



The primary purpose of the House of Lords European Union Select Committee is to scrutinise EU law in draft before the Government take a position on it in the EU Council of Ministers. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published where appropriate.

This edition includes correspondence from 9 May 2013- 30 November 2013

## **AGRICULTURE, FISHERIES, ENVIRONMENT AND ENERGY**

### **(SUB-COMMITTEE D)**

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**A 2030 FRAMEWORK FOR CLIMATE AND ENERGY POLICIES (8096/13)**

**Letter from the Chairman to the Rt. Hon. Edward Davey MP, Secretary of State,  
Department of Energy and Climate Change**

Your Explanatory Memorandum (EM) on the above Green Paper was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 May 2013.

As you will be aware, we published a report on 2 May that relates closely to the subject of the Green Paper. In sending our report to the Commission, we noted that it responds primarily to the Green Paper. We hope that our report will provide some inspiration to the Government in your response. In addition, we look forward with great interest to receipt of your response to our report within two months.

We were struck that the Green Paper lacked a detailed discussion of possible revision of the Emissions Trading System (ETS) which, unless it is abandoned, will be at the heart of any 2030 framework. While there was clearly some detailed discussion of the issues in the Commission's 2012 Report on the Carbon Market, we consider it essential for discussion on the future of the ETS to take place in the context of this Green Paper. We would therefore urge you to put the ETS at the heart of your response. A successful ETS is pivotal to responding to many of the questions posed by the Commission.

The extent to which it is possible to deliver any long-term reform of the ETS was of course dealt a significant blow recently by the European Parliament's rejection of the "backloading" proposal. We would welcome your view on that vote, its implications for the future of the ETS, the emerging discussion in Council following the vote and your strategy to influence the next vote in the European Parliament in June. Furthermore, we would welcome your analysis of the impact on UK business of failure to amend the ETS either in the short or long term given the introduction of a carbon floor price in the UK.

Understandably, you are still preparing your response to the Green Paper. In the past, the Government have indicated opposition to a 2030 renewables target. You will be aware from reading our report that we expressed support for such a target. The majority of evidence was clear that only a target can encourage the required investment. We would urge you to take this analysis into account when determining your position on that issue.

We would welcome a response to the ETS issues within 10 working days and we look forward subsequently to receipt of your response to the Green Paper. It would be helpful if you could indicate whether Council Conclusions are expected on the Paper or whether you expect the Commission to bring forward legislative proposals at the end of 2013 without any further formal endorsement from the Council. In the meantime, we shall retain the Green Paper under scrutiny.

*16 May 2013*

**Letter from the Rt. Hon. Edward Davey MP to the Chairman**

Thank you for your letter of 16 May, following the Explanatory Memorandum submitted on the recent Commission Green Paper on a 2030 Climate and Energy framework.

May I take this opportunity to welcome your Committee's recent report – "No Country is an Energy Island: Securing Investment for the EU's Future". I will be responding fully in due course.

The implications for the future of the ETS given the recent rejection in the European Parliament of "backloading".

The Government shares your disappointment at the vote in the European Parliament's Plenary on 16 April. I understand that the ENVI Committee will now discuss and vote on the proposals once more, and I hope that a positive outcome can still be achieved.

In parallel, I am keen for a renewed focus on the urgent need for structural reform. The UK has long argued for a move to tighten the EU ETS cap and supports cancellation of an ambitious volume of allowances as one way to bring this about. We are therefore still calling on the Commission to bring forward concrete legislative proposals for reform of the EU ETS by the end of this year; I co-signed a recent statement from nine European Environment Ministers to this effect.

#### THE EMERGING COUNCIL DISCUSSION ON ETS

In the meantime, discussions in the Council on the “back-loading” proposals continue, and the Irish Presidency have called for all Member States to form final positions on the proposals by the end of May. My officials are working closely with those Member States which have no official cross-Government position with a view to achieving a swift agreement on the proposals.

Our strategy to influence the next vote in the European Parliament

The European Parliament’s ENVI Committee will vote again on the proposals on 19 June, followed by a July Plenary vote. Ahead of these dates, the UK Government is engaging vigorously with key MEPs who either abstained or voted against “back-loading” in April. We are co-ordinating our work closely with other Member States, industry and NGO groups to ensure that influence is leveraged where it will have most impact

#### THE IMPACT ON UK BUSINESS OF FAILURE TO AMEND THE ETS EITHER IN THE SHORT OR LONG TERM.

Without reform of the EU ETS, industry will lack the strong price signal to incentivise investment in low-carbon technologies and processes that the system should provide. This could increase the risk of “lock-in” to inefficient, high-carbon technologies and infrastructure, resulting in higher overall costs of meeting UK and EU climate change targets.

The UK needs significant new investment in low-carbon electricity generation over the coming decades. The carbon price floor will provide a strong signal to investors and an incentive for billions of pounds of new, low-carbon investment in our electricity infrastructure. Industry will benefit from the recent fall in EU ETS carbon prices, as the carbon price support rates for 2013/14 and 2014/15 were set as part of the 2011 and 2012 Budgets respectively.

For most businesses, direct energy costs are a relatively small proportion of their total business costs. In 2011, purchases of energy and water accounted for less than 3% of total costs for UK manufacturing. But, climate and energy policies can have a significant impact on costs for energy intensive industries, putting them at risk of carbon leakage. These industries are crucial to the growth of our economies, providing the raw materials and products for manufacturing, including the new renewables infrastructure.

The Government recognises the cumulative impact of energy and climate change policies on the most energy intensive industries and will continue to monitor the impacts of the carbon price floor. As the Government has repeatedly made clear, decarbonisation does not mean deindustrialisation. For this reason the Government announced in the Autumn Statement 2011 a £250m compensation package over the spending review, to help electricity intensive industries adjust to the low-carbon transformation while remaining competitive. The package is made up of:

- An increase in exemption from Climate Change Levy from 65% to 90% for those energy intensives signed up to Climate Change Agreements. This took effect on 1 April 2013.
- Compensation for indirect costs of the EU Emissions Trading Scheme (EU ETS) – i.e. increase in electricity costs arising from EU ETS. Guidance on how to apply for this was published on 20 May.
- Compensation for indirect costs of the Carbon Price Floor, subject to EU State Aid approval. More details of who will be eligible will be published later in the year.

The Chancellor also set out in the 2013 Budget that these compensation measures for EIs would continue in 2015-16; details will be announced at the next Spending Review. There will also be an exemption from the climate change levy (CCL) for metallurgical and mineralogical processes.

The Government has also made clear that energy intensive industries will be exempt from the costs of Contracts for Difference under Electricity Market Reform, subject to state aid approval. We will be consulting on eligibility for this shortly.

UK businesses will also benefit from:

- A further reduction in Corporation Tax to 20% by 2015, giving the UK the joint lowest rate in the G20 (and by far the lowest corporation tax rate in the G7)
- The introduction of a £2,000 per year Employment Allowance for businesses and charities from April 2014 to reduce their employment and NICs bill

#### A 2030 RENEWABLE ENERGY TARGET

As you may have seen in my recent statement (attached) [not printed], the Government has now come to a position on an overall 2030 Climate and Energy framework. Consistent with our wish to be a global leader in tackling climate change we need to maintain the momentum towards a binding global climate agreement in 2015. That is why the UK will argue for an EU-wide binding emissions reductions target of 50% by 2030 in the context of an ambitious global climate deal and a unilateral EU 40% target without a global deal. This 2030 target is ambitious, but it is achievable and necessary if we are to limit climate change to manageable proportions.

We will of course need significant levels of renewable energy and other low carbon technologies to meet such an ambitious 2030 EU emissions target. The UK is committed to increasing renewables in our own domestic energy mix. The tripling of support available to low carbon electricity through the £7.6bn Levy Control Framework provides an immediate boost. And the radical reforms to the Electricity Market set out in the Energy Bill will incentivise renewables to 2020 and beyond, building the low-carbon economy we need to compete in the green global race.

But we want to maintain flexibility for Member States to determine the energy mix they use to meet this ambitious emissions target. There are a variety of options to decarbonise any country's economy. In the UK, our approach is technology neutral and our reforms will rely on the market and competition to determine the low carbon electricity mix. We will therefore oppose a Renewable Energy target at an EU level as inflexible and unnecessary.

#### COUNCIL CONCLUSIONS ON THE GREEN PAPER

At the recent European Council on 22 May, which focused partially on energy, Heads of Government welcomed the Commission's Green Paper on a 2030 framework and agreed to return to the issue in March 2014, after the Commission has come forward with more concrete proposals, in order to discuss policy options in the context of COP21 in 2015. I expect further work and potential proposals from the European Commission in advance of this date.

*4 June 2013*

#### **Letter from the Chairman to the Rt. Hon. Edward Davey MP**

Your letter of 4 June on the above Green Paper was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

Thank you for your helpful and informative reply. We look forward to the Government's response to our recent EU energy policy report.

Regarding the future of the EU ETS and the European Parliament's initial rejection of the backloading proposal, we are pleased that you share our disappointment. In relation to the calls for all Member States to form final positions on the backloading proposals by the end of May, we would be interested to know whether there is a majority of countries either in favour or against the proposals. In the meantime, we are supportive of the Government's strategy to influence the next vote in the European Parliament.

As you know, we recommended a substantial overhaul of the EU ETS in our recent report on EU energy policy. We are therefore also supportive of your focus on the need for structural reform and are pleased to hear of the recently co-signed statement calling on the Commission to bring forward legislative proposals for reform of the ETS by the end of 2013. We would be grateful to be kept updated on progress in this regard.

We are grateful to you for the helpful information your letter provides in relation to the impact on UK business of failure to amend the ETS (in either the short- or long-term). We note the Government's £250 million compensation package in support of energy-intensive industries, and we would appreciate an update on whether this package has been well-received and assisted in the way it

was intended in due course. Your letter makes reference to future measures for energy-intensive industries, and so we will follow these with interest.

Since 1 April 2013, a carbon floor price has been in place in the United Kingdom. Are you able to comment yet on its impact thus far, particularly in terms of the effect on the competitiveness of UK industry? We are aware that certain industries are exempted from the floor price.

As regards a 2030 renewable energy target, you will be aware that we disagree. We trust that you will address this issue in greater depth in your response to our report and in the Government's formal response to the Commission's Green Paper, a copy of which we look forward to receiving in due course.

The Committee is pleased, on the other hand, that the Government are putting forth an ambitious target of an EU-wide binding emissions reduction of 50% in 2030 (in the context of an ambitious global climate deal) and a unilateral EU 40% target (without a global deal). We would be interested to know in due course whether there is much support (or opposition) across the Member States in relation to those targets proposed by the UK and what the emerging position appears to be as regards a 2030 renewables target.

We will continue to retain the Green Paper under scrutiny and look forward to your initial response relating to the emerging position in Council on the backloading proposal within 10 working days.

*14 June 2013*

#### **Letter from the Rt. Hon. Edward Davey MP to the Chairman**

Thank you for your letter of 14 June 2013 and your request for further information on the current Council position on the EU Emissions Trading System (EU ETS) backloading proposals. As you are aware, the UK supports backloading as a short-term measure to increase confidence and investment in the system whilst discussions around more permanent, longer-term structural reform take place.

The Council have held a number of discussions on backloading in Working Parties, the latest of which took place on 27 May. There is currently no Qualified Majority position on the proposals in the Council. We know that Poland, Greece and Cyprus will definitely vote against back-loading, and that Germany will abstain on any vote, at least until after their September elections. This means that almost all other Member States will need to vote in favour in order for a Qualified Majority to be achieved. Member States who have not yet come to a formal position are therefore key and we are in close dialogue with those countries to offer any support we can in helping them reach agreement to support the proposals.

There are now many positive views towards back-loading amongst Member States but often with certain conditions. Within this, there are two camps – those who want back-loading to lead to further structural reform (lead by the UK) and those who want back-loading to be a one-off, stand-alone intervention. It will be a challenge for the Presidency to reconcile these two points of view. In July the rotating Presidency of the Council will be taken up by Lithuania who have committed to holding another Working Party should the Plenary vote in favour of back-loading in the European Parliament on 3 July. A positive mandate in the Parliament may generate further movement in the Council. On 19 June the Parliament's ENVI Committee voted in favour of the proposals with some amendments. The Plenary vote in July will determine the European Parliament's position.

I will update you further following the outcome of the European Parliament plenary vote on 3 July and the Council Working Party later in July. I will respond to the other points which you raise in your letter in due course.

*26 June 2013*

#### **Letter from the Chairman to the Rt. Hon. Edward Davey MP**

Your letter of 26 June 2013 on the above Green Paper was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 3 July 2013.

Thank you for the helpful information you provide as regards the progress of the backloading proposal. We look forward to receiving further information and updates on the proposal and the other outstanding issues from our last letter of 13 June 2013. We similarly look forward to receiving a copy of the UK's response to the Commission's consultation.

We shall continue to retain the Green Paper under scrutiny and look forward to your response in due course.



4 July 2013

## ACCESS TO GENETIC RESOURCES (14641/12)

### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 30 November 2012. I am pleased to be able to provide the Committee with an update on progress made in negotiations to agree an EU Regulation to implement parts of the Nagoya Protocol. I am responding as the Duty Minister during Parliamentary recess.

Since our last exchange of letters the Council and the European Parliament have been considering the Commission's proposed Regulation of October 2012 in Working Groups and in the relevant Committees. We have achieved steady progress in the Council negotiations, and our concerns about several parts of the Regulation have been allayed.

Although the Parliament's Environment, Public Health and Food Safety Committee held its final hearing on compromise amendments on 4 July 2013, at that meeting the Committee did not grant its rapporteur a mandate to negotiate with the Council and Commission in trilogue. For this reason, the proposed Regulation will be discussed again at a plenary session, which is expected to take place in either September or October, before trilogue can begin and a final text can be agreed. There is considerable pressure to reach an agreement at first reading in light of the European Parliamentary elections taking place in May 2014.

Barring any further delays this timetable implies that the Regulation will be finalised by early 2014

#### UK ACTIVITIES

As outlined in Richard Benyon's letter dated 15 November 2012, Defra has sought to engage as widely as possible with UK stakeholders when preparing our negotiating positions. We have held three roundtable discussions, on 18 December 2012, 15 May 2013 and 16 July 2013, and a fourth is scheduled for September this year. Those contributing have included the Royal Botanical Gardens at Kew, Unilever, the Natural History Museum, GlaxoSmithKline and Aberystwyth University. Their insights and experiences were particularly helpful in understanding the potential impacts of the different proposals on UK users.

