MC/CRIM/32 & 33/17

JUDGMENT

Regina

v

(1) Alberto VAZQUEZ SEIJO
(2) GOLDEN TOUZA LTD

before
HHJ Martine Kushner

GIVEN ON

12th February 2018

Representation	
Mr Paul Rogers	*Defendant, VAZQUEZ SEIJO*
Mr Oliver Powell	*Defendant, GOLDEN TOUZA LTD*
Mr Stuart Walker	*Crown*

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CASE NO MC/CRIM/32 and 33/17

IN THE MAGISTRATE'S COURT OF THE FALKLAND ISLANDS

Courts and Tribunal Service
Town Hall
Ross Road
Stanley
Falkland Islands

Date: 12 February 2018

Before:

HER HONOUR JUDGE MARTINE KUSHNER, SENIOR MAGISTRATE

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R v Alberto VAZQUEZ SEIJO
R v GOLDEN TOUZA LTD

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Paul Rogers for the **Defendant Vazquez Seijo**
Oliver Powell for the **Defendant Golden Touza Ltd**
Stuart Walker for the **Crown**

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TRANSCRIPT OF THE JUDGMENT AND DECISION OF THE SENIOR MAGISTRATE

TRANSCRIPT APPROVED BY THE SENIOR MAGISTRATE

THE SENIOR MAGISTRATE:

1. I will now give my decision and reasons following a 6 day trial.
2. In this case the Golden Touza, with the master Mr Vazquez Seijo, was involved in fishing in Falkland controlled waters and had a licence to do so for a number days and so, was not limited as to quantity of squid.
3. There is a desire, and indeed a need, to monitor and control the fish stock in the seas. To monitor not simply in terms of the environmental factors which are involved, but also to monitor the catch by the various boats and to check whether there has been any abuse of the system and whether there is any understated or undeclared fish on board.
4. It is a system that is regulated. At the beginning of fishing there is a report of how much is on board, and after every transhipment, a report is sent through stating how much is left on board with a final tally at the end before the ship leaves the Falkland Islands'' waters. Then there is a calculation of how much fish passed through a ship and how much has been caught.
5. The final report showed that on board this particular ship the quantity of Loligo squid was 147108kg instead of the declared 82198kg, so it is out by 79%, i.e. over 64000kg out.
6. I need to direct myself in this matter, and do so, including the functions of the judge. In this case the defendant is to be tried by judge alone.
7. I intend to state the directions of law and also the directions as to how I should approach consideration of the evidence. In respect of the burden and standard of proof it is for the prosecution to prove that the defendant is guilty, the defendant does not have to prove his innocence. In a criminal trial the burden of proving the defendant's guilt is on the prosecution.
8. So how does the prosecution succeed in proving the defendant's guilt? The answer is by making me sure of it and nothing less than that will do. If after considering all the evidence I am sure that this defendant is guilty in respect of the charge I must return a verdict of guilty, if I am not sure my verdict on that particular charge must be not guilty.
9. Although within this judgment, I may not preface every finding that I make with the remarks that "I am certain so I am sure" it should be taken that, where I make findings, that I have reached the requisite standard of proof and that the prosecution have so proven.
10. There are two defendants in this matter. However, the owners, Golden Touza Limited, have been charged under 'deeming' provisions and so it is the case that if I find Mr Vazquez Seijo guilty of the offence then the company will be guilty too and if I find him 'not guilty', the co will be found 'not guilty' as well.
11. I must decide this case only on the evidence which has been placed before me, there will be no more. I am entitled to draw inferences, that is, come to common sense conclusions based on the evidence that I accept; but I may not speculate about what evidence there might have been or allow myself to be drawn in to speculation.
12. I don't have to decide every point that's been raised, only such matters that would enable me to say whether the matter laid against the defendant, each defendant, is proven. I'll do that by having regard to the whole of the evidence and forming my own judgment about witnesses and which evidence is reliable and which is not and that of course includes the agreed facts and any evidence which has been agreed (i.e. photos and various other charts and documentation)

