do we not, Bill? However, when we face, as we are now, the marine environment, it is a different kettle of fish—I am sorry, that just came out. [*Laughter.*]

[23] **Professor Warren:** It is very different, but it is interesting that you talked about national parks, because I would say that managing a marine environment is closer to the national park idea than is terrestrial conservation because you have that bigger, broader picture. Peter and I are probably saying the same thing slightly differently, but you have to think broad and big because you will never be able to get down to the fine level of detail.

[24] **Dr Jones:** Another interesting comparison between terrestrial and marine conservation is that a lot of terrestrial sites of special scientific interest and national park areas were managing a semi-natural habitat—a landscape that has been farmed and lived in for tens of thousands of years. Those semi-natural and modified habitats are now considered to be of conservation value in themselves. So, we have to look at what management activities—human activities—are required to maintain the site. However, when we go out to sea, we are usually looking at naturalness. Yes, we do modify habitats at sea, but, once they are modified, they are usually considered to be of a lower conservation value. From an ecological perspective, the term used is that you have ‘homogenised’ the environment—you have reduced its structural complexity. So, when we intervene on land, we increase structural complexity, and, when we intervene at sea, it is usually a negative intervention and we have reduced structural complexity. That means that, when we manage marine sites, we are often looking at restricting activities. That is why it is sometimes so politically contentious.

[25] Going back to the previous point about resources, one key thing that you need, as much as resources, in order to manage these marine seascapes is the political will to put in place the restrictions that are needed to restore them. That can be difficult because, at the end of the day, you need the political will to say to people, ‘You cannot do this here.’ Whereas when we are on land, conservation often means, ‘We want you to carry on doing this here.’ Politically, that is a lot easier.

[26] **Professor Warren:** It is also a lot easier on land, because there is usually an owner, whom you are primarily dealing with and who will either object to what you want to do or will be in favour and will be protecting their area against other people intruding. At sea, it is broadly speaking a free-for-all—everyone feels that they are affected.

[27] **Lord Elis-Thomas:** I am in danger of dominating this conversation, which I should not do as Chair of the committee. Who would like to start? David?

[28] **David Rees:** You raise the point that any policies that we put in place have to also be restorative policies. Is the restoration in your view simply a case of restricting activities in those areas, thereby allowing things to naturally restore themselves?

[29] **Dr Jones:** Yes; very rarely do you need to go in and intervene. If you want to restore a terrestrial habitat, sometimes that means just stepping back and leaving it alone and

sometimes it means making a positive intervention. If you want to restore marine habitats, it is usually a matter of finding out which activities are impacting on it, restricting those activities and then standing back, other than providing whatever minimal resources allow in terms of monitoring; it is very much a hands-off approach.

[30] **David Rees:** If those marine areas are next door to an SSSI, is there a need to look at how the two will work together to ensure that the marine side also benefits from the work on the SSSI?

[31] **Dr Jones:** There are interconnections between the marine and terrestrial landscapes, one of the most important being run-off from the terrestrial landscape into the marine, which will obviously be covered under the water framework directive, but, often, in conservation management terms, there will be two very different approaches, so, other than thinking about them as a catchment, they probably are relatively independent.

[32] **Professor Warren:** I would agree. The only thing that I would add to that is that, when we are looking at managing damaged sites on land and restoring or managing a habitat, most terrestrial plant communities will progress towards a final stage. They will go through a process of succession, reaching an end role that that particular community needs in biology terms. You do not get that in the marine environment. You do not get that progression towards a succession. There is a whole match of different sorts of habitats that will be there.

[33] **William Powell:** What are the particular challenges that we face in developing marine conservation zones and renewable energy schemes in the absence of broader marine spatial plans?

[34] **Dr Jones:** You are in a very similar situation to England, where they are bringing in a marine spatial planning system, but, preceding that by about five years, they are already leasing off renewable energy areas and already declaring marine conservation zones. In some ways, you could perversely say that that is logical, because, to a degree, it does not matter what you say on a marine spatial plan, as, if it turns out that an area is suitable for X gigawatts of marine wind power, that strategic priority will often override any considerations in the marine plan. That is very common in terrestrial environments. We have a plan-led terrestrial system, but if somebody comes along with a major infrastructure development project that the national Government agrees is important for gross domestic product, that will be considered as a separate consent and the plan will be taken in to account. So, to a degree, I think that the allocation of areas to marine renewables can precede the emergence of a comprehensive marine spatial planning system, because the reality is that it would not be constrained by the plan anyway.

[35] For marine conservation zones, co-location is an option. I do not see any scientific reasons why you cannot co-locate marine renewables and marine conservation zones, provided that it can be ascertained that the windfarm will not have any significant impacts on the features. Usually, it is a very localised scour effect. I almost think that sometimes, with marine renewables and marine conservation zones, when people object to co-location, it is almost a symbolic issue. From a scientific perspective, I cannot see any reason why windfarms and marine protected areas cannot be combined.

[36] **William Powell:** Do you have any examples elsewhere in the UK or further afield where that has been successfully achieved?

[37] **Dr Jones:** They are emerging at the moment. The Dogger bank is a really important test case. The Dogger bank is an SAC in three different member states. The UK was one of the last countries to put its portion of the Dogger bank forward as a marine SAC. That is being seen as setting a precedent, from a European directive perspective, for the compatibility

or otherwise of the conservation of marine protected areas and marine renewables. All the indications are that the European Commission will say that co-location is an acceptable option.

[38] At a domestic level, in more internal waters, in the Severn estuary, there is the Atlantic Array marine windfarm. There is a very complicated and political story to do with compensation between the fishermen and the marine windfarm developer, but, to cut a long story short, that is now proceeding on the basis that the marine conservation zones and a very large 1.4 GW marine windfarm can be co-located. All the scientific advice so far is that, subject to certain provisos, it would seem that the two are compatible.

[39] **Professor Warren:** I have a slightly different take. I do not actually disagree with what you are saying, but I will put it in a bit more of a Welsh context. I think that it is very unfortunate, in getting the message across to stakeholders, that the marine conservation zones project is coming ahead of marine spatial planning. It is particularly unfortunate for that particular group of stakeholders, namely the fishermen, as they are of the view that the deal has already been done and there will be no marine conservation zones in areas where there are potential offshore energy sites. They see that as favouring one industry over another. Having said all that, it does not mean that I do not agree with what Peter is saying. I would have thought that, scientifically, it would be quite desirable to maximise an area that you have set aside for a marine energy array and in which you will be restricting other activities. It makes common sense to be able to make the most of that and think about what you could do for marine conservation.

[40] My understanding—and I do not know the full details—is that some of the companies are worried that they will then find themselves liable if the site does not meet the expectations of conservationists. So, I can see that perhaps people would need some reassurance on that issue. However, as I said, I think that the biggest issue will be to persuade people about a relatively small area of water compared with the rest of the UK, where there is a lot of interest in maximising marine energy, and to stop people thinking that they are the ones who are being pinched in every direction. The offshore marine conservation zones in the Irish Sea seem to be largely heading towards the Welsh ‘sector’, if you can call it that. They see certain areas being taken away because of offshore energy and they see themselves as the fall guys, and so I think that that will be a big issue.

[41] **Dr Jones:** One thing that I would add to that, to reinforce the point, really, is that there is an understandable perception from fishermen that they are being squeezed out in every direction. If you do not co-locate marine renewables and MPAs, you are doubling the footprint of the area that fishing is excluded from. Fishing is an economically and culturally important activity. We need sustainable food supplies. So, one of the advantages of having marine spatial planning running in parallel with the development of MCZs and marine renewables is that you could actually start to carve out fishing areas. I have a lot of sympathy for the fishing industry: as well as being excluded from certain areas, it sees this as death by a thousand cuts and as an exclusion from yet another area. Here is an opportunity to say ‘This is a fishing area’. A mobile sand bank, for example, is ideal fishing ground, and there are other good examples of that sort of habitat, so let us now map them out and say, ‘This is a fishing zone.’ For marine spatial planning to be pursued at the same time as MCZs and marine renewables are being allocated would be an opportunity to enable you to say, ‘This is a fishing zone.’