Alongside the independent research we commissioned in 2012 into the Protocol's potential impacts in the UK we have been developing an initial Impact Assessment (IA) for the Regulation which we will use to support our final negotiations alongside trilogue and our communications with Members of the European Parliament (MEPs). Given the variety of possible negotiation outcomes at this stage a comprehensive IA for each situation would be impractical. We are therefore assessing the financial and administrative impacts and compliance requirements of two alternative scenarios, building on the research carried out for us, on other data we hold relevant to the UK, and on the Commission's own IA. I will ensure that the details of this document are communicated to your Committee as soon as they become available.

We have kept abreast of the viewpoints of other Member States during Council Working Group negotiations and sought to build alliances, for example working with Austria and the Netherlands to ensure that those exchanges in the agricultural sector that are governed by the system established under the International Treaty on Plant Genetic Resources for Food and Agriculture will not be impeded by the Regulation. As this Regulation will be decided under the Ordinary Legislative Procedure we have also been in communication with UK MEPs to share our opinions on the Commission's draft and on the amendments proposed by parliamentary committees. This has helped us to underline the issues raised by many of these proposals which might have been detrimental to EU businesses and perversely defeated the objectives of the Protocol.

#### POLICY DEVELOPMENTS

In the course of negotiations various proposals for amendments to the Commission's draft Regulation have been made both by the Member States in Council and by MEPs. Although discussions in Council now appear to be moving in a sensible direction, the UK remains concerned by many of the proposals still under consideration by the European Parliament.

We continue to support the Commission's proposed due diligence method of ensuring compliance by requiring European users to declare that they have complied with provider countries' access and

benefit sharing regulatory frameworks of provider countries. The European Parliament has proposed adding additional points at which users would be required to make these declarations, and that all declarations should be supported by evidence. We will consider the balance between the greater transparency and increased potential burden these additional declarations could entail.

The due diligence approach has the support of users of genetic resources with whom we have consulted, which is not the case for the alternative prohibition approach supported by a minority of Member States (Denmark, Portugal, and Spain) and by the European Parliament. This would make the use of illegally acquired genetic resources a crime in the EU and would discourage rather than encourage the pursuit of new benefits from genetic resources, and for these reasons we cannot support it.

Additionally, we cannot accept the proposal from a European Parliament committee that the Regulation should apply retroactively to new and ongoing uses of genetic resources accessed before the Regulation entered into force, instead of newly-accessed resources only. This would discourage further research and development on existing collections.

The Commission's proposal suggests that where a contract concerning genetic resources also addresses traditional knowledge compliance should be assured under the Regulation. We regard matters relating to traditional knowledge to be Member State competences and are therefore continuing to seek to remove these from the regulation.

In your Committee's letter you referred to our concerns that the initial proposal for a scheme for 'trusted' or Registered Collections gave the Commission unnecessarily broad powers to remove individual collections from the register without input from Member States. We are exploring a solution whereby the Commission would only be able to de-register a collection after receiving from the relevant Member State a notification that remedial measures have not been successful and the collection no longer complies with the requirements for registered status.

Finally, we are still concerned that the proposed Union Platform on Access risks unnecessarily encroaching on Member States' continued competence over access to genetic resources. We believe establishing the platform separately, outside the text of the Regulation, would be a means of avoiding this.

*28 August 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 28 August 2013 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 11 September 2013.

Thank you for the update that you have provided on the progress of negotiating this Regulation.

We are pleased to note that Council and Parliament aspire to conclude negotiations before the European Parliament elections in May next year.

We are now content to release the Proposal from scrutiny and look forward to an update in due course on progress towards a First Reading position.

*12 September 2013*

#### **ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS (UN-NUMBERED)**

##### **Letter from Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

I am writing to update you on the progress of the above proposal. We last formally wrote to you on this matter on 9 February 2012; followed by an informal update to your Clerk in June 2013.

As we stated in our previous letter, there has not been any progress on this dossier since 2005, as it was opposed by a block of Member States, including the UK.

The Commission has announced in its most recent Work Programme that it intends to withdraw this proposal, citing a lack of effective progress. The Commission will now consider alternative methods of ensuring the EU is implementing the Aarhus Convention

We will of course be working closely with the Commission to understand what these alternative methods might entail. In light of the situation, I hope the committee will be able to clear this proposal from scrutiny.

27 November 2013

## AGRICULTURE & FISHERIES COUNCIL: 13 - 14 MAY 2013 (UNNUMBERED)

### **Letter from the Rt. Hon. Owen Paterson MP, Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

I attended the Agriculture and Fisheries Council on 13 and 14 May in Brussels. I was accompanied by my honourable friend the Parliamentary Under-Secretary for Natural Environment, Water and Rural Affairs (Richard Benyon), who represented the UK on fisheries issues. Alun Davies AM, Michelle O'Neil and Richard Lochhead MSP also attended.

The Presidency focussed discussion on three provisions in the proposed Direct Payments regulation which had been covered in recent trilogue discussions: active farmers, young farmers and the small farmer scheme. On all three issues the main question was whether the provision should be mandatory or voluntary. There was general support for sticking to the Council position agreed in March, which was that all three should be voluntary. I also underlined the need for any CAP deal to accurately reflect the February European Council agreement on the Multi-Annual Financial Framework. The Irish Presidency will continue negotiations over the coming weeks with the ambition of achieving a political agreement at the June Agriculture Council.

On fisheries business, the Presidency summarised progress in trilogues with the European Parliament on the Common Market Organisation (CMO) dossier, with a deal likely to be finalised imminently.

The main business at this Council was the agreement of a revised mandate for further trilogue discussion on the basic Common Fisheries Policy (CFP) regulation. After a lengthy negotiation through the night, a revised mandate was agreed. This mandate addresses the UK's priorities for the reform, with provisions to:

- Progressively eliminate discards, with binding timelines for discard bans (pelagic fisheries from 2015, other fisheries from 2016), and improved text on the practical measures to support this.
- Decentralise decision making away from Brussels, with a process that allows Member States to work together to agree the detailed measures that are appropriate to their shared fisheries.
- Fish more sustainably, with legally binding requirements to set fishing rates at sustainable levels.

The mandate moves the Council closer towards the Parliament's position, providing a basis to reach an agreement on the dossier in the coming weeks. Trilogue discussions between the European Parliament, Commission and Presidency will continue over the coming weeks with the aim of reaching final agreement on the dossier.

#### ANY OTHER BUSINESS ITEMS

##### ORGANISATION FOR VINE AND WINE (OIV)

The Council rejected a draft Council Decision on the positions to be adopted by EU members of the International Organisation for Vine and Wine (OIV) on certain resolutions at the annual meeting in June 2013. There was no qualified majority in favour of this position. A number of Member States including the UK opposed on the grounds that the proposed legal basis of the decision was inappropriate for negotiations on international decisions which did not have direct legal effect.

#### TOBACCO PRODUCTS DIRECTIVE

Greece raised the proposed Tobacco Products Directive and its view on potentially negative impact on EU agriculture and the possible increase in illicit tobacco product imports. A small number of Member States supported their concerns.

#### Global Oceans Action Summit

Netherlands introduced an initiative on Blue Growth and Food Security, highlighting a conference in The Hague in September.

#### MACKEREL

UK introduced an item on North East Atlantic Mackerel, seeking an update from the Commission on the steps being taken to resolve the ongoing dispute with Iceland and Faroes over management of this stock. The Commissioner outlined the ongoing communication with both countries, and the preparatory work to consider trade sanctions should these prove necessary.

22 May 2013

### AGRICULTURE AND FISHERIES COUNCIL – 15 JULY 2015 (UNNUMBERED)

#### **Letter from the Rt. Hon. Owen Paterson MP, Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

I represented the UK at the Agriculture and Fisheries Council on 15 July in Brussels. Paul Wheelhouse MSP also attended. Richard Benyon wrote to you separately about the EMFF negotiations, so this letter does not cover those discussions.

This was the first Agriculture and Fisheries Council under the Lithuanian Presidency and they took the opportunity to present their work programme for the next six months. They hope to finalise the legislative process on CAP Reform following political agreement in June and also secure agreement on the transitional regulation to apply in 2014. They propose to launch discussions on a number of Commission legislative proposals, covering the fruit and vegetables regime, EU promotion measures, spirit drinks and school schemes. The Presidency also hopes to drive forward the discussions on the animal and plant health package.

#### AGRICULTURE ITEMS

The package of recently agreed CAP reform proposals was the main agriculture item. In the final trilogue with the European Parliament under the Irish Presidency political agreement was reached on the CAP package except for those elements which relate to the Multi Annual Financial Framework (MFF) agreed by Heads of Government at European Council in February. The representatives of the European Parliament wanted to leave these open until after the MFF was agreed. The Council was adamant that there was no further room for negotiation on CAP reform beyond the deal secured at June Agriculture Council. I joined fifteen other Member States in making clear to the Lithuanian Presidency that the June Council mandate was final and that the Presidency should resist any attempt by the European Parliament to reopen negotiations on the MFF aspects of the regulations. The Presidency noted the interventions and stated that they would hold informal talks with the European Parliament.

There were five agricultural Any Other Business points:

#### FOOD WASTE

Hungary presented a paper which called on the Commission to make recommendations on how to tackle food waste. Fourteen other Member States indicated support. The Commission indicated that food waste was a key element of their Communication on Sustainable Food.

#### OUTBREAK OF NEWCASTLE DISEASE IN CYPRUS

Cyprus outlined the impact of Newcastle disease in commercial and non-commercial poultry flocks since June this year. There had been a drop in consumer confidence which had impacted on an already declining industry. The industry required assistance. The Commission responded by outlining the standard assistance available for such outbreaks and asking for a detailed assessment of the losses in Cyprus.

#### LABELLING OF MEAT FROM ANIMALS SLAUGHTERED WITHOUT STUNNING

The Netherlands urged the Commission to launch their promised study into the provision of consumer information on the stunning of animals prior to slaughter. The Commission reminded Council that EU legislation provides for slaughter without stunning but only for religious purposes. They acknowledged the demand for transparency in this area and confirmed that the study was expected to report in early 2014.

#### MISLABELLING OF BEEF PRODUCTS (HORSEMEAT AND FOOD FRAUD)

The Commission commended Member States for actions taken to restore consumer confidence following the discovery of horsemeat in products labelled as beef earlier in the year. They provided a progress report on their five-point action plan on food fraud. There were a wide range of interventions, led by the UK, all of which were generally supportive of the five-point plan.

I intervened to stress the need for: further EU wide testing; an appropriate legal base for any harmonised sanctions or penalties; a sensible approach to sequencing of actions to improve horse passport systems; and making best use of current systems rather than inventing new ones. France and Italy raised country of origin labelling, while Poland and Romania emphasised the need to avoid accusing businesses in such cases before facts were established. In response to a question from Ireland, the Commission advised that they had written to Mexico and Canada seeking guarantees around controls on horses being shipped from the USA to the EU for food production.

#### RE-EVALUATION BY THE EUROPEAN FOOD SAFETY AUTHORITY OF THE PESTICIDE FIPRONIL

The Netherlands, with support from five other Member States, called for the removal of the pesticide fipronil from the market in light of concerns that it might have an adverse effect on bees. I and others expressed concerns about the lack of field evidence. The Commission defended the risk management response and advised that the Standing Committee on the Food Chain and Animal Health was currently considering the Commission's proposal to suspend use.

#### FISHERIES ITEMS

##### FISHING OPPORTUNITIES FOR 2014

The Commission presented their Communication on Fishing Opportunities for 2014. In setting Total Allowable Catches (TACs) and Quotas for 2014 the Commission would be focussing on respecting Long Term Management Plans (LTMPs). Additionally, a strong emphasis was given by the Commission to the increasing number of stocks at Maximum Sustainable Yield (MSY). Eighteen Ministers spoke generally welcoming the approach though several delegations were concerned about moving to MSY by 2015. The UK and others argued that when there was a lack of clear science then a case by case approach was sensible. The UK also set out its initial thoughts on priorities for fishing opportunities in 2014, including pressing for a continuation of the cod plan effort freeze.

There was one fisheries Any Other Business point.

##### NORTH EAST ATLANTIC MACKEREL MANAGEMENT AND TRADE SANCTIONS

The UK, Ireland, Spain and France, pressed the Commission for an update on mackerel following their meeting with the Icelandic Fisheries Minister on 6 June. In the absence of any progress in moving towards a negotiated settlement, it would be necessary to use trade measures against Iceland and the Faroe Islands. Malta, the Netherlands and Portugal supported these points. However, Denmark, Estonia, Sweden and Finland argued that all available channels should be exhausted before trade measures were considered.

The Commission said they had begun to implement the trade measures against the Faroes in relation to herring. A draft proposal has now been issued by the Commission.

*2 August 2013*

## AGRICULTURE & FISHERIES COUNCIL- 23 SEPTEMBER 2013 (UNNUMBERED)

### **Letter from the Rt. Hon. Owen Paterson MP, Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

I attended the Agriculture and Fisheries Council on 23 September in Brussels. My devolved administration colleagues Alun Davies AM, and Richard Lochhead MSP also attended.

The Council agenda covered items on the Common Agricultural Policy (CAP) reform package, along with seven any other business items on;

- African Swine Fever
- TRACES (Trade Control and Expert Systems)
- EU Forest Strategy
- International Trade Negotiations
- Organic Farming
- Conference of Directors of EU Paying Agencies
- Protein Crops

#### ANY OTHER BUSINESS

##### AFRICAN SWINE FEVER

Poland urged the Commission to undertake a number of actions to prevent the spread of African Swine fever into the EU, and also argued for EU funds to alleviate any economic impacts of an outbreak on EU territory. There was support from some Member States. I stressed the importance of biosecurity and ensuring good management of EU funding. The Commission agreed to provide financial support to Poland for preventative measures and committed to examine any serious indirect losses if these were to occur in the future.

##### TRADE CONTROL AND EXPERT SYSTEM (TRACES)

The Netherlands asked the Commission to improve the transparency and public availability of the data listing the numbers of traded animals available on TRACES. The Commission referred discussion on this matter to the TRACES working group.

##### EU FOREST STRATEGY

The Commission introduced its communication on an EU forest strategy to co-ordinate national approaches. Objective criteria would be developed during 2014 and a review would take place in 2018. Several Member States welcomed the strategy but urged respect for the principle of subsidiarity. I noted the importance of information sharing to combat both the spread of disease (such as Chalara) and the illegal trade in timber.