13. In the course of the trial, Mr Vazquez Seijo chose to give evidence. He was not obliged to do so. I must judge that evidence by precisely the fair standards as I apply to any other evidence in the case.
14. I also heard expert evidence. That evidence was heard from abroad via live link. That's not unusual in respect of experts, but in any event I should say that the fact evidence has been given this way should not in any way be considered prejudicial to the defendant. It's simply a convenient way for this evidence to be given. I shall treat it as any other evidence and give such weight as I think fit.
15. Expert witnesses regularly give evidence and opinions in criminal trials to assist the tribunal on matters of a ***specialist*** kind and which are not of common knowledge. However, as with any other witness it will be my task to weigh up the evidence of the expert which includes evidence of opinion and consider which evidence I accept and which evidence I do not. I should take into account the qualifications, practical experience, methodology, source material, quality of analysis, objectivity and the impression the expert made when he gave evidence. I should say in respect of this expert's qualifications and practical experience, there is no challenge to the fact that he has longstanding expertise in the industry.
16. My verdict must be based on the evidence as a whole, in which the expert's evidence and opinion forms only a part. I am not an expert in some of these matters but I shouldn't undertake any experiment in my own mind; but, equally, I do not have to accept expert evidence even if it is uncontested.
17. However, in the context of this case, that if do not intend to rely on some of the expert evidence, I should be cautious not to do so without giving reasons and essentially I have given myself a 'judicial warning' about it.
18. I have heard speeches from both sides and I'm able to take account of the arguments and speeches I have heard but I am not bound to accept them. Counsel for each of the parties asked me to look at the case from their respective angles and that's right and proper, but evidence is what I have heard from witness box, or what I have read or the facts that have been agreed.
19. In respect of character I have heard that the defendant and indeed the company are of good character in the sense that they have no criminal convictions or judicial reprimands against them, and I have also heard generally about the character of the master Mr Vazquez Seijo and I asked a little bit about his life.
20. Of course good character cannot by itself provide a defence to a criminal charge but it is evidence which I will take into account in his favour and the company's favour in the following way. In the first place this defendant has given evidence, and as with any man of good character, it supports his credibility, this means it's a factor I should take into account in deciding whether I should believe his evidence, and in the second case the fact that he's of good character means that he's less likely than otherwise might be the case to commit this offence.
21. As I have said these are matters to which I should have regard in the defence's favour and it is for me to decide what weight I should give them in this case and in doing so I'm entitled to take into account everything I've heard about the defendant and the company.
22. I shall be directing myself about the ingredients of offences alleged in due course but I also should mention that there are number of agreed facts which actually the set background and backdrop in this matter.

23. And so now I turn to the ingredients of the charge and helpfully, the Prosecution and the Defence have provided for me an agreed route to verdict which has been produced in a document by Mr Walker.
24. So the first question I have to look at (and I will be interlacing the findings of fact when I consider this route to verdict) is "has the prosecution made the Court sure that on 21st May 2017 Alberto Vazquez Seijo was the Master of the fishing vessel Hermanos Touza?"
25. If the answer is yes I should go to question 2, and in fact it's agreed and there is no dispute the answer is yes.
26. So I go to question 2. "Has the prosecution made the Court sure that on 21st May 2017 Alberto Vazquez Seijo furnished a FISHEND report?" Again there is agreement that is unchallenged and I so find.
27. So I go then to question 3. "Has the prosecution made the Court sure that the FISHEND report furnished by Alberto Vazquez Seijo contained a statement that was false or misleading in a material respect?" This is in fact disputed. I in fact considered this particular aspect at what is termed as "half time" and an application was made that there was no case to answer, and I considered it in what is perhaps generally called *Galbraith* terms. That is a different test from that to which I have to apply at this particular stage so I look at the provisions.
28. Under s161 a person commits an offence who-
    (a) being the holder of a fishing licence, high seas fishing licence, overseas master fishing licence, scientific permit or fish receiver permit, contravenes a condition of that licence or permit or a provision of a temporary order;
29. And under subsection (d), a person commits an offence if he 'makes or purports to make a record, or furnishes or purports to furnish a return, (my emphasis) **relating to a matter specified in section 91**…… being reckless as to whether the record or return contains a statemen in respect of a matter that is false or misleading in a **material respect** (my emphasis.)'
30. Then I should consider section 91. I don't need to read it all, but s91 states 'the following persons (there's no dispute who should be the 'following persons' – it includes the master and the owners, i.e. the defendants) shall keep accounts and records and provide to the directors such returns and information **as may be required by or under regulations made under this Ordinance** (my emphasis).
31. So, I am referred by section 91 and I need to consider the various regulations made under this Ordinance and in particular regulation 15 and 16. Initially it was thought that the relevant provision was regulation 13 rather than 15, under the Fishing Regulation Order 1987, but it is accepted on all sides that it is a typographical area and it is clear that the relevant provision is regulation 15. No one is taking a point about the reference to regulation 13. Under regulation 16 (1) (a) the FISHCOM report should give 'the total quantity of each species of catch taken within the fishing waters since the signal under regulation 15(3) known as the FISHCOM report and (b) stating his intentions and if leaving, the expected date and time of departure from fishing waters.' Under (2) all reports within paragraph (1) of this regulation should be given the pre-fix FISHEND report and within the FISHEND report, the information which has to be provided is the amount of the catch.
32. Under Regulation 15 the master of any licensed boat fishing in these waters is required to report to the Director (of Fisheries) certain information. Such information includes the position of the boat, how much fish has been retained on board since the last report, no and duration of trawls