[42] **David Rees:** I have a few quick points on this matter. If you are looking at a co-location type of system, where there is an MPZ and renewable energy, is it your view that that should be based on scientific evidence about individual sites, or is it a common, generic view? Should something be looked at on an individual, case-by-case basis?



[43] **Professor Warren:** I will jump in with my first thought on that, and then perhaps Peter can think about it a bit more. It depends on the purpose of your marine conservation zone. If you take the very basic view that anything that we can set aside and not interfere with must be doing good in the marine environment in conservation terms because you are leaving it alone—as we said at the beginning, the main thing for restoring a site is to leave it alone—then, from that point of view, it would not matter where it was. However, if you are only going to have, say, three marine conservation zones in an area and one of them has to be in a co-located site, then you will want to make quite certain that it actually contains the features that you are looking for. So, it really depends on whether this is a bit of extra added on, or whether it is your prime site that you are looking for.

[44] **Dr Jones:** I completely agree with that. It is a question of establishing your principles and saying that, in principle, you favour co-location—or certainly have no objection to it. If the footprint of the areas that are closed to fishing can be reduced, and both the marine renewables objectives and the marine conservation objectives are achieved by co-location, in principle, you would favour that. Then, having agreed it in principle, you would proceed to apply that principle on a site-by-site basis.

[45] **David Rees:** I have just one other point. If we have responsibility for the area from 0 miles to 12 miles, and there is a different responsibility for the area beyond 12 miles, how will that match, and how does that fit together in that type of picture, so that the zone covers the boundary, effectively? The Atlantic Array proposal, for example, would go beyond that distance—out of our waters, anyway. There will be a greater vested interest.

11.00 a.m.

[46] **Professor Warren:** My answer to that is, ‘You tell me’.

[47] **Lord Elis-Thomas:** No, no. You will not get away with that. [*Laughter.*]

[48] **Professor Warren:** It is a very difficult issue. Clearly, one of the things that you have on the list of things to look at in this inquiry is how the Welsh Government works with its neighbours. I have to say that the experience to date with the marine conservation zone project has not set a very good precedent for what is happening. I would like to think that what happens for marine spatial planning will be much better. Although I know less about what is happening within the Welsh Government on that, I am aware that certainly the Marine Management Organisation is speaking with the marine people and working out how it is to go forward and what it will be doing, which I do not think happened—and I have to take part responsibility for that, because I was on the Joint Nature Conservation Committee at the time—when the original offshore project for the marine conservation zones was being put forward.

[49] **Dr Jones:** What should aid integration is that we have this common set of high-level objectives now, so that is an excellent starting point, but of course the devil is in the detail. The principle of co-location needs to be consistent across the UK. You can envisage a situation in which Scotland could go one way—and Scotland is going very pro-marine renewables—and England and Wales could go in slightly diverging directions, but that would be far from ideal. We have the opportunity with these high-level objectives to start establishing lower-level, more detailed objectives that are shared between the different administrations. That is one dimension.

[50] The other dimension, of course, is the common fisheries policy. At the moment, all the pieces have been thrown up in the air and we will see how they come back down again, because the common fisheries policy is going through a major reform process. That will have a bearing particularly on marine protected areas, whether what happens beyond 12 miles, and

indeed beyond 6 miles, where you have a partial derogation, is consistent with the MPA objectives. In principle, the common fisheries policy reforms should allow for protective measures to be brought in to conserve marine protected areas, but that is what they said 10 years ago, and it did not happen. We have only two restrictions throughout the whole of Europe under the common fisheries policy to protect marine protected areas. When I first read that, I was staggered and I had to verify it from three or four different sources, and it turned out to be true. So, there is a lot of room for improvement in integrating with the common fisheries policy, but there is an opportunity now to get that reform in place.

[51] **Lord Elis-Thomas:** This committee and its working group in the area of the common fisheries policy is particularly interested in what you have just pointed us towards. We are still pursuing, because what we are looking for are ways of allowing us, within the common fisheries policy, to have regional or sub-regional arrangements that will protect the traditional inshore Welsh fishing industry, which is obviously very important to us throughout the whole of Wales. We are very grateful for that.

[52] **Vaughan Gething:** Good morning. I was interested in what you had to say about the co-location of renewable and potentially economic resources as well as marine conservation zones, but it was also interesting that your response was largely based on offshore wind power and, looking ahead to the next few years, there are other forms of energy that could be gained from the sea and the tidal environment. There are the two tidal and wave stream projects in the test array into Anglesey and Ramsey Sound, and the big potential project of the Severn tidal power scheme. None of those is for wind environments and both have very different impacts, so I am interested in your view on how you see the potential development of underwater or onshore energy generation, and how that could or may affect our other obligations in respect of the marine environment.

[53] **Professor Warren:** If we leave the barrage-type scheme aside for a moment and think of the things actually out at sea, there is no reason why they would necessarily conflict with marine conservation objectives, apart from the fact that if you are after conserving the special, the special is often special because it is there where there happens to be high energy. The high-energy location is exactly the place where you might want to put your scheme, such as somewhere like Ramsey Sound.

[54] It then comes to a straight choice, in terms of whether you want to prioritise marine conservation or marine energy. If you decide that, under the circumstances, you will go for marine energy, you have to use the best mechanisms that you have to see whether you can, at the same time, achieve some conservation objectives. There is a precedent for this in terms of what has been happening at Strangford lough in Northern Ireland. Strangford lough is suffering from all sorts of problems, in terms of its protection, but it is still not absolutely certain whether energy generation is harming the protected area or not. It is certainly not causing the dramatic harm that some people thought that it would. That is a site that already had the highest protection that we could give a site in the UK domestically, at that time. That was before the energy array came in. If I was asked whether somewhere like Ramsey Sound was a good site to have a marine conservation zone, my answer would probably be, 'No, not if you are going to have a tidal energy stream there'. It would be better to avoid the issue of which takes priority. However, I would also advise that you take every measure and advantage possible to try to use it as a tester area, to see what the impact was and to learn from that. That is what I would say about those issues.

[55] In terms of barrages, they are clearly going to have a dramatic effect, full stop. I doubt whether we have a full understanding of what the impact would be on the wider environment—the Bristol channel and outwards—if we put a barrage across there. I do not think that you could say that that was in any way advantageous to marine conservation. That is not to say that I think that it is necessarily a bad thing. In my heart of hearts, I personally

think that this is not the way that I would go. It would be very difficult to argue that it was compatible with marine conservation.

[56] **Dr Jones:** I would completely agree with Lynda. My view on Strangford lough is that most of the policy initiatives to better protect and restore Strangford lough have been focused on the impacts of fishing. All of the studies that I have looked at and the presentations that I have heard concerning the impacts of the renewable project—which involves a very large underwater turbine—is that there are no significant impacts. Hundreds of thousands of pounds have been spent looking for impacts; this is seen as quite an important precedent. Broadly speaking, therefore, I agree with Lynda. The only difference is that, in my opinion, very rarely will marine conservation zones and turbines necessarily be incompatible.

[57] **Professor Warren:** I gather that, fairly recently at Strangford lough, they have been looking at the behaviour of marine mammals and that there have been behavioural changes. That is why I was a bit cautious in what I said. I do not know whether anyone is saying that these are significant.

[58] **Dr Jones:** They have changed their behaviour: they avoid the turbine. However, the turbine does not seem to affect their range and pattern—

[59] **Professor Warren:** They are avoiding it, but I believe that the scientists are worried that it is now affecting it.

[60] **Vaughan Gething:** I would be interested in having more information about Strangford lough. I was not generally aware of it, to be honest, and it sounds like it could be particularly interesting for us, in terms of policy considerations. You said that the marine mammals are changing their behaviour. One concern that has been brought to us in relation to any of these forms of power is whether fish species will change their behaviour. If there are turbines in a certain area and they are along a path that fish normally swim along, will the fish just go through those areas? How much of an impact will it have? Will the fish change their behaviour and swim around the turbines? I have no great understanding of that issue, but I understand the arguments put forward to us. Are there other examples that you could point us towards, regarding whether there has been an impact of this kind or not, and, if so, what kind of measures do we have for that? There is a balancing effect between putting things in the sea and potentially being able to generate cleaner power, as one output, and the potential impact that this could have on the marine environment.