##### INTERNATIONAL TRADE NEGOTIATIONS

The Commission updated the Council on negotiations on international trade agreements, including Bali, Transatlantic Trade and Investment Partnership (TTIP), EU/Canada and EU/Japan. I argued that the EU should press offensive interests on agricultural export elements of international deals, rather than simply looking to protect defensive interests; and that we should bear in mind the significant wider benefits of trade liberalisation. The Commission has established a group of Commissioners to co-ordinate the EU response. It will provide regular updates to the Trade Policy Committee.

##### ORGANIC FARMING

The Presidency presented a very lengthy paper on the outcomes of the 7th European Organic Congress, held in Vilnius. The Commission said it would present an organic agriculture action plan at October Agriculture Council. Member States did not intervene.

## CONFERENCE OF DIRECTORS OF EU PAYING AGENCIES

Ireland introduced its paper on the 33rd Conference of Directors of EU Paying Agencies, held in Dublin in April. The Conference noted the potential difficulties of implementing CAP reform, especially a likely rise in error rates as a result of the potential for misreporting ecological focus areas (EFAs). The Commission responded that the most effective way to help paying agencies would be to give them as much time as possible to prepare by arriving at a CAP deal quickly. Member States did not intervene.

## PROTEIN CROPS

Slovenia presented a paper on reducing the EU dependence on imported Genetically Modified (GM) protein sources for food and animal feed. The paper called for enhanced co-operation in protein crop production, and for the establishment of an expert group to set international standards for labelling of food products from animals fed with GM feedstuffs. There was some support from other member states for the Slovenian ideas; however, I argued that no more public money should be spent on promoting protein crop growth as an alternative to GM crops, and called for a scientific, rather than political, approach to GM approvals. The Commission noted that the new CAP would contain measures to support protein crop growth through EFAs and additional coupled support.

## CAP PACKAGE

A revised Council mandate was agreed that enabled a deal on the CAP regulations to be finalised between the Council, European Parliament (EP) and the Commission on 24 September. We agreed to require a modest level of degressivity (reduction of direct payments above €150,000, £125,310), but did not go beyond the rate of 5% already suggested by Council in June; made minor changes to the way in which allocations of rural development funding were set out in the legislation, and communicated to the European Parliament through delegated acts; and agreed a slight increase in EU co-financing rates for the outermost regions, and for less developed areas (which will have no impact on the total level of EU funding available). The agreement means there is now greater certainty and allows Member States, regions, paying agencies, and farm businesses to focus on the implementation of the new CAP package.

The package has now been endorsed by the EP's Agriculture Committee at its 30 September meeting. Once it has been endorsed by the EP in a plenary meeting, it will be submitted to the Council for final agreement later this autumn.

*7 October 2013*

## ANIMAL CLONING FOR FOOD PRODUCTION (15277/10)

### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

I am writing to provide your Committee with an update on the EU dossier on animal cloning for food production, which is now being handled separately to the Novel Foods dossier. This letter also provides comments on the Farm Animal Welfare Committee (FAWC) short report Opinion on the welfare implications of breeding and breeding technologies in commercial livestock agriculture that was published on 21 November 2012.

## ANIMAL CLONING FOR FOOD PRODUCTION

As you are aware, a previous attempt by the EU to legislate on animal cloning stalled in 2011. Animal cloning is a highly contentious topic within the EU and the Commission remains under considerable pressure from the European Parliament to propose new legislation. There has, however, been little visible progress on the dossier over the last 12 months to formally update the Committees on, and while animal cloning appears on the Commission's Work Programme for 2013, it is still not clear when a proposal might be published and what measures it will contain. Indeed, Commissioner Borg recently hinted that there may not be a cloning proposal before European elections in 2014. The European Parliament responded by blocking the Bovine Electronic Identification proposal through their refusal to agree to any compromise that did not include the cloning amendments that they had inserted in lieu of a standalone cloning proposal. The Commission is working to see if a statement

reassuring the EP that a cloning proposal will be forthcoming would be enough for the EP to remove those amendments in the bovine EID dossier.

The European Parliament therefore appears to remain resolute in seeking an outright ban on animal cloning in the EU and the labelling of food from clones, their direct offspring and future descendants. Such measures would place large regulatory burdens on farmers and food producers, and impose a significant cost on taxpayers in terms of building new systems and enforcing the rules. There would also be impacts on the UK science and innovation base, and on international trade. Cloning has the potential, for example, to affect progress on the EU-US Transatlantic Trade and Investment Partnership deal.

The UK position on animal cloning for food production remains the same as in 2011: we are against further EU regulation. There is no scientific justification, in our view, for further controls on clones, the offspring of clones or for an outright ban on the cloning technique. Not least, a ban would stifle an emerging technology with the potential to deliver wider benefits. We believe that the existing regulatory controls are entirely appropriate in being limited to pre-market approval of food from cloned animals themselves.

#### FARM ANIMAL WELFARE COMMITTEE 2012 REPORT

Turning to the 2012 FAWC short report Opinion on the welfare implications of breeding and breeding technologies in commercial livestock agriculture, we firstly welcome this report from the expert committee on farm animal welfare of Defra and the Devolved Administrations in Scotland and Wales. The report was commissioned by Government and looks across all the selective breeding technologies in use in commercial agriculture, including cloning.

The 2012 FAWC report does not make any specific recommendations in relation to animal cloning. It does, however, conclude that cloning is unlikely to become a routine way of producing livestock (given that it is still costly and inefficient), and notes that consumers will be unable to exercise choice for as long as cloned products are not required to be labelled.

The report cites a 2012 letter from FAWC to Defra Ministers on the welfare implications of the cloning technique. FAWC summarised these as being the compromised welfare of surrogate dams carrying clone offspring; the high number of failed pregnancies; and adverse effects on the welfare of a significant proportion of the clones themselves.

The UK position is that the welfare of all farmed animals, including donor animals, surrogate mothers and the clones themselves, is protected through a combination of EU and national legislation: the Animal Welfare Act 2006 and the Welfare of Farmed Animals (England) Regulations 2007 (which implements the EU Framework Directive 1998/58/EC). Our assessment is that FAWC report does not contain any new evidence that changes this position. As you are aware, the UK has among the highest standards of animal welfare in the world, and the Government sees the promotion of animal welfare standards across all areas of agricultural activity as essential to the long-term sustainability of the farming sector.

FAWC expressed concern in a 2004 report that farm breeding techniques were increasingly focused towards addressing commercial pressures at the expense of animal welfare. We are pleased to see that the 2012 report notes that this situation has improved, with breeding goals often now including non-production outcomes (such as disease resistance and fitness) which can enhance animal welfare. This is a useful reminder that breeding technologies, including cloning, have the potential to either compromise, or improve, animal welfare depending on how they are applied. Like FAWC, we are keen to see continued progress along these lines.

Finally, and picking up on the labelling point made in the FAWC report, the UK remains opposed to traceability systems for the offspring and descendants of cloned animals. The mandatory labelling of food products derived from an animal with a clone in its ancestry would be impractical and unenforceable: there is no test that can distinguish foods containing either cloned animals, the offspring or descendants of clones. Tracing would also place large regulatory burdens on farmers and food producers. Our view is science-led. There are no welfare issues for the offspring and descendants of clones, where they are bred using conventional techniques; nor any scientific evidence of any harmful effects on human health from food produced from healthy cloned animals. Not least, these systems could not deal with imported food or food derived from descendants of cloned animals that are already present in the EU. Therefore, the cost of introducing these systems could simply not be justified.

The UK view remains that the regulation of animal cloning for food production should be based on the best available evidence, should be proportionate, enforceable and compatible with world trade



rules. We await the Commission's next steps with interest and will update you on further developments.

20 June 2013

### **Letter from the Chairman to David Heath MP**

Your letter of 20 June 2013 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 3 July 2013.

Your summary of the progress on this matter in the European institutions is helpful, including the possibility that the Commission may not table a proposal before the European Parliament elections in 2014. We would observe that this issue is important, though, in the wider context of negotiations on a Transatlantic Trade and Investment Partnership between the EU and the US. Your views on the potential impact of this debate on that negotiation would be helpful, and whether it points to the need for an injection of urgency at the EU level.

We were keen to receive the Government's analysis of the Farm Animal Welfare Committee Opinion on the welfare implications of breeding and breeding technologies in commercial livestock agriculture. As you observe, the FAWC report does not make any specific recommendations in relation to animal cloning, although it makes reference to a letter in April 2012 to Defra Ministers on the welfare implications of the cloning technique.

It seems that the information remains somewhat uncertain on the welfare implications of cloning. We note that the April 2012 letter did highlight negative animal welfare implications. You were pleased to see that the FAWC report noted that breeding goals often now include non-production outcomes, which can enhance welfare. We would welcome a clear analysis from you on how the animal welfare risks highlighted by FAWC balance against the benefits that you mention. An indication from you of the precise nature of those benefits would be helpful.

We agree that the regulation of animal cloning for food production should be based on the best available evidence, but we would add that any progress on this issue needs to be accompanied by public debate. As the FAWC report observes, a new way to inform the public and encourage societal debate is required. While the report extends beyond cloning, the observation clearly applies not only to cloning technologies but to public awareness about the import of products produced from the offspring of cloned animals.

We would welcome your view on whether a new way to inform the public and encourage societal debate on this issue is required.

At this stage, we are content to release the Report from scrutiny, but look forward to your response to the above point within 10 working days.

4 July 2013

### **Letter from David Heath MP to the Chairman**

Thank you for your letter of 4 July. Before turning to the points raised in your letter, I am pleased to be able to provide an update on the likely timing of a Commission proposal on animal cloning for food production. My letter of 20 June noted the possibility that the Commission might not table a proposal this side of European elections in 2014. However, on 17 June 2013 Commissioner Borg wrote to Mr Matthias Groote, Chair of the European Parliament's Committee on the Environment, Public Health and Food Safety. Commissioner Borg's letter forms part of a package of measures to unblock the bovine electronic identification dossier, and sets out a commitment to the European Parliament on the timing of a cloning proposal as follows:

*"The Commission confirms that in line with its 2013 working programme, it is working on the impact assessment in order to finalise and adopt a stand-alone legislative proposal on all aspects of cloning for food production in the current year, while considering that any legal provisions on this issue should be carefully thought through from a legal point of view."*

On this basis, we are expecting a Commission proposal on animal cloning for food production by the end of 2013.

#### **ANIMAL CLONING AND THE TRANSATLANTIC TRADE AND INVESTMENT PARTNERSHIP**

Your letter asks about the impact of the cloning debate on the Transatlantic Trade and Investment Partnership (TTIP) negotiations. As you are probably aware, the TTIP is the top UK trade

Government priority. A successfully concluded negotiation would bring substantial financial gains to both the EU and US economies by tackling the most pressing issues that businesses have to contend with when trading and investing across the Atlantic. For the UK this could generate up to £10 billion for UK GDP per annum. Whilst the key UK benefits are likely to lie in the non-agricultural sectors, the TTIP includes a number of sensitive agricultural issues including, but not limited to, animal cloning which could potentially feature in the negotiations.

Ahead of the launch of the TTIP talks, a US-EU High Level Working Group on Jobs and Growth was set up to identify areas and measures to support increased US-EU trade and investment through dialogue with the public and private sectors. The final report of the Group was published in February 2013. The Group recommended an ambitious chapter on bilateral feed safety, animal health and plant health issues (the so-called sanitary and phytosanitary or SPS issues, which include animal cloning), including the establishment of an on-going mechanism for improved dialogue and cooperation on these issues, taking into account the priorities of either side and their respective institutional frameworks. The Group also recommended that this chapter should seek to build upon the key principles of the World Trade Organization (WTO) SPS agreement on such matters, including the requirements that each side's SPS measures be based on science and on international standards or scientific risk assessments, applied only to the extent necessary to protect human, animal, or plant life or health, and developed in a transparent manner, without undue delay.

Meanwhile, the European Parliament's Resolution on EU trade and investment negotiations with the United States of America (May 2013) notes the sensitivity of certain fields of negotiations, such as genetically modified organisms (GMOs) and cloning. It goes on to acknowledge the importance of enhanced cooperation with the US in the area of agriculture trade, whilst stressing that any deal must not undermine the fundamental values of either side; for example the use of the precautionary principle in the EU.

The first round of TTIP negotiations, to sketch out the parameters for the deal, is now underway. Further negotiating rounds will take place later in the year, when it is expected that more substantive issues will be discussed.

#### FARM ANIMAL WELFARE COMMITTEE 2012 REPORT

Your letter asks for an analysis of how the risks to animal welfare identified in the FAWC report balance against the welfare benefits that could be derived through commercial application of the cloning technique. Animal cloning is still a developing technology. While cloning is carried out commercially in the US and Brazil, for example, there are no companies carrying out commercial animal cloning in the UK so far as we are aware; nor have any applications been received within the EU for the pre-market authorisation of any food products (milk or meat) derived from cloned animals. It is therefore too early to assess the full range of benefits - including the welfare benefits - that animal cloning might deliver. These will depend on a number of factors, not least developments in the cloning technique itself and the degree of uptake of the technology by commercial breeding companies.

I would reiterate that there is EU and domestic legislation already in place to protect all farmed animals, including donor animals, surrogate mothers and the clones themselves from foreseen and unforeseen welfare risks. The potential benefits of cloning, which as I have explained are hard to predict or quantify at this early stage in the commercial application of the technology, sit separately to this.

Your letter asks for examples of the specific welfare benefits that can be achieved through the incorporation of welfare outcomes into genetic breeding programmes. For reasons of commercial confidentiality, breeding companies do not tend to publish the results of such studies. However, it is clear that there has been a shift towards more balanced breeding programmes incorporating health and welfare traits. The links below will direct you to a number of studies and organisations that examine these benefits and acknowledge opportunities for the future. Although the scientific studies focus on specific species, the underlying principles will apply to breeding programmes for any species.

Primary broiler breeding--striking a balance between economic and well-being traits  
<http://www.ncbi.nlm.nih.gov/pubmed/20308417>

Breeding and animal welfare: practical and theoretical advantages of multi-trait selection

<http://www.ingentaconnect.com/content/ufaw/aw/2004/00000013/A00101s1/art00029>

Breeding for better welfare: genetic goals for broiler chickens and their parents

<http://users.ox.ac.uk/~snikwad/resources/GeneticsAW.pdf>

European Forum of Farm Animal Breeders: Balanced sustainable animal breeding  
<http://www.effab.org/Breedings/BalancedSustainableAnimalBreeding.aspx>

“Balanced breeding is vital,” Aviagen tells WPS

<http://en.aviagen.com/balanced-breeding-is-vital-aviagen-tells-wpsa>

Turning to the final point in your letter, the Government will play its part in fostering an informed discussion around emerging technologies, including animal cloning. This needs to be fair and open, taking proper account of the evidence on both the potential benefits and any concerns that people may have. Everyone has a role to play in this debate, including consumers, farmers, food producers, retailers, the media, civic society and scientists.