and any transhipment made since the last report. So, it can be seen that the Falklands fisheries is seeking to have a running total of the fishing activities within their seas.

33. However, what is being said by Mr Powell on behalf of the defendant, company, is this, - if one looks at the FISHEND report and the figures actually given by the master and if, then, the figure in the ***FISHCOM report*** is deducted from that, the final figure reached is the actual and the correct figure on the catch, so it is not misleading ***in a material respect***.
34. However, I consider and find the following:
    (a) that the return was known by all concerned to be a form designed to give the amount that was in the hold;
    (b) Everybody was working to that aim;
    (c) If, in respect of ***one*** figure or ***one*** boat, a completely different working figure is reported but on a different basis from other boats or reports, that figure then becomes random and arbitrary; and
    (d) It was not a figure or method upon which everybody was working, so the return ***is*** in fact relating to a matter specified.
35. As one works through the various positions and on the basis of what the form purported to be, it was giving a figure which was misleading in a material respect. If Mr Powell were right, the reality is there would be an inability to monitor at all because part of the reason for monitoring is not simply to find out what the total catch is or the total catch that has passed through, but it's also to monitor and to stop potential abuses of the system where there might well be understatement and under declaration. I do not agree with Mr Powell and I do not accept his submission.
36. So I find that the answer to question 3 is yes.
37. And I then go to question 4: "has the prosecution made the Court sure that Alberto Vazquez Seijo was reckless when he furnished the FISHEND report?" If the answer to that is YES I would then go to question 5.
38. So I turn to this issue, and essentially the issue is whether the defendant, Mr Vazquez Seijo was reckless. For that definition, again helpfully stated in the agreed route to verdict, I turn to *R v G* which it is agreed is the authority on the matter and the citation for that is [2003] UKHL 50, where the area of recklessness and definition of 'reckless' was at that stage in some turmoil, it has to be said, but was reconsidered by the appellate courts going all the way up to the House of Lords with a discussion and submissions of all the attendant difficulties of a defendant's level and sense of awareness, the objective test, the subjective test, and one only has to read different cases to see what the difficulties are.
39. Nevertheless, the House of Lords came down with this definition, albeit within the context of section 1 of the Criminal Damage Act 1981, but nevertheless the definition of 'reckless' is the definition of 'reckless' whatever the provision. So, a person acts recklessly if with respect to (1) a circumstance where he is aware of the risk that it exists or will exist, (2) a result when he is aware of a risk that will occur and it is, in the circumstances known to him, unreasonable to take the risk. For those who are interested, that is stated within the judgment of Lord Bingham at paragraph 41.
40. So I turn to the facts and the evidence of the witnesses I have heard from, and I have heard from 3 witnesses, Keiran Evans who is the Fishery Protection Officer, Mr Vazquez Seijo himself and Mr King who is the expert called on behalf of the defendants in this matter.