[61] **Dr Jones:** Certainly, in relation to Strangford lough, I would encourage you to access the many studies that have been done. There have been syntheses of these studies. Fish and marine mammals will change their behaviour, but among most marine ecologists, a consensus is emerging that that is a positive thing, because they are avoiding the hazard. A small number of fish, particularly, might end up going into what becomes a fish mincer, but these things are moving quite slowly compared with the rate at which fish are dashing through them. However, that is a very good example to look at, to get down to the detail. I only saw the presentation; I have not read the report. The presentation about seals changing their behaviour showed that it was not significant; they had independent observers checking how the seals changed their behaviour. It was never considered to be a significant impact on that population.

[62] In Scotland, in the Pentland firth, there are a lot of trials of underwater turbines going in and a great deal of resource is being expended on the environmental impact of those. However, the presumption in Scotland is that, in principle, marine conservation and tidal renewables—not barrages, I hasten to add; this is just underwater windmills and the like—are compatible. The biggest problem there is that small-scale fishing activities are being excluded from these areas. That is the major conflict in Scotland.

[63] **Professor Warren:** I cannot give you examples of impacts on fish, but I would want to find out more about how far underwater the impact would be felt, in terms of changes in water movement or noise. Those are the sorts of factors that might have an effect. I would also be interested—I do not have any data—in whether there is evidence of change in sediment movement around such things. In a really wave-stressed area, you will not have sediment anyway, but in some areas you might have sediment changes. I think that it is very early days to know what that would be.

[64] **Mick Antoniw:** Following on from that, you commented that, for example, Severn-barrage-type projects might not be beneficial. On the phrasing as to whether something is beneficial or harmful, what seems to be coming from what you said in your answer to Vaughan is that, in some of these areas, we do not know and are not likely to know until you have taken the decision to proceed. What are the complications in the framework for decision making, as to what is harmful and what is beneficial and so on, in the current climate? I feel totally confused over it.

[65] **Professor Warren:** That is what I said at the beginning. The fundamental problem with marine is that there is always going to be a very high level of uncertainty. Common sense would say that, if you are going to put a damn great barrage across the Severn, it will have an impact. However, common sense will not take you any further and tell you what that impact will be. If you are going to be restricting the tidal range like that, you must be having an impact on water movements on the seaward side of the barrage, as well as backing up water on the landward side. I do not know what impact that would have. Years ago, a lot of research was done on aggregate dredging in the channel and its impact on coastal beaches and sand loss, and my understanding, from all of that work, is that it was never fully conclusive as to what the sand movements were and whether the aggregate dredging was causing the problems or whether it was natural movement. That is the sort of issue that you are likely to get. We probably would not know. There would be plenty of modelling, but whether that would help in understanding the impact further away from the barrage, I do not know, but I would be doubtful.

[66] **Mick Antoniw:** Do you favour a particularly risk-averse approach to these projects and planning?

[67] **Professor Warren:** Not necessarily. I would go for where I saw the greatest benefit. If the benefit is that great that it is worth taking the risk, then yes. However, I remain to be convinced that the benefit would be that great.

[68] **Dr Jones:** Your aversity to risk is dependent on your estimates of the magnitude of that risk. With the barrage, you know that the magnitude of that risk in terms of impact is quite high. You are fundamentally changing the tidal regime of one of the biggest estuaries in Europe. So that is a very high magnitude risk. That is when you need to be more precautionous. Having said that, other strategic priorities may override, and I think that the Commission will get heavily involved if we go ahead with a barrage on the estuary, because it will have to get a derogation under the habitats directive to do it.

11.15 a.m.

[69] For windfarms and underwater turbines, the reality is that the magnitude of the risk is much lower. There, you can be less risk averse, and bring in what they call a deploy-and-monitor-type approach—let us put them in and study them very carefully. That is what is happening at Strangford lough. So, your risk adversity is proportionate to the magnitude of the risk that you predict.

[70] **Professor Warren:** Unfortunately, adding to that, you have an idea in advance as to what the impact of some of these small turbines might be. As you rightly said, when you are looking at a barrage, it is difficult. You can see that there are big risks, but it is difficult to see how they will play out.

[71] **Lord Elis-Thomas:** What we did out in the bay caused the habitat directive anyway. I do not think that we will start messing about there again. That is a private view, of course, that I should not express, sitting here.

[72] **Llyr Huws Gruffydd:** Rwyf eisiau mynd yn ôl at sylw a wnaethpwyd ar y dechrau, yn gynnwys iawn yn y sesiwn. Roeddech yn cymharu pa mor anodd yw cadwraeth forol o gymharu â chadwraeth ar y tir, oherwydd bod perchnogaeth glir ar y tir ond ddim ar y môr, a bod hynny'n arwain at ryw fath o 'free for all'—dyna oedd y term a ddefnyddiwyd gennych. Pa elfennau, yn y cyd-destun hwnnw, sy'n cael yr effaith fwyaf niweidiol ar gadwraeth forol? Y pwynt rwy'n gweithio tuag ato yw pwysigrwydd cynnwys rhanddeiliaid yn y gwaith o ddatblygu parthau cadwraeth morol, a'u cynnwys yn y gwaith o reoli'r parthau cadwraeth hynny ar ôl iddynt gael eu sefydlu.

**Llyr Huws Gruffydd:** I want to return to a comment made at the outset, very early on in the session. You were comparing the difficulty of marine conservation as opposed to onshore conservation, because there is clear ownership of land but the same is not true at sea, and that leads to some sort of 'free for all'—that was the term that you used. What elements, in that context, have the most damaging impact on marine conservation? The point that I am working towards is the importance of including stakeholders in the work of developing marine conservation zones and including them in the work of managing those zones once they have been created.

[73] **Professor Warren:** You will not be surprised to hear me say that I think that the biggest impact is from fishing and, in particular, I would say that it was from trawling. Looking at marine conservation zones that are essentially about protecting the seabed, rather than the water column, bottom trawling and dredging is what causes the greatest impact.

[74] Turning to the last part of your question, about the issue of whether the stakeholders should be involved in managing them, I do not think that you will get any management at all if they are not involved. They have to be willing, and they have to be partners. If I were a fisherman, what would make me want to do that, apart from the fact that someone is waving a big stick at me, telling me that I have no choice? I would want to see what the benefits would be for me. Those benefits might be financial, because I might be paid in some way to do conservation-type work, even if it is just monitoring—just as we pay people on land to do conservation work. However, from a marine conservation perspective, one would like to see the fishing community thinking that it was beneficial because there will be more fish, at the end of the day. One would like to see that coming through. It will not come through if we finish up with sites that are selected for marine conservation that are not good for fish in the first place. So, there is a bit of a dilemma.

[75] The approach taken in Wales is very different to the approach taken in England and the offshore. In England and the offshore, stakeholders are involved right from the beginning, in looking at sites. The Welsh approach was to try to come up with the science first, and then invite engagement. Both approaches suffer from the same flaws. One of those flaws is that the science base is not that robust and, I would argue, can never be. It would cost far too much money to make it sufficiently robust to satisfy an individual fisherman that it is worth giving up their livelihood for that particular site. That is the first problem.

[76] The second problem is that, if you bring people in at the beginning and then you change your mind, you have upset the stakeholders. If you do not bring them in at the beginning, and you present it to them—as has happened now—in a consultation paper, no

matter how hard you tell them that it is a consultation and that you have not made up your mind, they do not believe you. It is a public engagement issue that has to be addressed. It takes time: people start at opposite extremes and they gradually come together.

[77] **Dr Jones:** I agree. You need to involve fishermen in decision making, but one of the biggest challenges in conservation—particularly marine conservation, given the high degrees of uncertainty—is that you need to combine a strategic, expert and science-led approach with provision for stakeholder participation. A good example that came out of California showed that certain commitments were made before participation started: scientific criteria would be established, MPA targets would be established, be they 10% or 15%, and then stakeholders would be approached and told, ‘Okay, we now want you to be involved in this’. Those national commitments, or in California’s case, state commitments, would come through an elected legislature, so this would not be a top-down imposition, but a reflection of the fact that this is a societal resource and that, first of all, at the strategic political level, the priorities must be established and then you go to the stakeholders and say ‘We now want to involve you in the decision as to where these sites will be’. There are certain sectors of the fishing industry that, if they are given the power of veto over marine protected areas, will always exercise it, because that is in their best interest, but the fishing industry always has to be decomposed into sectors. There are certain sectors of the industry that will do very well out of marine protected areas. So, stakeholder participation is important, but if that participation extends to the power of veto, you start to see the undermining of these political priorities such as the habitats directive, and of the increasing societal awareness of the need to conserve marine features. So, it is a combination of the two, but without the power of veto.