*16 July 2013*

#### **Letter from the Chairman to David Heath MP**

Your letter of 16 July 2013 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 July 2013.

Thank you for your helpful and informative letter.

We understand that a proposal on animal cloning for food production is expected from the Commission, but that you did not initially expect this until after the European elections in 2014. We are grateful, therefore, for sight of the letter from Commissioner Borg suggesting that a proposal will be expected by the end of 2013.

Such a proposal would of course come forward to the Committee for scrutiny, and you may also be interested to note that our Sub-Committee on External Affairs is considering launching an inquiry into the EU-US Transatlantic Trade and Investment Partnership. This would include consideration of both phytosanitary and agricultural issues.

We are now content to mark this strand of correspondence as closed.

*25 July 2013*

#### **ANIMAL HEALTH (9468/13)**

#### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

Unfortunately, we found your EM on this dossier to be inadequate in relation to the subject matter and policy implications. That is, we were very disappointed by the lack of detail and substance provided for both. On the subject matter, for example, there appeared to be greater detail on the wider context of this proposal being one out of a package of five, as opposed to the content of the specific proposal at hand.

Similarly, little detail is provided on the policy implications, and the views and opinions of Government on the specifics of the proposal. We would therefore be grateful for a more detailed analysis of the Government's views of this proposal, as well as confirmation that your department will endeavour to produce higher quality EMs in the future that provide more detailed analysis. Please include comment on any links that you may have identified between this proposal and legislation on animal welfare, including control and enforcement.

In terms of the concerns you do raise – in relation to the proposed use of delegated and implementing acts – the Committee would appreciate information regarding whether the Commission has produced any further details on their use (and if not, when might they be likely to), whether any other Member States support the UK in their concerns, and whether these views have been communicated to the Commission.

We will retain the proposal under scrutiny and look forward to a response within 10 working days.

*20 June 2013*

## Letter from David Heath MP to the Chairman

Thank you for your letter of 20 June 2013 addressed to Lord de Mauley about the Explanatory Memorandum (EM) of 22 May for the proposed Animal Health Regulation. I am replying as the Minister responsible for this policy area.

I'm sorry that you were unhappy with the EM provided. Given the complexity of this proposed piece of legislation, the anticipated timescale before any agreement is likely to be reached and the fact it is intended to be a framework document largely setting out the principles under which animal health legislation is made, we considered a similarly high-level initial EM, to be supplemented by updates as more details emerge, to be appropriate in this context. The proposal is intended to be an overarching framework under which more detailed legislation contained within Delegated and Implementing Acts will sit; these pieces of tertiary legislation will not be drafted by the European Commission for some considerable time, which makes a full assessment of the policy implications of the proposed Regulation impossible at this stage. I hope however that the supplementary information contained in, and annexed to [not printed], this letter will go some way towards meeting your expectations.

You will find in the Annex a [not printed] breakdown of the proposal into its seven constituent parts. For each part, we have included the Commission's own description of the proposed scope and effect of the Regulation followed by our initial assessment of the potential impacts of that part of the proposal, including indications of where this remains unclear. As more detail emerges, we will continue to work closely with Commission officials, experts across the Defra animal health directorates and delivery agencies, industry and civil society groups and colleagues in the devolved administrations in order to identify areas where the proposed Regulation has potential implications for Government policy. I think it is worth pointing out that the Regulation (and its associated Acts) is intended to replace a plethora of outdated and sometimes inconsistent pieces of European legislation, over thirty of which are currently applicable in the UK; these are listed in the annex [not printed]. This represents a good news story for better regulation and is a goal that the government supports although it is also worth noting that the Commission themselves have described this proposal as 'evolution, not revolution'.

You specifically ask about the links to animal welfare. Although the effective control of disease naturally has implications for animal welfare, there is no attempt within the current draft Regulation to affect the regime in this area. We are aware that the Commission are currently considering a review of the legislation in the field of animal welfare, along similar lines to the current review of the animal health legislation, which will bring that legislation in line with the Lisbon Treaty and with the framework Regulation on Official Controls, which is being reviewed as part of the current package. We are not aware of any of the details of what that review may contain at this stage.

As indicated in our initial EM, a significant amount of the uncertainty surrounding the impacts of the proposal results from the extent to which the Commission anticipate using Delegated and Implementing Acts to provide detailed provisions in almost all of the areas covered by the draft Regulation. In this regard, in line with the UK's approach with other EU proposals based on co-decision and post-Lisbon, we will be negotiating to determine that the split of powers is appropriate on a case by case basis.

The Commission have indicated that for the most part these pieces of tertiary legislation will reflect the provisions contained within the existing legislation that will be repealed. Clearly we will need to scrutinise each piece of tertiary legislation as it is adopted in order to make sure that this is indeed the case or that any changes being introduced are welcome. The Commission have agreed to work on a number of the most significant pieces of tertiary legislation (to be identified by the Chief Veterinary Officers of the Member States) during the period of negotiations on the parent Regulation. This should mean that we will develop a picture of how these empowerments are intended to be used before any political agreement on the main Regulation is reached. The remaining tertiary acts will be settled during the three year transition period following adoption of the primary legislation.

We are aware from informal discussions that the majority of other Member States share the UK's concerns about the use of empowerments. The UK has been proactive in raising these concerns with the Commission, who acknowledge that they will have to work closely with the Member States and the European Parliament on this.

Another source of uncertainty over the impacts of the proposed Regulation is the design and application of a tool which will use scientific information relating to the nature and impact of over a hundred different diseases, to categorise them according to the types of provisions that will apply within the new Regulation. It is possible that some diseases that have not previously been subject to EU-level legislation in certain respects will come within scope of provisions within the proposed Regulation. One possible example of this is rabies, where our current control strategy is not informed

by EU legislation. These kinds of impacts will only become apparent as work continues on the disease categorisation tool. We, along with several other Member States, have made it clear to the Commission that we consider clarity on this to be fundamental to reaching agreement on the proposed Regulation and they in turn have indicated that they expect to be able to share more details in the autumn on how this very important aspect of the proposed Regulation will be taken forward.

I am aware that my officials are providing an informal factual briefing for you this week on the package within which the Animal Health Regulation sits, which I hope will be helpful. I will be keeping your committee regularly updated on progress with this proposal but trust in the meantime that this additional information is useful to you and your members.

*1 July 2013*

#### **Letter from the Chairman to David Heath MP**

Your letter of 1 July 2013 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 July 2013.

Thank you for your helpful and informative response. We are also grateful to your officials who briefed our Committee on Wednesday 26 June on this Proposal, in conjunction with three other related dossiers under the Commission's Animal and Plant Health package.

We are furthermore grateful to you for the additional detail and information provided as regards this proposal, which has certainly filled the gaps within the EM.

Our overarching concern across the entire package is to ensure that the strategic aim of simplification and delivering a safe environment does not become lost during the negotiation of detail. This is particularly important against the backdrop of negotiations on the trade and investment partnership with the USA.

In your letter you comment on the use of delegated and implementing acts, noting that the majority of other Member States share similar concerns with the UK. A clear danger is that simplification of the framework legislation will simply lead to the displacement of detail in a myriad of new, tertiary legislation. An abundance of such legislation must obviously be avoided. We look forward to you keeping us updated on that aspect of the Regulation.

Regarding animal welfare, whilst this Proposal specifically does not apply to animal welfare, we note that the Regulation on official controls (EM: 9464/13) does. One piece of legislation on which there will be an impact is the live animal transport Regulation. We would urge the Government, therefore, to be mindful of this and be vigilant when considering these Proposals.

We look forward to an update on the negotiations in the autumn. In the meantime, we will retain the Proposal under scrutiny and look forward to a response in due course.

*11 July 2013*

#### **ANIMAL TESTING AND MARKETING BAN IN THE FIELD OF COSMETICS (7762/13)**

##### **Letter from Jo Swinson MP, Minister for Employment Relations and Consumer Affairs, Department for Business, Innovation and Skills to the Chairman**

Thank you for your letter of 25 April. We note the point raised about subsidiarity, and wish to reassure the Committee that subsidiarity issues are considered for suggested policy initiatives in this field.

The lead expert in the European Commission has confirmed it that although it has received some requests for clarification of a technical nature, there have been no objections from Member States.

The Platform of European Market Surveillance Authorities for Cosmetics (PEMSAC), an informal permanent group on which UK representatives sit, will be used to ensure that the appropriate and effective mechanisms are put into place in order to counter the potential risks of abuse in the application of the testing and the marketing ban.

*13 May 2013*

#### **Letter from the Chairman to Jo Swinson MP**

Your letter of 13 May 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for your reply regarding our concerns surrounding subsidiarity, and are pleased to note that there have been no objections from other Member States.

Please consider this strand of correspondence as closed.

22 May 2013

**BALANCE OF COMPETENCES REVIEW: LAUNCH OF CALL FOR EVIDENCE  
(UNNUMBERED)**

**Letter from the Rt. Hon. Owen Paterson MP, Secretary of State, Department for Environment, Food and Rural Affairs and from Rt. Hon. Edward Davey MP, Secretary of State, Department of Energy and Climate Change, to the Chairman**

We are writing to you regarding the Review of the Balance of Competences launched by the Foreign Secretary in July 2012, as part of the commitment in the Government's Coalition Agreement to examine the balance of competences between the UK and the European Union. Phase two of that review is now underway, and the Department for Environment, Food and Rural Affairs and the Department for Energy and Climate Change are about to conduct a review of the application and effect of the EU's competence in the areas of environment and climate change.

The call for evidence is being launched today and a large number of interested parties are being invited to respond. We would like to extend an invitation to your Committee to present your own submissions to the call for evidence (attached) [not printed], which sets out the scope of the report and includes a broad set of questions on which we ask contributors to focus. The deadline for submissions is August 2013.

The Environment and Climate Change report is due to be completed by the end of 2013. It is intended to be a comprehensive, informed and objective analysis of what the EU's competence in these areas is, and how its application affects the UK. It will aid our understanding of the nature of our EU membership and provide a constructive and serious contribution to the wider European debate about modernising, reforming and improving the EU.

20 May 2013

**BALANCE OF COMPETENCE- CALL FOR EVIDENCE FOR ENERGY REPORT  
(UNNUMBERED)**

**Letter from the Rt. Hon. Edward Davey MP, Secretary of State, Department of Energy and Climate Change, to the Chairman**

I am writing to you regarding the Review of the Balance of Competences launched by the Foreign Secretary in July 2012, as part of the commitment in the Government's Coalition Agreement to examine the balance of competences between the United Kingdom and the European Union. Phase three is now underway and the Department for Energy and Climate Change is leading the work on a review of the application and effect of the EU's competence in the field on energy.

The department is launching a Call for Evidence on 24 October. As part of the Review, interested parties are invited to provide evidence with regard to all aspects of EU policy and legislation relating to energy and I am writing to extend this invitation to your Committee

The attached [not printed] Call for Evidence document sets out the scope of the review and includes a series of broad questions on which we ask contributors to focus. The deadline for submissions will be 15 January 2014.

Following the Call for Evidence, the Energy Report will be completed by Summer 2014 and will be a comprehensive, informed, and objective analysis of what the EU's competence in these areas is, and how its application affects the UK. It will aid our understanding of the nature of our EU membership; and it will provide a constructive and serious contribution to the wider European debate about modernising, reforming and improving the EU.

2 October 2013

**BANNING THE PLACING ON THE MARKET AND THE IMPORT TO, OR EXPORT FROM, THE EU OF CAT AND DOG FUR AND PRODUCTS THAT CONTAIN SUCH FUR (11088/13)**

**Letter from the Chairman to Lord Green, Minister for Trade, Department for Business, Innovation and Skills**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 July 2013.

While we accept that the Report from the Commission was non-legislative and concludes that changes are not required, we were nevertheless disappointed by your EM. A statement of the Government's view on the conclusions drawn by the Commission would have been helpful.

The Commission has drawn its conclusions partly on the basis of consultation with 10 stakeholders from both the industry and animal welfare communities. We would urge you to ensure that UK stakeholders are similarly content with the legislation.

We note from the Commission's Report that no targeted checks took place in 2009 and 2010 on internet selling websites or on packages sent by mail. It seems to us that these are areas that may require further effort, particularly given the level of public interest that was the original catalyst for the legislation.

We are content to release the Report from scrutiny. Please consider this strand of correspondence closed.

*11 July 2013*

**BATTERIES AND ACCUMULATORS CONTAINING CADMIUM (8245/12)**

**Letter from the Chairman to the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Your letter of 24 April 2013 in response to our letter of 28 June 2012 to Greg Clark MP on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for your update regarding the series of amendments agreed by the European Parliament Environment Committee.

We support the position you have taken in regards to the negotiations between the Irish Presidency, the European Parliament and the Commission, and would appreciate an update on the outcome of the trilogue meetings in due course.

*22 May 2013*

**Letter from the Rt. Hon. Michael Fallon MP to the Chairman**

Further to your letter of 22 May, I am writing to update you on the Batteries Directive negotiations and specifically the outcome of the trilogue meetings held on 23 April and 5 June.

Following the second trilogue on 5th June, agreement was reached on a possible final compromise text. Coreper agreed that text on 14 June and it will now pass to the European Parliament for their agreement before returning to Council as an "A" point after the summer break for final agreement.

Agreement was based on the following points:

- The exemption in the current Batteries Directive (2006/66/EC) for Nickel Cadmium batteries in cordless power tools will end on the 31 December 2016;
- The ban on mercury in button cells is to take effect 21 months after entry into force of the Proposal however, the Commission will be able to review this transitional period and to propose the continued exclusion of button cells used in hearing aids in the case of the lack of availability of mercury free versions.

- There is no date by which stocks of either of the above for products placed on the market before the date of the relevant ban, must be exhausted;
- Implementing acts will be used to establish rules regarding the calculation of recycling efficiencies
- Delegating acts will be used for decisions on equivalent conditions regarding treatment and recycling outside the European Union, capacity labelling of portable and automotive batteries and accumulators.
- Where decision is made to exempt a particular product from complying with the labelling requirements of the 2006 Batteries Directive, this exemption shall be adopted by way of delegated act. However, before adopting a delegated act in respect of such an exemption the European Commission is required to carry out appropriate consultations with relevant stakeholders.

