Dear George

**EM 8693/18 REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT on the implementation of Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources based on Member State reports for the period 2012-2015**

Thank you for your Explanatory Memorandum (EM) on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 20 June.

We were concerned to note that the UK has one of the highest annual average nitrate concentrations for surface water in the EU. We also note that a significant number of monitoring stations across the UK (including around a third in England) reported increasing trends in nitrate pollution since the last reporting period. Please explain what steps you are taking to ensure the UK is complying with levels set by the Directive, particularly at drinking water sources. What assessment have you made of the reasons for the increases in nitrate pollution? Is there any geographical trend in the stations reporting increases (are they clustered in particular areas of the country or particular types of site)? What assessment have you done of the harm caused by nitrates being at higher than prescribed levels?

We note that the four nations of the UK have taken very different approaches to designating nitrate vulnerable zones (NVZs). The Commission’s Report raises concerns that in some Member States there are areas with potential pollution that have not been included in NVZs. Are all four UK administrations confident this would not apply to them? The Report also highlights that, where Member States have adopted a whole territory approach, there can be challenges in adequately targeting measures to different regional pressures. Is this a concern in Northern Ireland? Given the scale of NVZs in England, is this also a challenge in England? Please explain why the area covered by NVZs in England has fallen by 8 per cent, given that the level of pollution has not significantly decreased.
We note that compliance levels amongst farmers varies across the UK and that in England it has fallen from 95 per cent to 77 per cent. What assessment have you made of the reason for this decrease? What are the main areas of non-compliance in each nation of the UK? What steps are being taken to improve compliance?

We note that, in 2015, the UK had a derogation on the maximum amount of nitrogen per hectare from livestock manure allowed in vulnerable zones. Is this still in place?

We note that there was an EU Pilot investigation addressed to the UK in 2016-17, in relation to your action plan. We note that you responded in April 2017 and that you are continuing to engage with the Commission about their concerns. Please explain what their initial concerns were, that prompted the Pilot investigation, and also what concerns (if any) remain.

Finally, we note that you expect nitrate regulations to become retained law when the UK leaves the EU. We are aware, however, that the regulations can cause difficulties to some UK farmers in periods of heavy rainfall as they are prohibited from spreading slurry on their land but their tanks can be at risk of overflowing into watercourses. Has any consideration been given to amending the regulations when the UK leaves the EU?

We have decided to retain this Report under scrutiny, and look forward to a reply to this letter within 10 working days.

I am copying this letter to Sir William Cash MP, the Chair of the European Scrutiny Committee, Philip Aylett, Clerk of the European Scrutiny Committee; Arnold Ridout, Legal Adviser to the European Scrutiny Committee; Les Saunders, DExEU, and John Leach and Craig White, Scrutiny Coordinators, DEFRA.

Lord Boswell of Aynho
Chairman of the European Union Committee