[78] **Llyr Huws Gruffydd:** Diolch yn fawr am hynny. Buasai diddordeb gennyf i glywed mwy am yr enghraifft o Galiffornia achos rwy’n awyddus i glywed am astudiaethau achos y buasai modd i ni ddysgu gwersi ohonynt. **Llyr Huws Gruffydd:** Thank you for that. I would be interested in hearing more about the California example because I would like to learn about case studies from which we could perhaps learn lessons.

[79] **Lord Elis-Thomas:** You have been very patient, as you always are, Russell, so it is now your turn.

[80] **Russell George:** Moving on from what Llyr was saying, your suggestion earlier about dedicated fishing zones—I am not on the common fisheries policy sub-group and my constituents are not in the industry, so my knowledge is slim on this, but it seems to me that—

[81] **Lord Elis-Thomas:** There are salmon in the Dovey. I have seen them.

[82] **Mick Antoniw:** Have you caught them?

[83] **Lord Elis-Thomas:** I am not replying to that one. [*Laughter.*]

[84] **Russell George:** It seems that there is a lack of linkage in policy between dedicated fishing zones and marine conservation zones. Are there examples elsewhere in the world where there is better linkage? How can you develop what you said earlier about dedicated fishing zones?

[85] **Dr Jones:** You can only do that logically under a broader marine spatial planning system. Remember that until some 10 or 15 years ago, if we think about the UK, the entire marine landscape was a dedicated fishing zone, and certain small exclusions then started to come in, such as military bases and offshore platforms. Prior to that, fishing, by default, had access to the entire landscape, and that was fine. The fishing industry had no problems with that. We are now seeing more and more spatial claims for other sectoral priorities coming into

the sea. That philosophy of not needing demarcated fishing zones, because the entire area was a demarcated fishing zone, has to be looked at again. There are two ways that you can go: you can bring in a marine spatial planning system and say, 'This is for marine renewables and this is a marine conservation zone—maybe we can double-layer those and reduce the footprint—and the rest is for fishing'; or if you start to see more demands for MPAs, for marine renewables or for aggregates coming in, at some point, there has to be, out of fairness, the allocation of fishing areas. You can only do that through a more integrated marine spatial planning system.

[86] **Professor Warren:** There is an extra complication, namely the need to distinguish between fishing that is essentially based on what is on the seabed and pelagic fishing where you will be moving with your stocks. If you are looking to manage pelagic fishery, that probably has to be done on a larger scale, through something such as a common fisheries policy; there has to be some agreement at that level on managing those sorts of stocks. However, in terms of the seabed, the vision that I would like to see is not a fixed forever allocation: 'Here's your marine conservation zone, here's the area where you can fish and here's the area where you can have your marine renewables' but a sustainable management pattern that will be a little bit akin to what we used to do with agriculture, where you would leave a field fallow on a cycle. In a marine environment, keeping an area closed is the equivalent of leaving it fallow. You would hope that, in time, it would recover and that you might then be able to swap around so that you would then leave fallow the area that was being fished and you would move things around. In that way, there is not a distinctive area that is always going to be for fishing and distinctive areas that will always be marine conservation zones. Proper marine spatial planning should mean that you need neither on a permanent basis. You will just manage things in a zonal way.

[87] **Dr Jones:** I would agree with that for mobile sedimentary habitats—muds and sands—you could bring in a fallowing system—

[88] **Professor Warren:** Yes, I am only thinking of that.

[89] **Dr Jones:** From a fishery science perspective, there may be advantages to leaving it fallow. You may then get a burst of productivity when you fish it. Some fishery scientists maintain that you maintain the productivity of a site by continuously trawling. As yet, that science is uncertain. However, where certain conservation features are concerned—biogenic reefs and the like—closures need to be permanent.

[90] **Professor Warren:** Yes.

[91] **Dr Jones:** You would need to fish for only one week a year to set back the ecological recovery of the area by five to 10 years.

[92] **Professor Warren:** I agree entirely with that. I was thinking of sedimentary habitats.

[93] **Dr Jones:** A dynamic fisheries management system certainly has potential for mobile sedimentary habitats but not for reefs and biogenic reefs.

[94] **Professor Warren:** However, you must also remember that biogenic reefs move. They grow.

[95] **Dr Jones:** Yes. One of the nice things about this is that things move around. It is dynamic. That means that, often, your zones will need to be revisited every five to 10 years anyway. That is the wonder and interest of working at sea.

[96] **Lord Elis-Thomas:** The same is true on land. I love the sand dunes along Cardigan

bay, which are always moving.

[97] **Dr Jones:** Absolutely, yes.

[98] **Professor Warren:** Yes—

[99] **Lord Elis-Thomas:** —although some people try to pour tarmac on top of them. David is next.

[100] **David Rees:** Going back to the issue of integration, are there any examples in Europe of that integration? We have a problem in a sense because we have a responsibility to a certain distance and then there is a shared responsibility. However, with regard to fishing rights, we have grandfather fishing rights. It is going to be very difficult for nations that have those rights to even come up with an agreement on this. Are there any examples in Europe of where that combination works, following the example you are talking about?

[101] **Professor Warren:** That is outside my area of expertise so I cannot answer that.

[102] **Dr Jones:** One very good example would be the Wadden sea, which is off the coast of Germany, the Netherlands and another country—I cannot remember what the third country is—

[103] **David Rees:** That would be Denmark then.

[104] **Dr Jones:** Denmark. That is managed under a tri-national agreement, a tripartite agreement between the three countries as both a marine protected area and an area where certain fishing activities that are compatible with conservation objectives are allowed. The management scheme is agreed between the three member states, and it has been running now for nearly 10 years. Therefore, the Wadden sea is an example of integration that is worth looking at. What is emerging as a very good example at the moment is the Dogger bank. It is arguably one of the best examples—or certainly an example—of the challenges being faced for integrated marine spatial planning. That is emerging; it is too early to say whether it will work. However, an awful lot of European resources are being poured in to try to develop an integrated management approach for the Dogger bank so that you can combine nature conservation, oil and gas, fishing and marine renewables—four really key sectors. It is shared between three countries, so that could be another good example of emerging good practice with this integrated approach.

[105] **Professor Warren:** You may have seen me frowning listening to that. The world must have changed considerably since I left JMCC. From the UK perspective, I think that an enormous amount of public funding was wasted on Dogger bank in duplicated research in trying to meet the different calls from different Westminster Government departments. I am very pleased to hear that things are working better now, but I would still make the point that an awful lot of money has been spent and a great deal of scientific thinking has gone into that and I am not certain that it was a good use of public money.

11.30 a.m.

[106] **Dr Jones:** That is a good example of a point that I made right at the start of these proceedings. There was a lack of political will to designate it as a special area of conservation because it was feared that that would foreclose the development of the windfarm. Money was literally thrown at it: 'We need better science; we need more research'. It was a way of delaying the decision. To get them to notify their area as an SAC, it took the Commission to say, 'Look, we are going to start infraction proceedings eventually, or we are just going to add it to your national list if you do not'. There was genuinely a lack of political will, which was



manifested by saying, ‘We need more information’. It is just a way of delaying the decision.

[107] **Lord Elis-Thomas:** You have given us some really challenging evidence, as I suspected that you would, and we are very grateful to you. I wish to pursue two themes, one of which you have just come back to now, and which seems to me perhaps to be the most important general theme for us, which is the challenge for much more effective co-operation within the UK between devolved administrations, in which I include England for the purposes of this discussion. There is also the issue of the European dimension, clearly. Then there is the related question of how—as you suggested earlier, Lynda—the planning system should really be working, which, as you have both highlighted, means proper marine spatial planning leading to a system where decisions can be made positively about conservation and about sustainable development in the sea resource. How do we get that now given that we have messed things up in the short term?