Overall this text represents a good deal for the UK. We would have preferred a longer transition date for the Cadmium exemption but when this issue was raised during negotiations it became apparent that there was insufficient support amongst other Member States to enable us to achieve this. However, we did manage to have the transitional period extended by an additional year to 31 December 2016 in addition to securing an agreement that existing stocks already placed on the market by this date can still be sold until stocks are exhausted.

We are also content with the proposal to ban mercury in button cells, which brings the amending directive into line with the undertaking made by the UN Environment Programme in January 2013, to a ban on most uses of mercury by 2020 (the Minamata Convention). Again, we have managed to negotiate a reasonable transition period to allow business and other stakeholder's time to adapt and that existing stock already placed on the market by the end of the transitional can continue to be sold until stocks are exhausted. The proposed text for the first reading also allows for the exemption in respect of mercury button cells used in hearing aids to remain in place, as long as is appropriate.

*1 July 2013*

**Letter from the Chairman to the Rt. Hon. Michael Fallon MP**

Your letter of 1 July 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 10 July 2013.

We are grateful to you for your update regarding the negotiations and outcome of the trilogue meetings that were held on 23 April and 5 June.

We note that agreement on a final compromise text was reached following the second trilogue on 5 June, and agreed by COREPER on 14 June. We understand that it will now pass to the European Parliament for agreement before returning to Council as an "A" point for final agreement. Although the UK would have preferred a longer transition period, we are pleased to note that this text represents a good deal for the UK overall.

Please mark this strand of correspondence as closed.

*11 July 2013*

**BEE HEALTH (UN-NUMBERED)**

**Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs to the Chairman**

Thank you for your letter of 8 May about EU negotiations on neonicotinoid insecticides and broader measures to support bees. Your letter crossed with the letter of the same date from my colleague Lord de Mauley updating Parliamentarians on the negotiations on neonicotinoids.

Pollinators, including bees, are essential to the health of our natural environment and to the prosperity of our farming industry. At a purely pragmatic level, pollination is worth several hundred million pounds per year. Bees are among our greatest allies in delivering our twin priorities of animal and plant health. The Government therefore attaches great importance to healthy bee populations – including honey bees, bumble bees and solitary bees. We carry out a range of work to safeguard wild and managed bees and support beekeepers.



Recognising the importance of bees and other pollinators, the Government remains prepared to take action on neonicotinoids if the evidence indicates a need and we are, indeed, undertaking a national review of product authorisations. However, our current assessment of the evidence suggests that, while we cannot exclude rare effects of neonicotinoids on bees in the field, effects on bees do not occur under normal circumstances. Consequently, the risk to bee populations from neonicotinoids, as they are currently used, is low. The Government's Chief Scientific Adviser, Sir Mark Walport, and Defra's Chief Scientific Adviser, Professor Ian Boyd, agree with this conclusion.

The European Commission drew up plans for a ban on the use of three neonicotinoids on crops "attractive to bees" (a long list including oilseed rape and maize) and on spring cereals. This included a ban on the sale and use of all seeds for those crops treated with the three active substances. The ban would run indefinitely, although it would be reviewed after two years.

The Commission put its proposal to a vote in the Standing Committee on the Food Chain and Animal Health in March. The UK abstained in this vote and a majority of Member States either abstained or voted against the Commission. The EU rules allow the Commission to take its proposal to an appeal committee and it did this on 29 April. Again, there was no qualified majority for or against and this means that the Commission can adopt its proposals, which it did on 24 May. The measures were published in the Official Journal on 25 May, which can be found at:

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:139:0012:0026:EN:PDF> They have direct effect across Europe and so bind the UK.

The UK voted against the proposal because, in our view, the scientific evidence does not justify it. A number of other countries agreed with us that imposing severe restrictions was not the right action to take (there were a total of eight Member States voting against and four abstentions).

Whilst disappointed with the Commission's final proposal it did, however, contain a useful concession. The date of implementation of the restrictions will now be 1 December 2013 rather than 1 July 2013. This will allow autumn sowing of treated seed and help the seed supply chain to make a relatively orderly transition to the new rules. We will do what we can to help this process, in particular by ensuring that clear information is available to growers and others affected.

The Commission also gave an assurance that it will be possible to carry out further field research on the risks to bees from neonicotinoids. This is very important as all parties acknowledge that the current evidence is incomplete.

The UK Government will therefore lead on further work, including field studies, which will reduce the uncertainties and which will be helpful to all those with an interest in this issue. We would expect that the outcome of the Commission's review by 2015 will be founded firmly on the resultant strengthened scientific evidence base.

In addition to the work on neonicotinoids we are also undertaking a review of the health and value of bees and other pollinators. Our aim is to develop a better understanding of the various factors that can harm bees and other pollinators and the changes that government, other organisations and individuals can make to counter their impact. Lord de Mauley and Defra's Chief Scientific Advisor have already met to discuss this work with a number of interested parties, including some NGOs, and we will be seeking to host discussions with other stakeholders over the summer, as there is a wide enthusiasm for joint work to help these key species.

We will be submitting the Government response to the Environmental Audit Committee's report on "Pesticides and pollinators" in the next few weeks and the Committee will publish it sometime after that. May I suggest that your Clerk contacts the EAC Clerk to discuss whether it might be possible for them to share the response with you before it is published. In addition, I would be happy for Defra officials to provide your Committee with a factual briefing before the House rises for summer recess.

26 May 2013

## BLUEPRINT TO SAFEGUARD EUROPE'S WATER RESOURCES (16425/12)

### **Letter from the Chairman to Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs**

Your letter of 2 May 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us regarding the progress of this dossier. We look forward in particular to further developments from the Commission on water re-use.

We are now content to release this Communication from scrutiny. Please mark this strand of correspondence as closed.

*22 May 2013*

## COD STOCKS (13745/12)

### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

As requested in your letter of 17 January, I am writing to update you about the progress towards the adoption of the amendment to the Cod Recovery Plan, which the Council unanimously agreed in Council Regulation 1243/2012 last December. On 11 June the European Parliament voted by a significant majority in favour of adopting the amendment (592 votes in favour, 71 votes against, with 15 abstentions). The measures which the amendment will enable to be implemented have the broad support of the UK and will help address shortfalls in the current cod plan which the UK has been critical about for some time.

However, the adoption of the amendment cannot be progressed until a legal challenge has been resolved. This has been brought by the Parliament and Commission against Council Regulation 1243/2012. It is a legal dispute between the Council, Parliament and Commission and has come out of a prolonged debate over the scope of the Council's powers after the Lisbon Treaty. At the December Council to avoid further effort reductions, the Council made a Regulation amending the Cod Recovery Plan to secure an effort freeze for 2013 vital to the recovery of cod stocks and to maintaining the viability of the UK fleet. The Commission and the Parliament argue that the Council did not have the power to make the Regulation and that the Cod Recovery Plan should have been amended by a Regulation using a different procedure, which would have involved consultation with the Parliament. The challenge is not against the measures themselves, on which there is agreement between the Parliament, Council and Commission, but against the process by which it was delivered. The case will not be heard by the European Court until autumn 2014 at the earliest. We very much regret this delay; however, outside the amendment to the cod plan, we are continuing to work with industry to implement measures which will deliver stock recovery and help secure a viable future for our industry. The implementation of the reformed Common Fisheries Policy will also allow us to put into practice other measures designed to cut fishing mortality.

*7 August 2013*

### **Letter from the Chairman to Richard Benyon MP**

Your letter of 7 August 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for updating us as regards progress towards the adoption of the amendment to the Cod Recovery Plan. We understand that the European Parliament voted by a significant majority in favour of adoption.

We note, however, that adoption of the amendment cannot be progressed further until the legal challenge surrounding the procedure used to amend the Cod Recovery Plan has been resolved. We would emphasise that, in the meantime, it is crucial to press on with measures to manage these stocks effectively.

We are content to release the Proposal from scrutiny, and would be grateful for an update on its progress in due course.

*12 September 2013*

**Letter from George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 12 September about the elements in the Commission's original proposal to amend the Cod Recovery Plan, which cannot be adopted until a challenge, surrounding the procedure used to amend the plan, has been resolved.

In the UK we are already promoting measures contained within the amendment which are most relevant to our fishermen. For example, while we would rather exempt from effort vessels that fully document their catch as proposed under the amendment, we are giving vessels, which participate in our Catch Quota management schemes, over 100 additional days of North Sea effort above their basic allocation. Participating vessels are therefore able to fish more selectively and have cut discards of North Sea cod to around 0.1% of their total catch of the stock. We are also making additional effort available to other vessels, which use highly selective gears to reduce unwanted catches from fisheries where discards have habitually been high. Through these measures and by other ways, UK fishermen are taking the lead and contributing significantly to a recovery of cod stocks in the North Sea.

That said we would like the new measures set out in the cod plan amendment to be put in place across the EU as quickly as possible. In a promising new development, the Presidency, Commission and European Parliament have established an inter-institutional taskforce on long term fisheries management plans, which is due to report early next year and might offer a way forward for the implementation of further measures ahead of the Court judgement on the legal challenge expected at the end of 2014.

*16 October 2013*

**Letter from the Chairman to George Eustice MP**

Your letter of 16 October 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 October 2013.

Thank you for providing us with information regarding the measures already being taken in the UK to promote cod recovery, even in the absence of the amendment to the Cod Recovery Plan.

It is reassuring to learn of the inter-institutional taskforce on long-term fisheries management plans. We hope that this group can find a way through the institutional impasse.

We look forward to an update in due course.

*30 October 2013*

**COMMON AGRICULTURAL POLICY (15396/11, 15397/11, 15425/11, 15426/11)**

**Letter from the Chairman to the Rt. Hon. Owen Paterson MP, Secretary of State, Department for Environment, Food and Rural Affairs**

Your letter of 8 May 2013 on the above Proposals was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 22 May 2013.

We were grateful for the exchange of views that we were able to hold with you at our meeting of 15 May. This proved fruitful for us in terms of confirming the Government's position and the areas of continued uncertainty in negotiations.

In your letter of 8 May, you responded helpfully to our questions relating to the mapping of Areas facing Natural Constraint (ANC) and about cross-compliance. We would welcome clarification of the technical problems which you mentioned in reference to ANC.

We are content at this stage to release the proposals from scrutiny but would expect that you will keep us closely informed as negotiations proceed towards their conclusion.

We therefore look forward to an update in due course.

*22 May 2013*

### **Letter from the Rt. Hon. Owen Paterson MP to the Chairman**

Thank you for your letter of 22 May requesting clarification of the technical problems that we have been working to resolve with the Commission in respect of the potential implementation of Areas facing Natural Constraints in the UK.

The main technical issues stem from the Commission's original text in the published draft Rural Development Regulation (RDR) and, subject to the outcome of ongoing negotiations, look to have been addressed:

- Mapping at Local Administrative Unit 2 (LAU2) - in the UK this equates to Electoral Wards and is less effective in allowing us to identify land that is constrained. A revised approach would enable mapping to WTO compliant units, in effect Parishes in the UK, and would give more robust and verifiable results.
- Applying the bio-physical sub-criteria in Annex II [not printed] of the RDR – the wording requires that mapping is carried out against all sub-criteria laid down in the Annex [not printed]. In the UK, this produces some perverse results e.g. gleyic pattern soils, which is one sub-criterion, may no longer be constrained but will still exhibit “gleyic” characteristics for several decades. We have been seeking confirmation that where sub-criteria are clearly inappropriate they need not be applied.
- The threshold for classifying an area as constrained – this was set at 66% i.e. where 66% or more of the Utilisable Agricultural Area in an Administrative Unit met at least one of the bio-physical criteria, after economic fine-tuning, it should be classified as constrained. The proposal is to reduce this to 60%, which is acceptable to the UK.
- Applying the UK's Agricultural Land Classification (ALC) systems – the Commission's text requires mapping against bio-physical criteria and then economic fine-tuning to identify constrained land. The UK has argued that we should also be able to apply our more sophisticated, and long established, land classification systems to root out land that is not constrained prior to moving to economic fine-tuning. The Commission has confirmed that proposed revised text would provide for this.

Taken as a package, these changes, if they are finally voted through, would enable us to produce a far more accurate and acceptable ANC map in England and in Devolved Administrations, which have been supportive of resolving these technical issues.

*15 June 2013*

### **Letter from the Chairman to the Rt. Hon. Owen Paterson MP**

Your letter of 15 June 2013 on the above Proposals was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 26 June 2013.

We were grateful for the helpful information your letter provides as regards clarification of the technical problems in respect of the potential implementation of Areas facing Natural Constraints in the UK.

We look forward to a further update on the CAP reform negotiation following the 24-25 June Council meeting.

*27 June 2013*

### **Letter from the Rt. Hon. Owen Paterson MP to the Chairman**

Further to your letter of 27 June, I am writing to set out the outcomes of the EU Agriculture Council in Luxembourg on 24-25 June where a political deal on Common Agricultural Policy (CAP) reform was agreed in principle. I have outlined the UK's negotiating objectives in previous correspondence and I was pleased to get the recent opportunity to appear before the Committee to take questions on CAP Reform.

Overall, the CAP deal was an acceptable outcome for the UK, even though it is not the genuine reform we had hoped for. We have fought hard to secure a CAP package that is an improvement on the original proposals. The UK has also worked closely with its allies to stop a whole raft of

regressive proposals from being adopted that would harm UK farmers. The agreed deal helps provide greater certainty for farmers and paying agencies and we can now start the essential process of designing the next CAP programme. The annex [not printed] to this letter sets out the main negotiated outcomes under each of the four CAP proposals.

#### NEXT STEPS

The European Parliament's Agriculture Committee has informally indicated its support for the CAP package agreed in principle at June Agriculture Council. They did put aside those elements of the CAP regulations which are affected by the Multiannual Financial Framework and they now need to return to consider these. Once this has been done, the European Parliament will vote on the package in plenary before final agreement at an Agriculture Council meeting in the autumn.

While these steps are being carried out, we await the legal texts for checking and will also work closely with the EU Presidency, the European Commission and European Parliament on the CAP transitional regulations for 2014 as well as the CAP implementing legislation that will add more detail to the main CAP package.

In England we will be working closely with stakeholders to ensure the CAP is implemented in a way that strikes a balance between environmental benefit and simplicity of implementation, without impacting unduly on farmers. We are determined to learn the lessons of previous governments who, to the detriment of our farmers, sought to implement CAP reform to an unrealistic time frame and in an over-complicated manner.