41. There is a large measure of agreement about the existing processes and systems - a licence or licences are granted, and that seems dependant on the category of fish. In respect of loligo, a licence to fish is given for a number of days and there is no limit on the quantity of fish.
42. There is a system of reporting by means of what is known as FISHCOM or FISHEND reports and those reports provide a regulatory system designed to inform how many fish pass through the hands of a licence holder and also the position of the ship and some idea of where the catch has been obtained.
43. In respect of loligo, the licence number as I have said has a number of days, there's no limit on the catch so every minute there is fishing there is increase in profit and every minute not fishing is either a loss of profit or a loss of opportunity for profit. So the pressure is on. I heard evidence to that effect which came over loud and clear from Mr Vazquez Seijo.
44. The crew work hard. They work around the clock. They work on shifts and, certainly, at times when there is transhipment, I have the clear impression that the master (and possibly others) is doing a personal shift of a full day, and by full day I mean 24 hours, it might be 22 hours or it might be a bit longer but anyway long, long hours.
45. At times when the hold is getting full, fish is transhipped. It's transferred to a reefer and then transhipped to Spain. What is also clear is that a ship is not simply a ship - it's also a factory. It happens to be on the water but it is also described as 'a factory' as well. There are areas on the ship where the equipment described or processes described are very much within the language of an industry and a factory.
46. The squid is captured, it goes straight down to the factory floor, if I can put it like that. It's cleaned, gutted, weighed, packed in trays - special trays, so that there is an element of accuracy in how much fish is put in there. The trays are designed to measure the right amount of loligo and then either the trays are specially designed to fit the freezer or the freezer's specially designed to fit round the trays, I know not what, but nevertheless it's a good fit.
47. The squid is frozen and then it's packed in 8.5 kilogram blocks apiece. I've heard of a system of yellow bags that's slightly different from the blue bags whereby more accurate scales are used to weigh the squid and I heard from the master, the Defendant, that they had managed to weigh up to 40% of the squid in that way and he said it with an element of pride in fact that he'd managed to do that.
48. I think he also said in interview that they were going to increase the number of scales for the yellow bags and try and get nearer 100% but if it's not in yellow bags it goes into blue bags.
49. Blue bags are in fact dated as to when they're frozen and packed. In respect of the blue bags, that is, to an extent, measured by eye but in every 30 bags one bag is weighed to see if the weights are up or down and see how accurate those blocks are. So there is a degree of quality control in the sense that the weight is quality controlled and there are daily logs of the catch coming through. The numbers are sent through to the master and, as I understand it, the master then puts those figures manually within a computer programme.
50. I have also heard that there were other fish on board - white fish as I understand it, which are packed in cardboard boxes. The reason why loligo is packed in plastic film not boxes was illuminating as well as the reason why they were attempting to yellow-bag fish with greater accuracy of weight. It seems that in each case, it is demand at the buyers' end, so there has been a clear response to industry and commercial pressure.

51. So, and as I understand it, there is a ***continuing*** response in the industry and to commercial pressure, because there is going to be an increase in the number of weighing scales to enable yellow bagging, if I can put it like that, to take place.
52. The transhipment is undertaken by use of stevedores. The system is that a reefer draws alongside. There are 6 or 7 stevedores and it seems there is always either 6 or 7 though I don't know if there may be more or less, but they are used in the hold and each stevedore has the task of putting 20 blocks each into the net and when each stevedore has put his 20 in the net, the net goes up and is then transferred onto the reefer.
53. And so it is known when the net is taken up, dependant on the number of stevedores, there should be in each net either 120 blocks or 140 blocks. The stevedores' job is hard work, it's unpleasant, it's in cold conditions but it's not complex work. They have to count up to 20 and they have to put the blocks in the net.
54. Once in the net, the number of nets are transferred and counted, and so there is a simple calculation so many nets times so many blocks in the net(120 or 140), and the weight of each block (8.5kilograms) so it's 'x' times 120 /140 times 8.5kg, and that, in theory, should give the weight transhipped.
55. So those figures, cumulatively, are the amount caught weighed and packed, the amount transhipped and it should give the amount left as well, or certainly some figures from the amount left and if there is a stock take, all those figures should add up.
56. Furthermore, there is a regulatory system and this system has two-fold aims;
    (a) To monitor the fish stocks, short, medium and long term and also
    (b) To prevent abuse and on I'll come back to that.
57. To this end there are FISHCOM reports and FISHEND reports. Those reports give the ship's position in simplistic terms - the 'FISHCOM report' reports the commencement of shipping, what's on board, and at the end leaving waters what again is left on board. The ship's forms should state that so there is a means of calculation. And there are reports at various stages after each 'signal.'
58. Each signal, I am told, is when fishing is stopped for one reason or another but that's usually because of transhipment. The ship can be called in for inspection and for verification of the amount in the hold and that would also show whether there has been abuse, so not simply to monitor the whereabouts of the fishing stock nor simply a general monitoring of how plentiful is the fishing stock of the seas.
59. Given the nature of the haul and the amount of the haul, and the fact that the figures from the amount of the haul is put in manually, the figures can be understated. Although there are daily logs, those logs could be wrong, and indeed, light and indeed undeclared. If so, what is carried in the hold would also be under-declared and of course understated.
60. The word I would use to describe this, and which was not used during the trial, is essentially 'skimming,' and by that I mean a way of manipulating the figures so that individuals can take their own cut.
61. Now I stress that is not what the charge is against either defendant, but that's one of the reasons for the regulatory and inspection system. However, it should be the case that on inspection, the figures of the amount hauled or captured and the amounts transhipped and the area left in the hold should marry up.