[108] **Professor Warren:** I think that the single strongest thing that is needed is related to the point that Peter made at the very end, which is the political will and the clear direction from the top that says, ‘If we are going to meet the objectives that we have all signed up to for the marine policy statement, and we are going to effectively look at sustainable development in the marine environment, we are going to do X, Y and Z. That is going to happen.’ The issues are going to be around how you actually pan that out, in practice. There are still plenty of people out there who think that everything is still up for grabs and that policies can be changed.

[109] **Dr Jones:** I would completely agree with that. The key to this is having the political will to better protect, for instance, European marine sites, but, at the same time, to say, ‘We need to allocate areas for marine renewables, where feasible’. Let us say, for example, that, in principle, we favour co-location and we recognise the need to minimise the impact of areas where fishing is excluded. So, running parallel with that, we are going to look at bringing in a sustainable fisheries management system that actually provides for fishing. Rather than do this separately on a piecemeal basis, it should explicitly be said from the outset that this is a combined initiative. We want to conserve areas, we want to provide for marine renewables and other industries, and we want to see a sustainable source of food and the supporting of traditional cultures coming from small-scale inshore fishing. You can only do that through an integrated approach, which takes the Assembly to stand up and say, ‘We are committed to doing this’.

[110] **Professor Warren:** It also means having the strength of convictions not to turn to the resort of getting more detailed information whenever a complaint arises. I would not say that it is necessarily always done as a delaying tactic; I think that it is sometimes done quite genuinely. People want to make the right decision. I think that there is a need to appreciate that there will never be enough information to be certain that you are making the right decision.

[111] **Lord Elis-Thomas:** I think that we are fairly familiar, around this table, with people in spatial planning on land who ask for more information when they cannot make a decision. I suppose that it is the equivalent of that. I am not looking at the people from Powys in particular. [*Laughter.*] I was looking that way.

[112] **David Rees:** We were looking at the people from Powys. [*Laughter.*]

[113] **Lord Elis-Thomas:** I will come back to the capacity question. If we were to go for a proper strategic planning framework—and we come back to the idea of proper marine spatial planning—how much more capacity would the officials in the Welsh Government, and in other Governments, need to deliver that?

[114] **Professor Warren:** You would certainly need more than the one dedicated person who I believe is there at the moment, who has also been pulled from doing it in order to do marine conservation zone stuff.

[115] **Lord Elis-Thomas:** Thank you for saying that. It is very helpful that you have said that publicly. We are very grateful.

[116] **Dr Jones:** It goes back to a point that Lynda made right at the start, that we have to stop thinking about the sea as a sector, and quite an under-resourced sector. We should instead be thinking that, comparing the marine Welsh territory with the terrestrial Welsh territory, we need a commensurate amount of resources and people to manage the Welsh marine territory. That would be more than one.

[117] **Lord Elis-Thomas:** Thank you very much. Diolch yn fawr.

11.37 a.m.

### **Papurau i'w Nodi Papers to Note**

[118] **Yr Arglwydd Elis-Thomas:** Mae gennym bapurau i'w nodi, sef llythyr gan Weinidog yr Amgylchedd a Datblygu Cynaliadwy yn rhoi gwybodaeth ychwanegol yn dilyn y cyfarfodydd ar 27 Mehefin ac 19 Gorffennaf. Rydym wedi derbyn llythyr gan y Dirprwy Weinidog Amaethyddiaeth, Bwyd, Pysgodfeydd a Rhaglenni Ewropeaidd yn dilyn y cyfarfod ar 25 Gorffennaf. Rydym hefyd wedi derbyn 'Cynnig Cydsyniad Deddfwriaethol: Bil Senedd y DU ynghylch Menter a Diwygio Rheoleiddio y Banc Buddsoddi Gwyrdd'.

**Lord Elis-Thomas:** We have papers to note, namely a letter from the Minister for Environment and Sustainable Development providing additional information following the meetings on 27 June and 19 July. We have received a letter from the Deputy Minister for Agriculture, Food, Fisheries and European Programmes following the meeting on 25 July. We have also received 'Legislative Consent Motion: UK Parliament Enterprise and Regulatory Reform Bill on the Green Investment Bank'.

11.38 a.m.

### **Cynnig dan Reol Sefydlog Rhif 17.42(vi) i Benderfynu Atal y Cyhoedd o'r Cyfarfod Motion under Standing Order No. 17.42(vi) to Resolve to Exclude the Public from the Meeting**

[119] **Yr Arglwydd Elis-Thomas:** Gofynnaf am gynnig i fynd i sesiwn breifat.

**Lord Elis-Thomas:** I ask for a motion to go into private session.

[120] **William Powell:** I move that

*the committee resolves to meet in private item 5 on the agenda in accordance with Standing Order No. 17.42(vi).*

[121] **Yr Arglwydd Elis-Thomas:** Gwelaf fod pawb yn gytûn.

**Lord Elis-Thomas:** I see that everyone is in agreement.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 11.38 a.m.  
The public part of the meeting ended at 11.38 a.m.*

*Ailymgynullodd y pwyllgor yn gyhoeddus am 1.13 p.m.  
The committee reconvened in public at 1.13 p.m.*

### **Papurau i'w Nodi: Parhad Papers to Note: Continued**

[122] **Yr Arglwydd Elis-Thomas:** Deuwn yn ôl i eitem 3 ar yr agenda, a'r hyn a drafodwyd gennym y bore yma. Cyfeiriais at y cynnig cydsyniad deddfwriaethol a gyfeiriwyd at y pwyllgor hwn. Mae'r cynnig hwn o bwys amlwg i Gymru, ac y mae'n gorgyffwrdd â phwerau deddfu'r Cynulliad Cenedlaethol mewn perthynas â gwaith amgylchedd y pwyllgor hwn. Wrth gwrs, nid oes gan y Cynulliad Cenedlaethol gymhwysedd i ddeddfu ym maes bancio—eto. Dyna pam y mae cynnig gerbron, i sicrhau bod modd i Senedd y Deyrnas Unedig ddeddfu yn y maes hwn ac ar unrhyw faterion a allai fod o ddiddordeb datganoledig neu o fewn ein cymhwysedd ni. Fel y gwyddoch, dyna yw arwyddocâd cynigion cydsyniad deddfwriaethol.

**Lord Elis-Thomas:** We now return to item 3 on the agenda and what we were discussing this morning. I referred to the legislative consent motion that has been referred to this committee. This motion is of clear importance to Wales, and overlaps the National Assembly's legislative powers in relation to the environment work of this committee. Of course, the National Assembly does not have competence to legislate in the field of banking—yet. That is why we have the motion before us, to ensure that the United Kingdom Parliament can legislate in this area on any issues that may be of devolved interest or within our competence. As you know, that is the significance of LCMs.

[123] Felly, yr hwn y carwn ei gael yw eich cefnogaeth yn ffurfiol ein bod yn ysgrifennu at y Gweinidog ac yn rhoi gwybod ein bod ni'n annog y Cynulliad i gefnogi'r cynnig hwn. Yn sicr, bydd aelodau o'r pwyllgor am gymryd rhan mewn unrhyw ddadl a fyddai'n digwydd ar y cynnig cydsyniad deddfwriaethol, oherwydd ei berthnasedd arbennig i ni ac i'n gwaith ni. A oes rhywun am gytuno â hynny neu am siarad arno cyn i ni ei gytuno, neu a ydym yn hapus i'w gytuno?

So, I would like your formal support to write to the Minister and to give notice that we encourage the Assembly to agree to this motion. Certainly, members of this committee will wish to participate in any debate that may be held on this legislative consent motion, because of its particular relevance to us and to our work. Does anyone want to agree with that or want to talk about it before we agree it, or are we happy to agree it?

[124] **Mick Antoniw:** We are happy to agree.

[125] **Yr Arglwydd Elis-Thomas:** Felly, rydym wedi cwblhau ein busnes.

**Lord Elis-Thomas:** We have therefore completed our business.

1.15 p.m.

**Ymchwiliad i Bolisi Morol yng Nghymru—Tystiolaeth gan Gyfarwyddiaeth  
Gyffredinol yr Amgylchedd, y Comisiwn Ewropeaidd  
Inquiry into Marine Policy in Wales—Evidence from DG Environment,  
European Commission**

[126] **Lord Elis-Thomas:** We have completed our business at this end, so are the witnesses happy to begin our session? I see that you are. You are both welcome. I am Dafydd, the Chair of the committee in Cardiff, and you can see my colleagues sat around the desk.