*9 July 2013*

#### **Letter from the Chairman to the Rt. Hon. Owen Paterson MP**

Your letter of 9 July 2013 on the above Proposals was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 17 July 2013.

We share your disappointment at the lack of commitment to reform demonstrated by the deal reached between the European Parliament and Council. It is clear, though, that the Government have negotiated effectively and we take particular note of the agreement on the end to sugar beet quotas.

The challenge now, however, will be for the UK to implement the CAP effectively and to encourage the other Member States to do likewise. There are details to be resolved at the EU level through tertiary legislation, including in relation to active farmers as one example. The latter issue is not, as we understand it, quite as finalised as you implied in your letter, but we would welcome clarification on what remains to be decided on the definition of active farmers.

Attention will, rightly, focus on the implementation of the various rules relating to direct payments and, particularly, application of the new greening provisions. We would not, though, wish implementation of the Rural Development Regulation to suffer through a lack of attention. The word "innovation" was noticeably absent from your letter and analysis and yet there are provisions, particularly in the Rural Development Regulation, to boost innovation in the sector. We very much hope that the Government have not lost sight of the need not only to encourage innovation in UK agriculture, but to encourage innovation across EU agriculture. Demonstrating through the tools available under the current package that innovation can assist the EU agricultural industry will be key to winning a future argument about further reform.

We were disappointed by your reluctance to accept additional mandatory requirements for the Farm Advisory System. As we heard during our inquiry into "Innovation in EU Agriculture" in 2011, this is fundamental to the innovative future of EU farming. We would therefore welcome your analysis of the text and your rationale as to why this will be burdensome, as also information from you on whether you are confident that farmers in the UK already have systematic access to the type of information that will now be mandatory.

It is our intention to give brief consideration in September and October to implementation of the CAP, further to which we will no doubt have additional points to raise with you.

In the meantime, we look forward to your response to this letter by 30 August 2013. We appreciate that the legal versions of the text are still under preparation and therefore note that any analysis that you provide will be conditional on the final agreement.

*18 July 2013*

## Letter from the Rt. Hon. Owen Paterson MP to the Chairman

Thank you for your letter of 18 July setting out the Committee's views on the Common Agricultural Policy (CAP) package that was agreed in principle at June Agriculture Council. There are some outstanding Multiannual Financial Framework (MFF) related issues still to be resolved but we hope these will be concluded in the autumn.

I fully agree with the Committee that the challenge now is to implement the CAP effectively and that the CAP Implementing Regulations to be agreed next spring will add the important detail we need. However, the June deal provides enough clarity to begin the essential process of working together with farmers and other interested parties to design the next CAP programme for England.

### ACTIVE FARMER

As you point out, one issue where further details will need to be worked out is the active farmer provision. Whilst the June deal sets out the basic requirements, we expect the Commission to produce some detailed criteria to underpin these and Member States will have some choices in how the active farmer provision is implemented.

There are two components to the active farmer provision. The first is a mandatory negative list of business types, which comprises of operators of airports, railway services, waterworks, real estate services and permanent sport and recreational grounds who will be ineligible to apply for direct payments (or, in limited circumstances for a limited number of measures, rural development payments). Member States are allowed to extend this list. However, if businesses which fall within this list can show that either their direct payments represent at least 5% of their non-agricultural receipts, their agricultural activities are 'not insignificant' or the organisations' principal objective is an agricultural activity, they will be eligible for payments. The Commission has powers to produce detailed rules on these readmission criteria. Member States are allowed to exclude farmers who receive no more than €5,000 in direct payments from the requirements of the negative list.

The second component is that those farmers for whom the majority of their land is 'naturally kept in a state suitable for grazing or cultivation' will need to undertake a minimum activity (to be set by the Member State) in order to qualify for payments. Again, the Commission has powers to produce detailed rules on this.

We expect discussions on the detailed rules to begin in the autumn and, in parallel, we are discussing with stakeholders how we should apply the flexibilities open to us.

### INNOVATION IN AGRICULTURE

I can reassure the Committee of the importance I attach to innovation in the agriculture industry. I see innovation as crucial in underpinning work to support the agricultural industry to become more sustainable and competitive.

We are already undertaking a number of projects to drive innovation in agriculture in the UK. Along with David Willetts MP, the Minister for Science, I recently launched the UK's agri-tech strategy. This strategy sets out how we can unlock the full economic potential of the UK's world-leading research in agriculture and deliver an increase in food production while improving the environment, contributing to global food security and the growth of the UK economy. We intend to achieve this by ensuring more research flows from laboratories into commercial application in the field.

In addition, we continue to develop a Sustainable Intensification Research Platform where we aim to bring together scientists from a wide range of environmental, production and social science disciplines to work together on optimal land use solutions at farm, landscape and national level.

Innovation is a cross-cutting objective of the new Rural Development Regulation. We are looking actively at how we can help innovation in the agriculture sector in the design of the next Rural Development Programme in England. The new Rural Development Regulation offers Member States the opportunity to support applied innovation further through the European Innovation Partnership (EIP) for agricultural productivity and sustainability. We are currently considering how this EIP can complement the work already ongoing to drive application of new, innovative technologies.

### FARM ADVISORY SYSTEM

By way of clarification on the point raised about the Farmers Advisory System (FAS), we are supportive of the introduction of the new FAS requirement on innovation and competitiveness as this is in line with this Government's agenda. Improving and expanding advice on innovation and

competitiveness aligns well with wider Government policy to build up the resilience of the farming sector to economic pressures.

Our disappointment at the outcome of further elements of the FAS becoming mandatory is because we would prefer to see a FAS that can provide tailored and relevant advice to farmers. That is why we negotiated for a system to be as flexible as possible making only the most necessary and cross-cutting requirements mandatory across the EU.

I hope this provides clarification on the issues you raise and look forward to further discussion with the Committee as we enter the CAP implementation stage.

13 August 2013

### **Letter from the Chairman to the Rt. Hon. Owen Paterson MP**

Your letter of 13 August 2013 on implementation of the above dossiers was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 16 October 2013.

#### ORAL EVIDENCE SESSIONS AND WRITTEN MATERIAL

Before responding to your letter, we held oral evidence sessions on 11 September with the National Farmers' Union (NFU), the Institute for European Environmental Policy (IEEP) and the European Commission. Mr Gwilym Jones, a member of the office of Commissioner Cioloş, represented the European Commission and wrote with certain additional information after his evidence session. Furthermore, we received a letter from the Adapt Low Carbon Group at the University of East Anglia. The transcripts and letters are available on our website.

#### CROP DIVERSIFICATION

Concerns were expressed to us about the practical application of the greening provisions, with particular attention focused on the crop diversification provision. While it was recognised that monocropping is an agricultural practice to be tackled in certain parts of the EU, it was also considered that the crop diversification rule may not apply well to some UK livestock farmers. The European Commission argued that the agreed deal contains sufficient flexibility to deal with this issue, although the NFU was less confident and detected a defensive approach by the UK Government in seeking to take a flexible approach, even through certification of measures deemed equivalent to crop diversification. On the other hand, we are aware of work by the IEEP for the UK's Land Use Policy Group<sup>1</sup>, which suggests that, based on existing certification schemes, the equivalence measures will in most instances across the EU also be challenging to apply.

We would welcome your comments on the level of flexibility that you see in the agreed deal to implement the crop diversification rule. In particular, do you see certification of equivalent measures as a helpful option in this context?

#### FEAR OF DISALLOWANCE

It was suggested to us that the UK Government approach to CAP implementation, and that of other Member States, may be driven by a fear of disallowance, rather than the benefit of the farming industry and the rural environment. We would welcome your response to this point and confirmation that you are discussing all possible implementation options with the European Commission, with a view both to securing maximum flexibility while avoiding any disallowance.

#### INNOVATION

In your letter, you observe that the Rural Development Regulation offers Member States the opportunity to support applied innovation further through the European Innovation Partnership (EIP) for agricultural productivity and sustainability, and that you are currently considering how this EIP can complement the work already ongoing to drive the application of new, innovative technologies.

To assist you with your deliberations, our report in 2011 on innovation in EU agriculture was clear that a systems driven approach to innovation is important. This was backed up in March 2012 by the 'Agricultural Knowledge and Innovation Systems in Transition' reflection paper from the European

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<sup>1</sup> *Environmental Certification Schemes and their equivalence with the CAP greening proposals*, Briefing for the UK Land Use Policy Group, Hart K and Menadue H, September 2013.

Commission's Standing Committee on Agricultural Research.<sup>2</sup> Such an approach lies at the heart of the EIP.

A clear theme of the written evidence submitted already to our food waste prevention inquiry is the importance of collaboration throughout the food chain, an activity which is core to the systems approach and therefore core to the work of the EIP. During our inquiry, we heard of excellent work being carried out at the University of East Anglia (UEA) using the systems approach. It was partly on the basis of seeing the success of that work that we supported the approach and the EIP concept. The UEA is concerned that the Government will not choose to support the EIP through the UK's limited rural development funding and that this will prove detrimental to your ambition to drive an innovative farming sector. A particular concern of UEA is that failure to include support for the EIP within UK Rural Development Programmes will hamper access to the Horizon 2020 budget for sustainable agriculture, an increase to which was a significant achievement in the Multiannual Financial Framework.

It would be helpful if you could inform for us what progress you have made on this issue, the information base on which your considerations are based and the extent to which you are actively working in Brussels to shape the formulation of the EIP.

#### FARM ADVICE

We note your comments on farm advice and would observe that the EIP is integral to farm advice. Its knowledge exchange approach can add value to the knowledge transfer efforts of farm advice which, as you say, are important to build up the resilience of the farming sector to economic pressures. Since the launch of the Farming Advice Service (FAS) in 2012, what information are you able to provide on its progress, including an assessment of the coherence of advice available to farmers through different sources, including the Agricultural and Horticultural Development Board? Do you see any changes to the FAS as a result of the CAP reform agreement?

#### PROGRESS OF IMPLEMENTATION

Finally, we would be interested in any additional comments that you may have on the process of CAP implementation, both in the UK and as regards discussions in Brussels. We would particularly welcome an update on progress made in relation to defining active farmers.

#### CONCLUSION

We look forward to your response within 10 working days, and we hope that you share our aspirations for the implementation of the CAP. From the evidence that we have received, there is clearly a danger that decisions will be made in the coming months that fail to support effectively the medium- to long-term environmental, economic and social future of our rural communities. We may seek oral evidence from you or officials in early 2014 in order to assess progress.

17 October 2013

#### **Letter from the Rt. Hon. Owen Paterson MP to the Chairman**

Thank you for your letter of 17 October asking for further comments following the oral evidence session with the National Farmers' Union (NFU), the Institute for European Environmental Policy (IEEP) and the European Commission. This letter sets out my response to the queries raised by the Committee following that session.

#### CROP DIVERSIFICATION

I am aware that the new Crop Diversification rules as part of the greening requirement will cause difficulties for some English farmers. As you correctly point out, there is some flexibility which would allow us to introduce a certification scheme for greening which contains 'equivalent', alternative measures to those contained in the Direct Payments Regulation. We do not however have a completely free choice over these equivalent measures; they too are set out in an Annex [not printed] to the Regulation. In most part the listed alternatives consist of further elaborations of the concept of Crop Diversification which would not help with the difficulties you have identified.

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<sup>2</sup> EU SCAR (2012), *Agricultural knowledge and innovation systems in transition – a reflection paper*, Brussels.



The NFU has asked whether a farmer who is unwilling or unable to undertake the Crop Diversification measure might instead be able to undertake a additional element of the Ecological Focus Area measure as part of a Certification Scheme. The European Commission has been clear that this would not be permissible – any alternative would have to be directly equivalent to the Crop Diversification measure itself. So there is no easy answer to this question. We shall be interested in the responses received to the consultation exercise on CAP Reform, in particular if any respondees express preferences from the listed, possible alternatives to Crop Diversification.

#### FEAR OF DISALLOWANCE

Member States and the Commission implement the CAP under ‘shared management’, i.e. fulfil their respective control and audit obligations. Member States have an obligation to take all necessary measures to protect the EU’s financial interests, i.e. ensure that schemes financed from EU funds are implemented correctly and effectively and prevent or detect and correct irregularities and fraud. The UK accordingly implements controls and audits to ensure that the CAP budget is spent correctly and that the correct amount of aid goes to eligible beneficiaries only. DG AGRI audits the UK and other Member States to check that the EU rules are properly interpreted and applied and that management and control systems are sufficient to ensure that those rules are correctly implemented. Where this is found not to be the case, the risk to the EU budget is assessed and financial corrections are applied to protect the EU’s financial interests.

The UK Government seeks to balance its obligations to the EU and the need to avoid disallowance with its desire to reduce administrative costs and burdens on the farming industry and the rural environment. Striking this balance is extremely challenging. The European Court of Auditors continues to find very high rates of error in EU funds including the CAP. The complexity of CAP rules remains considerable. The Commission often takes many years to finalise financial corrections under the conformity clearance process, which means that disallowance relating to historic problems under the current CAP regime will continue to affect the UK for several years. Defra has suffered an unacceptably high level of disallowance since the introduction of Single Payment Scheme in 2005 and is seeking to reduce this rate significantly in the future by:-

- negotiating flexibilities in the implementing and delegated acts where possible;
- avoiding complexity when taking national and regional decisions regarding the new regime;
- adopting a ‘digital by default’ approach which will help to eliminate errors;
- ensuring that the CAP Delivery Programme has a strong focus on compliance with EU rules;
- working closely with National Audit Office (NAO) with regard to the introduction of a mandatory annual audit of legality and regularity; and
- seeking to avoid flat-rate financial corrections- which generally overestimate the genuine risk to EU funds.

#### INNOVATION

We continue to develop the approach for supporting innovation within the next Rural Development Programme and will be asking stakeholders for their views on this and the European Innovation Partnership (EIP) as part of the wider CAP consultation which has just been published. Defra officials have been discussing the parameters of the EIP with officials in the European Commission and participated in the EIP conferences held over the summer which also gave the opportunity to share ideas with representatives from other Member States.

Membership of an EIP Operational Group is not expected to be an eligibility criterion for Horizon 2020 funding. The European Commission has indicated there will be a greater focus on demand-driven innovation through a “multi-actor” approach (e.g. researchers, farmers, advisors, businesses) at the European level for some projects. However involvement of additional partners during a project such as relevant EIP operational groups will be encouraged.