62. If the figures do not marry up, (and this is known,) as part of the regulatory system, a prosecution may follow and there is a discretion within the regulatory system which allows a tolerance of 10%. That is a tolerance which is self-imposed by the inspectors within the regulatory system.
63. On the 21st May, the master of the vessel the Hermanos Touza was asked to come in for inspection. He'd not furnished a FISHEND report at that stage but did so later. I'm not actually sure if it was before he set off on his way on or whether he actually did it on his way in, but he did so at a time when he knew he was going to be inspected. That's important.
64. The FISHEND report stated that he had 82,198 kilograms of loligo on board and in fact there was 147,108kg on board. Although the other fish was weighed, that were slightly out but not by much.
65. He was interviewed on 25th May 2017, 4 days after he was called in, although there was a continuing process of inspection in that period, but it's clear through the interview that the thrust of that interview was that the authorities thought
    (a) that he was being dishonest;
    (b) that he had in fact been skimming; and
    (c) that there had been an under declaration and that he had been fishing over the previous 3 days; but,
    (d) had not declared that catch.
66. In interview it was stated that there was more than 60 tonnes difference and they thought he had captured 60 tonnes of loligo in the last 3 weeks and it didn't match up with the declared FISHCOM reports.
67. During interview, 4 days after he was called in for inspection, Mr Vazquez Seijo gave 2 reasons for the difference in weight. Firstly, he said there might be an error caused by the difference in weight that they thought they had captured and in fact the amount of weight that was weighed and verified at the other end in Spain, and essentially they were going to have additional weighing scales and enable that to be more accurately done.
68. Secondly, the other reason he gave was that the stevedores were not putting the right amount into the nets. In fact if one looks at the system, there is another element where there could be error, and that's the count of the number of nets going across and they may well be miscounted, but I've not heard any evidence about that one way or the other and I don't intend to speculate about it.
69. In fact when the verified figures from Spain came through, the figures between the transhipped amount and the amount actually captured ***did*** marry up. What was out was the ***declared*** figure on the form from of was in the hold, but the figures obtained from Spain were easy to get and in fact 2 sets of figures were readily available at the time the FISHEND report was returned.
70. Just so one understands what we're talking about in terms of numbers. In respect of the 2 figures of the fish blocks, the number of blocks that were out was pushing 6802, a figure which is helpfully provided by Mr Walker but certainly over 6500 and that's a high level of blocks and high level of error.
71. It's also right that the master said that he inherited the figures, the FISHCOM reports, from the previous captain because he'd only relatively recently taken over as captain. In reality, what had happened was that having received the daily logs, the numbers of fish were put into the computer programme so that the weight was there and it was a press of a button on the computer

programme to provide the final figure for the FISHEND – i.e. this much captured, this much transhipped, ***therefore*** this much still in the hold and I stress the word therefore. That's how the calculation had been done.

72. So, although he inherited the figures, he'd not produced the FISHCOM report. However he had worked on board ship and he was second in command and his job was to assist the master at all times so he knew the system very well indeed. Indeed, he had worked in this industry from the age of 17and he'd worked his way up. He'd been to college; he'd obtained qualifications at college; he'd been in positions of authority and considered suitable for position of responsibility as the master. So he's not somebody who should be regarded as unintelligent.
73. However he had never been in trouble before and he had fished loligo before. At times in court and evidence, this year has been described as a bumper or bountiful year but in his evidence, Mr Vazquez Seijo said that there had been better years and this year was bountiful but really only in the context of the previous few years being poor. So there had been earlier years which had been really rather more plentiful than this year – and I just pause there to state this, that the expert Mr King described this system as a system under stress because of the bountiful year.
74. Well, I don't entirely accept that - because it was a system should have been able to deal with the generality of years which are more bountiful than this, but I take the point that relative to previous years it did look as though it was, perhaps, a better harvest. However, it was also clear from Mr Vazquez Seijo, that there was no oversight of the stevedores counting, no check of what was transhipped, no cross referencing either what was in the hold or what had reached Spain and had been verified so that there was no verification at all of what was in the hold and not even an attempt at verification.
75. That was also backed up by Steven King, the expert in maritime fishing practice, who made it clear that stevedores were the bane of everybody's life. Can I stress that I have not heard from any stevedore and they may regard masters and experts in maritime fishing industry as the bane of their particular lives so I have to take the evidence as I find it.
76. But, Mr King indicated that the system adopted was normal and reasonable although I have to say, that it may be his opinion, but ultimately when I'm looking at the issue of reckless as I look at the system, it is for me to consider what was reasonable in the circumstances.
77. Mr King stated his opinion that the error of each transhipment was within reasonable bounds and it's only because there was 4 transhipments that, not only was there an error, but there was a cumulative error. Mr King pointed to the description of the work limitations which included, for example, the fact that when the hold was open what had to be considered was that there had to be temperature sensitivity, if one can put it like that, because the loligo being transhipped has to remain frozen In respect of the stevedores, he said that not only did he know about the stevedores but that everyone knew about it, and it was the cumulative nature of the error and the risk that flows from that error and the awareness of that cumulative error that I have to consider.
78. Now it could be argued (and in fact the prosecution does make this assumption when putting their case) that a moment's thought, especially where the information is available, or some information is available at the other end in Spain, that there should be a ready and easy way of verifying or supervising the system so this sort of error does not creep in because the risk of error is plain and obvious.
79. The defence say, and perhaps grudgingly concede 'maybe' and add, "but that's with the benefit of hindsight" and the stress on '***maybe'*** is important in the context of a criminal trial.