[127] **Ms Schomaker:** I wanted to thank you very much and apologise for apparently being late. I was under the strong impression that we would be starting at 3 p.m. Brussels time and 2 p.m. UK time and I was comfortably sitting at my desk, typing e-mails when I heard that I should have been here.

[128] **Lord Elis-Thomas:** I apologise for any difficulty that this may have caused, but, as I explained to colleagues earlier, we cannot delay the committee for I have a hairdressing appointment at 3 p.m. and I know that my colleagues have other matters to attend to. *[Laughter.]*

[129] This is the first day of our discussion of the marine policy issues that face us and the marine environment in Wales. In considering drafting a report for the National Assembly for Wales on this subject, we want to ensure that we begin by placing ourselves fully within the European context. Our Assembly colleague, Gregg Jones, is here. He is the person responsible for liaison between the Assembly and the institutions of the European Union. We are glad to have him in Cardiff in person today.

[130] First, would you like to set out your priorities for the European marine environment in terms of the Directorate-General for the Environment? If you were advising this committee as to which directions to take and what issues to prioritise in terms of what we can effectively do to advise the Assembly and Welsh Government on our role, what would you say should be the priorities?

[131] **Ms Schomaker:** I will start by saying something more directly on the marine framework strategy directive, which forms, in many ways, the focus of your intention as being an overarching instrument that deals with the marine environment. As you know, this is a very new directive, which only came into force in 2008 and, as a directive, it had to be transposed into national law, which happened in the UK in 2010, in keeping with the deadlines. It is difficult for me to give specific advice on a country basis for two reasons: first, when directives are being transposed into national law, we make what we call a 'conformity check'. Given that the deadline was only in 2010 and we have to do that for, as you know, a large number of member states, the process is not yet completed. So, as far as the UK is concerned in particular, the conformity assessment has not been completed and therefore we are not in a position to say whether there are particular issues that the UK, in its transposition of the directive, has not paid sufficient attention to. We are not able to say that at this stage. However, early in 2013, I believe that we will be able to do so.

[132] The second element that will allow us to speak on a national level and make national-level recommendations in the future are the first steps of the implementation of the directive. On that, we are also a bit early in the sense that the first important milestone of the implementation of the directive is just ahead of us, on 15 October, which is the first reporting deadline. That is the first time that we will hear directly from the member states how they intend to go about implementing the directive. As you know, and, as I said, the directive is a broad and overarching instrument, which aims to achieve what is called 'good environmental status' by 2020. It is the specificity of this directive that we leave it to the member states to

determine for themselves, in the first instance, what ‘good environmental status’ means for them. What we expect from member states by 15 October is an initial assessment of the current status of your marine environment and the regional seas that surround you and, together with the identification of these characteristics, the determination of what ‘good environmental status’ is and what targets you think that you need to set yourselves in order to work towards achieving good environmental status. As you know, because Wales has been very actively involved in this, this is supposed to happen on the basis of a broad-based participatory process, which also involves a public consultation, which has been carried out in the UK and, I think, came to an end in June. We know that the UK will be able to report to us in keeping with the reporting deadline on one of those three aspects, namely the initial assessment—the article 8 initial assessment. We have been told that we will receive that input by 15 October. However, with regard to the targets that need to be set and the definition of good environmental status, the UK will not be able to meet the deadline. Of course, that will slow down our work.

[133] We will then sit down to look at the input we have from member states. Naturally, we hope that the majority of member states will meet the deadline—although we know that there are others in addition to the UK that will not. Then, for us, starts a very complicated and complex process to look not only at what has been done at an individual country level but how that fits together with the regional seas of neighbouring member states because, obviously, all the seas are shared seas and we must ensure that, within the regional sea basins, we have a similar level of ambition. In fact, that is the case not only within the regional sea basins but for the four regional sea basins that the European Union is concerned with.

[134] Therefore, a very immediate operational priority, as of 15 October, is to launch this very complex procedure to check the 11 characteristics—so-called descriptors—that the marine directive sets out and which member states have to take into account in the determination of good environmental status. We will have to check whether this work has been done with a sufficient degree of, let us say, attention and scientific depth. We will then start a process of national comparison that will culminate in our coming forward with a report in 2013 that should also make recommendations to member states with regard to how we see the good environmental status at EU level.

[135] That is where we are and that is why I feel some embarrassment sitting here because I really cannot tell you anything about your situation or the priorities you should be focusing on at this stage.

[136] **Lord Elis-Thomas:** No, but you have told us exactly what we wanted to hear, which is what the European Union framework within which a devolved Wales and, indeed, the UK working together within marine policy frameworks need to achieve. One of the issues we have already been told about this morning by Dr Peter Jones is the fact that we need to look for effective collaboration within the European Union and within the UK because of that major issue of the need to ensure that regional seas operate in that way—the inter-regional way that is absolutely necessary for these environmental objectives to be met. David, would you like to begin the questions? Thank you.

[137] **David Rees:** Good afternoon. I have a question on the expanse of water we are looking at. We have been informed that it is within our waters, but our waters vary in distance off the shore. Therefore, Wales’s remit can extend up to 12 nautical miles; beyond that, there is a different perception of who has responsibility. Clearly, there is a need to work closely with our neighbouring states as well. How do we look at that, particularly with regard to fishing and the impact fishing will have on achieving good environmental status?

[138] **Ms Grohs:** As Astrid has explained, the marine directive is a very new instrument for us. We have quite a lot of experience with older directives that you will be aware of—the

habitats directive and the wild birds directive—and how they operate with regard to interaction with fishing. I understand from your colleagues that fishing is a particular concern for the Welsh Government. As far as I understand it, the Welsh Government has responsibility only up to 12 nautical miles. Is that correct?

[139] **David Rees:** Yes.

[140] **Ms Grohs:** Beyond that, the waters are the responsibility of the United Kingdom as a whole.

[141] **David Rees:** Yes, but the concern that we have is around the grandfather rights access to the areas, and therefore the good environmental status, and management of the environmental status, obviously has an impact as a consequence of that.

[142] **Ms Grohs:** In terms of fisheries policy in the past for the habitats and wild birds directives, what has happened so far is that there is a kind of onion layer of competencies within the UK. Basically, from 0 to 6 nautical miles the member state has competence to control fishing activities, and then there is 6 to 12 nautical miles, and from 12 outwards you start touching upon the common fisheries policy. In the past, as far as actions are concerned for the member states themselves, once you are in an area where you are in the common fisheries policy, member states are required to draw up their own action plans. For example—our experience in the past has been for protection of designated habitats—if you identify that the key pressure on a site is likely to come from fisheries, you would have to come to the Commission with a proposal that is then dealt with by Directorate-General for Maritime Affairs and Fisheries to see whether stopping fishing is justified. The difficulty that member states have is that, if they take that action unilaterally, all they can do is stop their own fishermen from fishing. They do not have the authority to stop other member states' fishermen coming in. So, that is the mechanism that has been found, and is also explained in some of the guidance that I will be referring you to.

[143] On the marine strategy directive, obviously there will also be this kind of onion layer of competencies, which will require an interaction with you internally—Wales with the UK—but also the UK with other member states, to find a way in which that protection can be bound and anchored within the common fisheries policy so that the restrictions apply to all fishermen, and not just UK ones.

[144] **David Rees:** Can I therefore clarify that, if we put in a marine conservation zone up to the 12-nautical-mile limit, from 6 nautical miles onwards there are issues with fishermen from other countries and states who may be coming in if we preclude the fishermen from our state?

[145] **Ms Grohs:** I would have to double check, because it is something that we have previously discussed with the UK. I do not know whether you were aware, but previously the UK's transposition of the habitats directive was limited to territorial waters. That was an issue that was overturned in the national courts and subsequently in the European Court of Justice. We had quite a few debates with the UK then about how fisheries policy would apply in the exclusive economic zone, particularly in compliance with the common fisheries policy. As far as I remember—although I would have to double check—from 6 to 12 nautical miles you would also be touching upon the common fisheries policy, so I do not think that you have full competence then to control foreign fishermen coming in. There are, as far as I remember, in the UK coastal area, various traditional rights—I think you call them grandfather rights—that are operated by other member states coming in. In order to control those, you would have to go through the common fisheries policy.