Thank you for highlighting your 2011 report on innovation in EU agriculture. I am aware of this report, and we are considering a range of evidence including this report in developing the policy. Your letter also highlighted the EU’s Scientific Committee on Agricultural Research (SCAR) report “Agricultural and Knowledge and Innovation Systems in Transition – a reflection paper” published in

March 2012. Defra participated in the working group that produced this report and we have continued to work in this area with colleagues from the European Commission and other countries. A second report from the working group will cover issues such as incentivising innovation and the use of information and communication technologies in agriculture. This is due to be published by the end of this year.

#### FARM ADVICE

In accordance with the new Horizontal Regulation the Farm Advisory System must provide farmers with advice on measures at farm level provided for in the next Rural Development Programme aimed at innovation, such as EIP. I agree that the generation and rapid dissemination of applied solutions to genuine farming challenges is an important way of improving competitiveness and resilience. We are considering the best fit between these provisions in line with the Government's aim to provide coherent and streamlined advice to farmers.

Independent monitoring and evaluation of the Farming Advice Service (FAS), coupled with anecdotal evidence from stakeholders suggests that the FAS has progressed well since its launch in January 2012. FAS has established a National Stakeholder Group (NSG) to involve stakeholders in planning and delivery of the service, providing a feedback mechanism for industry organisations, ensuring integration with other farm advice initiatives and assisting with the dissemination of information. The Stakeholder Group is made up of industry representatives, Defra and Agencies, and AHDB divisions. The following organisations participate: Defra, Environment Agency, Natural England, Rural Payments Agency, National Farmers Union (NFU), Country Land and Business Association (CLA), Tenant Farmers Association (TFA), Centralised Association of Agricultural Valuers (CAAV), Institute of Agricultural Secretaries and Administrators (IAgSA), British Institute of Agricultural Consultants (BIAC), Royal Agricultural Society for England (RASE), Agricultural Industries Confederation (AIC), Linking Environment and Farming (LEAF), Campaign for the Farmed Environment (CFE) and the Agriculture and Horticulture Development Board (AHDB) (all divisions).

The NSG initiative has proved so successful that annual meetings have become quarterly. The FAS team present details of delivery and offer the group the opportunity to input future planning activity and targeting. The group discusses the integration of delivery with other advice activity resulting in establishment of strong links and delivery partnerships with other advice initiatives such as the CFE and the Catchment Sensitive Farming (CSF) programme. FAS took up the NSG suggestion to fill a gap on regional of stakeholder activity to facilitate greater integration of advice at a local level. The FAS Programme has developed a structure for regional information sharing relating to advice provision and events which has proved successful in developing local relationships and promoting financial efficiency in delivering advice through resource sharing.

The AHDB are an active participant in FAS activity through their activity on the stakeholder groups and they have also a role as a delivery partner in some regions. Following the launch of the Farming Advice Service, a representative for the programme presented to the AHDB at a meeting attended by each of the division communications managers. This meeting was facilitated by the AHDB Chief Scientist, Ian Crute. A representative from each division is invited to each of the quarterly national stakeholder meetings.

FAS also have representation on the Farmer Information Group where they are leading on the piloting of an event alert system for stakeholders, Campaign for Farmed Environment Communications Group and the Defra Slurry Storage Initiative, and are involved with the delivery of the EA Climate Ready Initiative and with the Greenhouse Gas Action Programme.

As I implied above I foresee the possibility of considerable changes to the Farming Advice Service as a result both of CAP Reform and the implementation of our commitments in the Review of Advice, Incentives and Partnership Approaches (AIPA) published in March this year. The new CAP Regulations reflect the Commission's vision for an expanded role of the Farm Advisory System involving not only mandatory Cross Compliance and Greening advice but also advice on the Water Framework Directive, the Sustainable Use (of Pesticides) Directive and, without precedent, some types of Pillar 2 advice, plus other optional advice. Whilst we began to deliver some of this advice voluntarily through the existing Service from January 2012, in view of our commitments to integrate delivery, simplify things for farmers and reduce the number of government advisers any one farmer needs, there are clear opportunities to integrate aspects of Pillar 1 and Pillar 2 advice messaging and delivery to begin to achieve our AIPA commitments.

PROGRESS OF IMPLEMENTATION  
EUROPE

Following several months of detailed negotiations, the Council of Ministers, European Parliament (EP) and European Commission agreed a new CAP deal in principle in June 2013. At this time, MEPs had insisted that agreement was still outstanding on elements of the CAP package linked to the EU Budget agreement in February 2013. Minimal changes were made to the CAP package in September 2013 when these outstanding issues were resolved. The EP is now expected to vote on the CAP package in mid-November and we expect final approval from the Council of Ministers in December 2013.

European CAP implementing legislation will follow from the European Commission and is likely to be agreed by in the first half of 2014. This legislation will provide the detail to the main CAP regulations agreed during 2013. The full CAP package will take effect from 2015 with the Single Common Market (sCMO) regulation coming fully into effect before then in 2014. In parallel with the main CAP regulations, a transitional regulation for 2014 is being agreed which we anticipate will be subject to final approval in December 2013.

ENGLAND

Whilst Defra led for the UK on the EU negotiations on the new CAP working closely with all Devolved Administrations as EU negotiations draw to a conclusion, Defra is increasing the emphasis on implementation of the new CAP in England. The EU regulations set out many of the scheme rules which we must follow. Where we have options on how we implement the new CAP and where there is scope to do so, we are aiming to implement the new CAP in England in ways which are simple, affordable and effective. We are also addressing the Farming Regulation Task Force (FTRF) principles of co-design and early involvement by working with interested parties on the best ways to implement the various elements of CAP. This includes consulting widely and engaging openly with interested groups to help ensure we make the right decisions for customers, the public purse and to help ensure we don't repeat the mistakes of 2005. We will consult formally on the implementation of CAP shortly.

On the specific issue of Active Farmer criteria the expert level discussions on the detail of the implementing and delegated regulations is on-going in Brussels and are due to culminate in Spring 2014. We would hope to have further clarity on the detail of the active farmer criteria and naturally kept land at that time. Our preference is for an interpretation that does not capture farmers with legitimately diversified agricultural activity.

I hope this provides clarifications on the issues you raise.

*30 October 2013*

**Letter from the Chairman to the Rt. Hon. Owen Paterson MP**

Your letter of 30 October on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

We note the considerable uncertainties that remain in relation to implementation of the greening measures, including crop diversification. As you observe, the outcome of your consultation on may be helpful. We are aware too that the House of Commons Environment, Food and Rural Affairs Committee is undertaking some work on CAP reform implementation and will no doubt reflect on these aspects of the reform process.

We welcome your positive language on the European Innovation Partnership and hope that your engagement on this initiative bears fruit. Heartening too are your comments on the progress of the Farming Advice Service. We will monitor with close interest its further development, and would observe the close link to the new UK Agri-Tech Strategy.

At this stage of the reform process, we are content to close correspondence on the documents (15396/11, 15397/11, 15425/11 and 15426/11). We will continue to follow implementation with close interest and may well return to it during the course of 2014.

*28 November 2013*

**Letter from the Chairman to Richard Benyon MP, Parliamentary Under-Secretary for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs**

Your letter of 29 April 2013 on the above proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 15 May 2013.

We understand that agreement on a mandate for negotiations with the European Parliament was reached in Council on 14 May 2013. We look forward in due course to correspondence from you setting out the results of that Council and we hope too that we will be able to set a date with you to discuss those results.

In your response to us, you partially addressed our concern about labelling but we are far from satisfied that your position can be justified given the lack of clarity over costs. We would urge you to adopt a more rigorous approach to this matter and look forward to discussing it with you when we meet.

You refer in your letter to the delay in discussion of the Proposal for a Regulation on the European Maritime and Fisheries Fund (EMFF), which we do of course continue to retain under scrutiny in a separate strand of correspondence.

We look forward to an update within ten working days.

*16 May 2013*

**Letter from Richard Benyon MP to the Chairman**

Thank you for your letter of 16 May. I would like to provide a further update on progress in the CFP reform package, with details of the revised Council mandate on the CFP basic regulation agreed at May Council, and the progress achieved towards reaching agreement with the Parliament on the Common Market Organisation (CMO).

A separate letter will update the committee on the progress on the European Maritime and Fisheries Fund (EMFF) dossier.

**BASIC CFP REGULATION**

The agreement of a revised mandate at May Council was a crucial opportunity to influence the conclusion of talks with the European Parliament. An agreement was reached on a mandate that maintains ambitious reforms, and that could allow a final deal on CFP reform to be concluded with the European Parliament in the coming weeks.

The revised mandate includes firm dates for a ban on the discarding of fish; a legally binding commitment to fish at sustainable levels; and a decentralised process that enables Member States to work together regionally to implement the measures that are appropriate to their shared fisheries. These changes are critical priorities for the UK, and we were successful in heading off those who sought to water down or delay the detailed provisions needed to reform the CFP.

We were also able to secure improvements to the provisions, by further tightening the measures to eliminate discards, and moving the Council closer towards a deal with the European Parliament. This was a difficult negotiation but the UK stood firm on its key priorities and ensured that momentum would be maintained on these important reforms. Further detail on what was agreed on these key priorities is provided in annex A [not printed].

**COMMON MARKET ORGANISATION (CMO)**

At May Council, the Presidency announced that a trilogue agreement had been reached on the Common Market Organisation in Fishery and Aquaculture Products. We were successful in ensuring that the majority of the burdensome provisions on labelling sought by the European Parliament remained voluntary, including a date of landing and date of catch. The UK has no plans to apply these provisions. The text brings the CMO labelling requirements in line with other labelling regulations. I thank the committee for providing the flexibility to negotiate this text and I hope this update provides reassurance on the direction of discussions in Brussels.

## NEXT STEPS

The Presidency has already communicated the revised mandate agreed at May Council in relation to the basic regulation to the European Parliament. We understand the European Parliament are considering the text ahead of the next trilogue meetings, scheduled at the end of May. Shortly after this we will have a better understanding of whether further discussions will be needed to reach an agreement. This will depend on the extent of the changes which the European Parliament might seek, but if significant changes are sought this is unlikely to be discussed in Council under the Irish Presidency given the intention to focus on CAP reform at June Council.

We continue to support the Irish presidency in maintaining momentum on the discussions and in encouraging all parties to agree a deal based on the revised mandate. I look forward to discussing these issues with you further on 5th June.

*24 May 2013*

### **Letter from the Chairman to Richard Benyon MP**

Your letter of 24 May 2013 on the above proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meetings on 5 and 12 June 2013.

We were very grateful for your helpful and interesting session with us on 5 June.

We would agree with your conclusion that the UK has managed to negotiate a good outcome in the reform discussions and we hope now that the European Parliament and Council will give their respective seals of approval in order that the Commission and Member States can focus on implementation of the reform.

Like you, we strongly welcome the agreement on Maximum Sustainable Yield and hope that this puts EU fisheries on a trajectory towards genuine sustainability. It is clear that key to delivery of the reform will be the new regionalised approach, which we will monitor closely.

It is evident that a lot of work needs to be done in order to implement the discards ban in a way that all stakeholders can support. As you noted, this is not only about withdrawal of technical measures and introduction of new ones but it is also about consumer and industry engagement.

To us, it seems that there are two particularly difficult challenges. The first is that of the science. As we discussed in the session, ongoing research across the EU is required, encouraging a modern and innovative industry through effective knowledge transfer, and the new legislative framework must be responsive to such research and innovation. The second is that of enforcement. Industry can only be expected to conform with the new rules if there is confidence that a level playing field exists across the EU. We would urge you to pay attention to both research and innovation in the industry and to enforcement not only around the UK, but across the EU.

It would be helpful to receive, within ten working days, a copy of the final text as agreed politically by the European Parliament and Presidency negotiators, as well as confirmation in due course of agreement by both institutions.

We continue to retain the EMFF proposal under scrutiny in a separate strand of correspondence and look forward to a further update on progress under the Lithuanian Presidency in due course.

*14 June 2013*

### **Letter from Richard Benyon MP to the Chairman**

Thank you for the opportunity to speak to sub-committee on the 5th June and your further letter of the 14 June. I am conscious that the committee has not been updated on the progress that has been achieved in the Common Fisheries Policy negotiations, where colleagues in the Commons have received an oral statement on the 17 June.

I would like to confirm that on the 14 June EU Member States signaled agreement to a historic deal to reform the Common Fisheries Policy (CFP), following a provisional agreement among EU institutions last month. The changes are expected to become law later this year, once legal texts have been translated and ratified formally by Council and European Parliament. For information a copy of the current text which will be subject to consideration by the lawyer linguists can be found at this link

<http://register.consilium.europa.eu/pdf/en/13/st10/st10629.en13.pdf>.

## COORDINATION OF MARINE SCIENCE IN THE EU

On 5 June Baroness Byford raised some questions about the coordination of marine research within the EU. Please find below a summary of the ongoing work in this area.

The UK through the Centre for Environment Fisheries and Aquaculture Science (Cefas) ensures that our research and development (R&D) is coordinated with other Member States to avoid duplication, ensure common approaches across the EU and to gain added value from the data collected, where possible.

Cefas' work in international fora includes input into advisory bodies such as Regional Advisory Councils (RACs), International Council for the Exploration of the Sea (ICES) and the Scientific Technical and Economic Committee for Fisheries (STECF).

Long-term initiatives established by the European Commission and ICES allow Member States to coordinate their data collection activities, Cefas actively participates in these on behalf of the UK. These initiatives aim to avoid duplication of effort, and make most efficient use of funding for data collection provided through the EU DCF. These include the Regional Coordination Meetings (RCMs) for individual sea areas, and the ICES Planning Group on Commercial Catches, Discards and Biological Sampling, which provide overviews of work being done by fisheries laboratories throughout Europe. They also have a vital role in coordinating national data collection programmes for fisheries, considering options for task sharing between countries, and develop systems for quality assurance. Ensuring the data collected is as robust as possible provides the best possible value for money and meets the needs of the policies it underpins.

Cefas have also participated in Commission funded R&D projects working with partners in other Member States. Recent examples include the development of ecosystem indicators to be collected under the revised Data Collection Framework (DCF), and impacts of fishing on ecosystems with respect to European environmental objectives for example under the Marine Strategy Framework Directive. In addition they have also participated in EU funded work on approaches to simplify the regulation of technical measures through better selectivity and better protection of the marine environment.

An on-going example of Cefas work involves the development of methods for maximising fisheries yield whilst balancing ecosystem, economic and social concerns. This work involves collaboration with 30 European institutes, stakeholders from the fishing industry, and NGOs to develop a number of regional case-studies.