80. I remind myself where the burden of proof lies and the standard of proof of each element, because looking at it at first blush one might consider that a complete failure to supervise the stevedores and then not to cross reference the figures in any shape or form might well be regarded as a substantial failure.
81. However, that's all well and fine in the calm objective atmosphere of a court room environment but I have to put other matters into the balance and I do so. The fact is that this defendant the master Mr Vazquez Seijo is of previous good character, secondly the figures did add up in the end he is a master involved in the fishing industry without control of the fishing industry with a system which has essentially been imposed on him.
82. He has inherited the figures, and although he has some control on the ground he does not have absolute control, and it's worth pointing out that the previous master did exactly the same thing in respect of the FISHCOM reports. The FISHEND report (and, I do consider this important,) was returned once the ship was called in for inspection, and so in terms of how the master reacted, it was absolutely clear he was blissfully unaware of the error.
83. Now I have to consider the test of recklessness through the spectacles of where the burden of proof lies and the standard of proof and putting all the matters that I've said in the balance, I cannot be certain so that I am sure that he was aware of the risk of the cumulative error. Because of that I have found him not guilty.
84. The company by the 'deeming' provision is also not guilty but the company should understand this - that if separately considered, (and of course I have not heard from the company), but if the company had been separately considered then the result might well have been different for it because they are much more in control of the system and much more capable of understanding what the difficulties are of the system bearing in mind they're also on the receiving end in Spain and monitoring what happens there.
85. Much has been said about that this was a system on trial stated in fact so very passionately said by Mr Rogers, but one has to look at the system to assess the risk and whether the risk was obvious and whether the awareness of the risk was present as well and one looks at it, as he said in these terms, with some benefit of hindsight.
86. Well that's true, but those who fish in Falkland waters, by dint of matters which I have raised within my findings, have ***now*** got foresight and, indeed, insight into the system and the possibility of error and where there has to be some tightening up.
87. If one looks at the system, I do not accept that it was the system that was on trial. It is apparent that there are as few transhipments as possible .That is done in order that there can be the maximum amount of fishing undertaken because every time there is transhipment there is loss of fishing time. The transhipment is done at speed and of course there has to be temperature sensitivity, but it could be that here are an increased number of transhipments. I know not what potential solutions there are.
88. However, take note. By all means, if this is a system you want, have stevedores who have no supervision. By all means keep a system where there is absolutely no reconciliation between what's said to be shipped and transhipped but isn't. By all means have a system where figures are taken from the original figures but with no attempt to reconcile them. By all means have a system where there is no stock take whatsoever. By all means respond to all the commercial imperatives of weighing and presentation and ignore the requirements of regulatory compliance.

89. By all means, make that choice. By all means have a system where you work to 10% tolerance rather than aiming for 100% accuracy and by all means be reassured that that the fishing regulatory procedures will prosecute at with a tolerance of 10%.
90. By all means make those choices. However, be aware, you are now on notice that these are clear and obvious problems. Ignore them at your peril. These are problems which are well known in the industry and have an effect on the statistics you supply. There is an expectation, and certainly within ***this*** court there will be an expectation, of compliance, and of accurate compliance.
91. Having given my judgment, can I also add this. Mr Rogers has said that one of the company directors was seriously ill and not able to be in attendance. All I can say from this court is that we wish him well in the circumstances. I wish him well and a speedy recovery.