[146] **Llyr Huws Gruffydd:** Hoffwn holi **Llyr Huws Gruffydd:** I want to ask a little

ychedig ynglŷn â'ch cynigion ar gyfer cynllunio gofodol morol a rheolaeth integredig o barthau arfordirol, a'ch gwahodd i wneud unrhyw sylwadau neu fynegi unrhyw uchelgais sydd gennych o safbwynt integreiddio cynllunio gofodol morol a chynllunio gofodol tiriogaethol.

more about your proposals for marine spatial planning and the integrated management of coastal zones, and invite you to make any comment or express any ambition that you may have in terms of integrating marine spatial planning and terrestrial spatial planning.

[147] **Ms Schomaker:** I will pick up here again. There is no Commission proposal yet. We have, however, on various occasions said that we are looking into an initiative that would bring together marine spatial planning and integrated coastal zone management. The latter is already subject to EU legislation, albeit in the shape of a non-binding recommendation. On marine spatial planning, there are at present no EU-wide rules. The idea that we had, which was confirmed by the impact assessment that we carried out, is that we see merit in making sure that the marine spatial planning processes and the coastal zone management processes in the widest sense talk to each other. So, that would be the ideal, I think, but as I said, we have not yet come forward with a formal proposal.

1.30 p.m.

[148] That could be done in the shape of one integrated process or it could be in the shape of two processes, which are organised in such a way that interaction is ensured between the two of them. Clearly, there are activities at sea that are covered by marine spatial planning that have a direct impact on what is happening on the coast—wind, energy or oil exploration or exploitation. Whatever you put in the sea has a reflection on the coast. Therefore, if the two planning or management processes were to take place in isolation, we do not believe that they could achieve an optimal outcome.

[149] We are mindful of the fact that, in many member states, there are already such processes in place, both for coastal management and for marine spatial planning. However, this is not the case in all member states. So, our chief objective is to make sure that all member states have such processes and that these processes follow certain minimum criteria, let us say, again, in terms of public participation, and we believe that it is important to make sure that you talk to a neighbouring member state. This planning process, because the waters are shared, cannot take place in isolation in one country if the neighbour is not involved and informed of what is going on. This is also true, for example, for coastal erosion. If one member state believes that it has to take measures to combat coastal erosion, but the neighbouring member state does nothing after the border, then the efforts of that one country will not be effective.

[150] So, to summarise what we are thinking about, as we have announced, we will be coming forward with an initiative as soon as possible—I am not able to give you a precise date—that will bring together these two processes and will introduce an obligation to have such processes, but will, however, stay clear of interfering in any way with member states' authority as to the outcome of these processes. So, we are talking only about process obligations. The aim of all of this is twofold: to make sure that, through these processes, we arrive at the best protection of the national resources—the marine and coastal resources—and also that we arrive at a sustainable exploration and exploitation of the marine sources that the seas have to offer.

[151] You may be aware that we recently issued a blue growth communication, which clearly identifies the fact that 50% of the EU's territory is ocean and that there is a growth potential there that, in the current economic situation, we cannot ignore. However, to benefit from it, it has to be done in such a way that will not just look into the short-term gains, but also ensure long-term sustainability, which means, for us, that the natural resource-base is

properly protected through these processes. I hope that I have answered your question.

[152] **Llyr Huws Gruffydd:** Do, diolch yn fawr. **Llyr Huws Gruffydd:** Yes, thank you very much.

[153] **Vaughan Gething:** We have had a discussion this morning, which is an ongoing discussion within this committee, about the potential for marine energy sources—tidal and wave, as well as offshore wind. We are interested in your perspective on what you expect from member states and European regions in terms of balancing the varying imperatives of wanting to have genuine conservation and protection of the marine environment with the potential to exploit renewable forms of energy. So, where and how do you see member states trying to have that balance between the technology that goes into the sea and the encouragement that there may be from Europe to see that sort of exploitation carried forward?

[154] **Ms Grohs:** In terms of conservation, our main role in the Directorate-General for the Environment is to try to look at the implementation of our directives in terms of the conservation of habitats in the marine environment. There are certain tensions with certain developments if you have a protected site—some more than others. With windfarms in particular, a number of concerns were raised, particularly for terrestrial sites. However, some concerns have come to us in the past in relation to offshore and coastal sites, and in the UK, we understand and have seen an expansion of offshore windfarm developments. What has been quite interesting to observe in the UK is that the first round of sites for coastal and offshore windfarms was very much developer driven. Sometimes, rather unfortunately for the developer, the developer would carry out an environmental impact assessment and find present on the site that they were proposing to develop either harbour porpoise or various birds that required protection. Once the information that they gathered was presented to the national authorities, they began to realise the value of the site that was being assessed. We had a number of discussions with the UK to say that it was unfortunate if developers were coming forward with information through their environmental impact assessments that should have been picked up more strategically through national monitoring to guide developers away from particularly sensitive areas and towards areas that would be more suitable for development.

[155] Some progress has been made there, but that difficulty still exists for the UK, and because we have so many complaints and concerns raised—not just in the UK—about windfarm development, the Commission brought out a guidance document to try to assist member states to identify some of the steps that they should be taking for windfarm development, including offshore windfarm development. For us, a key step is trying to identify the real nature value that exists in the sites, so that developers are guided towards areas that may be of lower value or towards developments that are more sustainable and in keeping with the sites concerned. We are not talking about the habitats directive implementation yet, but a concern there is what level of monitoring is being carried out independently of where developments are being proposed. Our legislation on nature protection does not stop developments, but it requires quite an in-depth assessment of the likely impacts and then a look at how best that development is managed, positioned and placed.

[156] **Ms Schomaker:** If I may come in with an additional sentence, one of the so-called descriptors—the factors that the UK Government has to assess in determining good environmental status under the marine strategy framework directive—relates precisely to offshore energy and the related pressures on the marine environment, in particular stemming from noise, which is also a real concern for the marine species and not just for the coast. So, when Sibylle is talking about the need for enhanced monitoring, it will happen and be forced through the marine framework directive, because this is one of the characteristics that will have to be analysed in the regional assessment and for which targets may have to be set and,



ultimately, monitoring programmes established on a European-wide basis.

[157] **David Rees:** May I come back to the ICZM? You mentioned integration with other directives, but I want to look at the water directives, particularly the bathing water directive, and the impact that that will have on coastal zone management and coastal zone planning. This year, we have seen exceptional conditions in Wales and, as a consequence, we will probably fail to get blue-flag status on a lot of beaches, because of the tougher directives. The causes are land flows—I cannot say pollutants—and what is coming into the water from higher up in the land. Has the EU considered how it will look at those directives and how they impact upon coastal zone management, because, as the water comes down into the estuaries and into coastal areas, that will have an impact upon what we want to do with our coastal areas?

[158] **Ms Grohs:** Maybe I can answer some of that question. I should explain that I am not from the nature unit; I am the desk officer who deals with UK infringements, so I have had some experience in the past with some of the coastal problems on urban waste water treatment and bathing waters and also shellfish waters. I am aware that in Wales there are two problems and, in that, Wales is not unique in the UK. One is increasing pressure from storm water overflows. A concern that the Commission has had for quite a few years is the reliance on storm water overflows, and given the changing weather conditions, the fact that those are, in themselves, causing increased pollution. When you have very sharp rainfall, and ingress of water into the combined sewer systems, that tends to lead to excess flows out to sea, and therefore also to potential breaches of the bathing waters directive. We are also aware from previous infringement action on the shellfish waters directive that there is still considerable pressure around Wales from diffuse pollution, mainly coming from agriculture. It is something that will need to be tackled nationally in Wales, to see whether there are ways of diverting some of the rainwater run-off out of the sewage systems, and finding ways where that does not enter the sewage systems and overburden them. The forecast is that, if climate change weather conditions continue to become more unpredictable, further pollution incidents will occur. The second issue, which we would also be looking at now under the water framework directive, is how Wales and the UK as a whole is tackling the impact of diffuse pollution on good status. I am not sure necessarily whether that would then feed through to changing the legislation, but I think that compliance may become more difficult.

[159] **David Rees:** One of my concerns is the agreement between states over issues beyond our 12 nautical miles. If Wales decides to put in marine conservation zones up to 12 nautical miles, clearly there has to be some form of agreement beyond that. What experience is there within the EU of nations actually coming to a sensible agreement to look at how a zone within national waters expands into the waters beyond, effectively using marine spatial planning and creating a larger zone, because the surrounding areas will support what is being done closer to home?

[160] **Ms Grohs:** In terms of water, there is some experience of various international agreements where the membership includes the EU and its member states. We have, for example, issues of tackling eutrophication, which have seen a lot of debate. That is followed by the EU and the member states in, for example, the OSPAR convention, and that is a very good venue for exchanging information and working together with other member states that are contracting parties to that convention. Within the EU, I think that there will always be certain tensions. One that we have seen, for example, on nature protection is the designation of the Dogger Bank under the habitats directive. If one member state is really unwilling to designate a particular area, it is in some ways quite difficult for the Commission to force its hand. Most of the time, it needs to be a persuasive dialogue that takes place between the different member states concerned, certainly in the first instance.

[161] **William Powell:** I wanted to raise a particular issue that has come to my attention,

and colleagues' attention, through the Petitions Committee, which is another committee of this Assembly. It relates to problems around cockle mortality in the Burry inlet in south-west Wales. I wondered whether you or your colleagues had had any engagement with the investigation as to the cause of that problem, which is causing quite acute difficulties for cocklers in that part of south-west Wales, and if you are not aware yourself of the issue, whether you could please liaise with other colleagues as to whether it has been raised with other members of the team. I think that it does relate, potentially, to some of the issues that you have raised in earlier answers.

1.45 p.m.

[162] **Ms Grohs:** I am very aware of the case. It is one of the cases that I am dealing with, and in fact it has gone to infringement as a letter of formal notice. It was quite some time ago. The key concern that we have had, as I explained, is the undercapacity of Gowerton and, if I remember correctly, Llanelli to deal with storm water overflows and to deal with the inflows, particularly those from land run-off, which seems to be causing difficulties for the two treatment plants and causing excessive spills. Whether that is causing the death of the cockles I am not sure has been proven yet, but the concern that we raised in our infringement action related to these excessive storm water overflows. Now, that case has been frozen for the moment, and the reason for that is that we have had a general debate—I would probably put it as a disagreement with the United Kingdom as a whole—about how the compliance of storm water overflows is assessed. We are currently awaiting the judgment of the European Court of Justice, due on 18 October, on two lead cases concerning the Thames—basically, spills in London and spills in Whitburn. They concern the same principle.

[163] As we have explained to the complainants in that case, we have to await the judgment of the court of justice in this matter first to see whether it agrees with our interpretation of the directive—which the United Kingdom says is too restrictive—to see how we can then progress with the Burry inlet case.

[164] As for the cockle fishermen and the claims that the problem is caused directly by the storm water overflows, I am not sure that that is 100% proven; nor am I sure that it would necessarily be a hook that we would look at in our investigation of the infringement. However, there is definitely an open infringement with regard to the capacity of the two plants concerned and the spills of untreated sewage into the local environment.

[165] **William Powell:** I am extremely grateful for that, as it will help to inform the debate that we are to hold in the Assembly on the Wednesday of next week.

[166] **Lord Elis-Thomas:** You may, of course, find that Members of the National Assembly may take a view that is closer to yours than that of the United Kingdom Government—that will be no surprise to you, I am sure.

[167] Have we any further questions? If not, I would like to ask you, Sibylle, if you have a summary that you would like to offer us at the end of this questioning session. In answer to my first question, I should have called you in at that stage, to ask what you thought our priorities might be in preparing a report that would be useful to this committee, to the National Assembly and, indeed, to you in the European Commission in pursuit of the implementation of the directive. Would you have anything more general that you would like to tell us about before we close?

[168] **Ms Grohs:** I do not know. I prepared, in a sense, for your questions on the habitats directive and the birds directive. You asked for some input to see where the Commission is going with its assessment of conservation status.

[169] **Lord Elis-Thomas:** You made some very helpful comparisons between the implementation of the habitats directive and the issues that face us on the marine directive. If you are able to tell us something on that, it would be very helpful.

[170] **Ms Grohs:** On the EU-wide conservation status assessment, although this directive is considerably older than the marine strategy framework directive, we are, in a sense, still looking at the information as it comes in before we can give a full assessment of the conservation status of the Natura 2000 network across the EU. The first reporting exercise was undertaken, and that covered the time period between 2000 and 2006, and I think that the Commission report on that came out, if I am correct, in 2008. That, in a sense, is the baseline that the Commission will use for the next reporting exercise, to see whether the necessary progress has been made in achieving conservation status.

[171] The difficulty for the marine environment is that, when we took that snapshot, there were very few marine sites that were actually designated. So, as a baseline for marine, it is slightly weak. That said, however, the member states, including the UK, should now be drawing up their reports for the 2013 reporting deadline, and the Commission will again have to assess the information that comes in, together with the European environment agency, and then produce its report giving an assessment of the conservation status of the various habitats and species. I am informed by the nature unit in DG Environment that the report is likely to be finalised by the end of 2014.

[172] As far as the UK is concerned in that picture, the UK has a very low percentage of terrestrial designations for Natura 2000. If I remember correctly, I think that it has the lowest percentage of the European Union. England has the lowest percentage in the UK, second to Wales. However, on the marine side, the UK does slightly better for habitats, although on bird sites, we still have a very low percentage. I tried to look up some of the figures for today's meeting, and I was informed that, as a percentage of the national sea, about 1% of your national sea is designated under the birds directive, which would rank the United Kingdom seventeenth out of the 22 member states that have a marine area. For the habitats directive, the proposed designations would rank the UK about fourteenth out of the 22 member states that have a marine area. If my calculations are correct, about 5% to 6% of the UK national sea is designated. That is better than your ranking for terrestrial figures compared with the other member states, but it would still require an increased effort, particularly as the United Kingdom is generally recognised as being very important to deliver the European Union's targets for biodiversity improvements in the marine environment.

[173] You will probably also be aware that we have a so-called 'moderation' process, whereby we look at the completeness of particular sets of sites. The United Kingdom's last moderation process was in 2010, and four habitats and four marine species in the United Kingdom were found to be incomplete or insufficient. Since 2010, I am aware that the United Kingdom has submitted more new sites, which are currently being assessed. Some came in in August and last month, in September. So, we will have to see where those gaps have been plugged to shift the UK into sufficiency for those species and habitats. I am also aware from complaints received over a number of years that that gap is unlikely to be plugged for the harbour porpoise, for which we have no sites. One small site may have come forward from Northern Ireland, but without more action here we are likely to have to consider infringement action against the UK for a lack of designations for the harbour porpoise.

[174] That is probably a summary of the situation.

[175] **Lord Elis-Thomas:** That was very helpful and will stimulate us to look in much greater detail at our failure in Wales and in the rest of the UK to achieve the biodiversity targets that we should be pursuing. We are very grateful to you both for taking part in our discussions. If we may, we will return to you and your colleagues on other issues that may

arise in the course of our inquiry. Thank you very much indeed, and apologies again for any time zone difficulties that we had earlier. Diolch yn fawr.

1.54 p.m.

**Cynnig dan Reol Sefydlog Rhif 17.42(vi) i Benderfynu Atal y Cyhoedd o'r  
Cyfarfod**

**Motion under Standing Order No. 17.42(vi) to Resolve to Exclude the Public  
from the Meeting**

[176] **Yr Arglwydd Elis-Thomas: Lord Elis-Thomas:** I move that  
Cynigiad fod

*y pwyllgor, yn unol â Rheol Sefydlog Rhif 17.42(vi), yn penderfynu cwrdd yn breifat ar gyfer gweddill y cyfarfod hwn a'r cyfarfod nesaf.* *the committee, in accordance with Standing Order No. 17.42(vi), resolves to meet in private for the remainder of the meeting and for the next meeting.*

[177] A yw pawb yn cytuno? Gwelaf eich bod. Does everyone agree? I see that you do.

*Derbyniwyd y cynnig.  
Motion agreed.*

*Daeth rhan gyhoeddus y cyfarfod i ben am 1.54 p.m.  
The public part of the meeting ended at 1.54 p.m.*