I hope that this provides a useful overview of the ongoing work of the UK in international fora in relation to research and monitoring.

*27 June 2013*

### **Letter from the Chairman to Richard Benyon MP**

Your letter of 27 June 2013 regarding documents 12514/11, 12516/11 and 12517/11 was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meetings of 10 and 24 July 2013.

We are further grateful to you for the evidence that you gave to us on 5 June in relation to the deal reached on reforming the Common Fisheries Policy, with a focus on issues relating to the landings obligation (the "discard ban").

Since then, we have engaged in further scrutiny of the issue, having taken evidence from the National Federation of Fishermen's Organisations, Seafish and scientists from the Universities of Liverpool and Aalborg.

#### THE DANGER

We would agree with your assertion that "the problem that happens currently over the horizon at sea [must not] be transferred to a landfill site". Wastage at sea, in other words, must not become wastage on land. That is the danger and it is why effective implementation of the discard ban is now required. We are supportive of the principles adopted by the Council and Parliament, now enshrined in legislation, but we have substantial concerns about implementation. We set these out below.

## REGIONALISATION

Fundamental to the application of the discard ban will be the new regionalised approach to fisheries management. Much of the detail required to apply the ban will be resolved at a regional level by Member States working together, hopefully in effective collaboration with stakeholders and scientists. It cannot, of course, be taken for granted that this approach will bear fruit, and effort will be required to ensure success.

The previous reform of the Common Fisheries Policy introduced the concept of Regional Advisory Councils (RACs). Some have been slow to get off the ground and others have found their views ignored. Now known as Advisory Councils (ACs), there is a clear need for the new regionalised approach to include genuine engagement with them, including a commitment to that engagement from all Member States involved in any region, and from the Commission.

We see funding as a potentially significant obstacle to the success of regionalisation, both funding for the ACs and funding for activities by Member States.

We would ask that you assess the likely cost implications for the UK of the regionalised approach and that you commit, with the Devolved Administrations, to meeting those costs.

We would welcome your views on the most effective funding model for the ACs, including whether Union financial assistance might be increased to support the ACs given the reliance on regionalisation in the reformed Common Fisheries Policy and the importance of ensuring that they are supported by well resourced Secretariats.

## EXCLUSION FOR HIGH SURVIVAL SPECIES

Clearly, the new Regulation sets the principle of a discard ban, but permits a degree of flexibility as well as exclusions. An important exclusion is that for high survival species, which you described as “scientifically sanctioned survivability flexibility”. The complexity of this phrase encapsulates the complexity of its implementation.

We understand that this is far from simple as rates of survivability will depend on a variety of factors, including the timeframe over which a fish is deemed to have survived and weather patterns at the time of capture. We understand that comparisons cannot even be drawn between one species and a related species.

Some of the issues relating to the development of science in this area and others are explored below. Our view is that this aspect of the Regulation requires a substantial amount of work before it can be implemented. We would not want this challenge to delay the entry into force of the discard ban but, until it is resolved, the danger of requiring fish to be landed that would otherwise survive is clearly a high one.

## RESEARCH

Research to support the exclusion for high survival species is just one example of the type of research required to support the discard ban. Of equal importance will be research to support governance arrangements, such as real time closures, aimed at avoidance of the capture of unwanted fish.

We were told that the capacity exists within the marine science community, in collaboration with social and political scientists, but that there is a resourcing issue. This could, it was suggested, be overcome by a combination of a levy on industry, similar to that already in place for the UK agricultural sector, and effective deployment of public funding.

It was suggested to us that, historically, there has been a “bifurcation of marine science”, with separate funding for blue sky research and for applied research, but with little linkage between the two. Some form of levy on industry might help to engage the industry further in the type of basic and applied research projects that would be helpful. We would welcome your view on the possibility that additional research capacity might be part-funded through a levy on industry.

In terms of how public funding can assist, it was unclear to us and to our witnesses what options there will be to fund fisheries science projects under Horizon 2020. Any clarity that you are able to offer would be helpful, including opportunities specific to the UK.

Witnesses from both the fishing and scientific communities emphasised that the best research vessels are in fact commercial fishing vessels, and that it is essential to develop this avenue of work. This form of research has, we understand, been undertaken for some years in the UK under the Fisheries Science Partnership, to which we note that funding has been committed until March 2014. We would

welcome a funding commitment beyond March 2014 and a broader commitment to focus research activities on commercial vessels, working in partnership with the industry.

Ultimately, effective engagement between the industry and scientists is crucial. We welcome the great strides that have been made to improve this and would emphasise the importance of full inclusion of scientists within the regional management model, working with both the ACs and the Member States.

#### KNOWLEDGE TRANSFER

In contrast to the agricultural industry, where the availability of advice on basic aspects of the Common Agricultural Policy is obligatory, the fishing industry does not have the same access to comprehensible advice. Knowledge transfer in the industry is, it seems, an under-examined area and one that would benefit from some examination if the discard ban is to be successful. This relates not only to the communication of science to fishers, but the communication of information from fishers to scientists, as also within the fishing industry itself across the EU. We would welcome your views on this issue and how the UK Government could respond.

#### COMPLIANCE AND ENFORCEMENT

Rules will be of little benefit without some form of enforcement mechanism. We are persuaded, though, that a focus should be placed on compliance. The most effective way to ensure effective compliance with the reformed Common Fisheries Policy, including the discard ban, will be to ensure that the industry is fully engaged with identification of management measures and objectives, including the recognition that compliance is important to their futures and those of their children. This emphasises once again the importance not only of regionalisation but also of knowledge transfer.

Looking at enforcement of a discard ban, there are clearly a range of measures that can be deployed, such as CCTV and observers. We see significant potential in a risk-based approach, using a small sample of a fleet to set a reference level of catch composition.

#### WITHDRAWAL OF MEASURES DEEMED INCOMPATIBLE WITH THE LANDING OBLIGATIONS

A proposal is expected from the Commission in the autumn to repeal certain technical conservation measures that are deemed incompatible with the discard ban, such as minimum landing sizes, catch composition rules and regulations on mesh and twine dimensions. We are pleased that the Government look forward to working with the Commission on these ideas.

Looking further forward, a revised Technical Conservation Measures Regulation will be proposed next year. We heard from industry that this should be results-based rather than prescriptive, allowing fishers to decide for themselves how, for example, to incorporate the discard ban into their business models.

One witness noted that effort restrictions – i.e. days-at-sea restrictions – could have unintended consequences for the discard ban as they may restrict the ability of vessels to change their fishing grounds at short notice in order avoid certain species and catch others. Your view on that matter would be welcome, and how it might be resolved.

#### SEAFOOD SUPPLY CHAIN

You noted that “all the power here [...] is with the retailers”. We would agree that implementation of the discard ban relies to a large extent on the development of value throughout the seafood supply chain, particularly by broadening the species that are sold for human consumption. Retailers, notably supermarkets, are clearly central to that objective, which must include recognition that behavioural change among consumers is a challenging task and not one that can be delivered through a promotional campaign lasting only a few weeks. In evidence to us, Seafish made a number of interesting comments on this topic:

- first time mothers and primary school children are important targets for campaigns, such as the Seafish “Fish is the Dish” campaign and outreach work in schools by Billingsgate Market;
- consumers tend to be more adventurous with seafood choices away from their homes due partly to a lack of awareness of how to prepare a variety of species of fish in the home;



- a problem in the past has been inconsistent supply of certain species of fish, resulting in reluctance by the food service sector to place those species on menus for long-term contracts; and
- the introduction of the discard ban may lead to an increased supply of fish (due to quota increases to reflect amounts originally landed as well as those discarded), potentially allowing a more consistent and reliable supply of fish.

We would urge the Government to examine how your own efforts, through a bespoke strategy, could supplement those of Seafish by way of, for example, public procurement contracts and through the education system. On retailers specifically, our view is that retailers must be encouraged to take a long term approach to consumer behaviour.

#### NON-QUOTA SPECIES

The landings obligation only applies to quota fish and we therefore note that ongoing work may be required to assess the discarding of non-quota fish and possible future regulatory framework to support restrictions on the discarding of such species. This will, naturally, relate to the development of markets for those species.

#### CONCLUSION

The successful inclusion of a discard ban within the reform of the Common Fisheries Policy represents, as one witness described it, “the biggest change to the CFP for 20 years”. It is a welcome change, but one that will require a great deal of collaborative effort to make it work.

The lines of action that, in our view, are urgently required to support the discard ban are set out below:

- Funding of the regionalised approach is commensurate with the objectives enshrined in the Common Fisheries Policy reform, including both funding for Member States activities and funding for the ACs.
- A stronger commitment to marine research, including greater possibilities for fishermen to be directly involved in the process. This will include the need to ensure that ACs have access to funding to promote research relevant to their regions.
- A specific example of an area where research will be urgently required at a regional level is that of survivability. Currently, the science is simply not there to support the legislation. This means that there is a loophole in the law, which could be used to avoid compliance. Alternatively, fish will be required to be landed that would otherwise have survived if they had been discarded.
- All existing rules and regulations, including effort restrictions, must be reviewed in order to ensure that they are compatible with the discard ban.
- The consumption of a wider variety of species must be promoted to avoid waste.

We look forward to your comments.

25 July 2013

**Letter from George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman**

#### REFORM OF THE COMMON FISHERIES POLICY

Thank you for your letter of 25 July 2013 to my predecessor Richard Benyon. I am of course aware of the scale of changes to the current arrangements that the reformed Common Fisheries Policy (CFP) will bring. While the change is welcome, a great deal of work will be needed to ensure that the reformed CFP is implemented effectively. I recognise the challenges ahead, but my Department is working hard in collaboration with the Devolved Administrations, fishing industry and other Member States to make the new requirements work effectively.

You raised a number of concerns about implementation to which I am now responding below.

#### REGIONALISATION

I agree that the new regionalised approach to fisheries management is fundamental to effective implementation of the discard ban. Securing this new approach and moving decision-making closer to the fishery was a priority for the UK throughout negotiations on the reformed CFP. Close working with the renamed Advisory Councils (ACs) will be essential and the ACs are already actively involved in the consideration of these issues, working with Member States in their region, to examine many of the issues you raise in your letter.

On funding for ACs, the new CFP continues to ensure ACs are eligible for EU funding. Member States will also continue to contribute annual fees where they have direct fishing interest. The UK currently pays annual fees to the North Sea Regional Advisory Council (RAC), North Western Waters RAC, Long Distance RAC and the Pelagic RAC.

I agree that the ACs must be sufficiently resourced to play a full role in the implementation of the reformed CFP. The financial implications of the transition to ACs was briefly discussed at an 'inter-RAC' meeting with the European Commission in October. The Commission reassured those present that funding for these important organisations would continue as RACs become ACs. The Commission also undertook to ensure funding streams to ACs are maintained, despite delays in completing the negotiations on the European Maritime and Fisheries Fund.

#### EXCLUSION FOR HIGH SURVIVAL SPECIES

I agree that the high survivability exclusion from the landing obligation is an important part of the new regulation. I also agree that this is a complex area where additional scientific evidence is urgently needed.

Improving evidence on the survival of fish from discarding is a high research priority for us, which Defra will be pursuing in partnership with industry on commercial fishing vessels. Understanding the extent to which fish survive after being discarded is important in determining the biological impacts of discarding on fish stocks as well as in informing the use of the survivability exemption.

The measurement of survivability and what constitutes 'high' survivability is a key question for scientists. This is not an easy question to answer. As you highlight, survival rates from discarding can be highly variable and depend on many different factors. Use of any exemption from the landings obligation should be based on scientific evidence. We therefore need to be precautionary in our approach where evidence on survival is limited, but remain pragmatic where species or stocks sensitive to fishing pressure might be negatively impacted by the move to a landings obligation. Furthermore, rules around survival exemptions will need to be simple in order to achieve understanding and compliance from the industry and to minimise the burden of enforcement.

The expectation is that bodies such as the Scientific, Technical and Economic Committee for Fisheries (STECF) will provide a route for assessing evidence of survivability and providing a consistent basis for applying the exemption. UK scientists are already participating in European and international discussions on these matters, and we will continue to prioritise research and decisions on these issues ahead of the dates for coming into force of each landing obligation.

We are already working, in collaboration with the Devolved Administrations, to explore and agree with other Member States the priorities and processes with regard to rules on the landing obligation. This includes survivability and other important flexibilities that form part of the package for implementation.

#### RESEARCH

In addition to our research on survivability, Defra has this year initiated a wider research and development project on discards, known as "ASSIST", amounting to £1.5 million over five years. This will help fishermen address issues including avoiding unwanted catch, through the use of selective gears and spatial measures, as well as catch handling, data collection and monitoring. This approach is part of wider initiatives, including the Fisheries Science Partnership, to bridge the gap between applied and blue sky research and recognise the distinctive contribution the fishing industry has to make to applied research. On your suggestion of introducing a levy on industry, Seafish already collects a levy which is used to support the UK seafood sector. Some of this is used to fund scientific, economic and market research, including on reform of the CFP.

Defra will continue to consider with the industry how they can best contribute towards research. This might most effectively take the form of targeted voluntary contributions, such as in-kind assistance, or joint funding for shared priorities.

In relation to Horizon 2020, Defra is aware of the opportunities that this may provide for funding research across Member States. The new programme will begin from January 2014 and the legislative framework to support this is currently being adopted by the EU institutions. The potential for funding to be allocated to address fisheries issues under Horizon 2020 is not yet clear. However, projects from Framework 7 to address the issue of implementation of the CFP are ongoing. This includes MARIFISH, a new network of research funders to identify research priorities, in which the UK and Scottish administrations are partners. These projects provide useful opportunities to generate the necessary evidence to support the next stage of policy development.

#### KNOWLEDGE TRANSFER

As outlined above, Defra is supportive of partnership approaches that involve fishermen working with scientists to deliver research and collect scientific data. Projects funded by Defra include gear trials, exploration of new fishing opportunities and research into trends in stock abundance. The valuable information collected supplements and complements existing fisheries science allowing any management concerns or issues to be addressed collaboratively as well as building productive relationships between fishermen and scientists.

Knowledge transfer is intrinsic to such projects, though there is a wider benefit from maintaining and improving two-way communications between scientists and fishermen. We already make public the outputs of our project and publicise the results relevant to fishermen through our publications and other contacts with the industry. A focus on knowledge transfer is also a central part of our engagement with the industry on CFP reform implementation where fishers will need to be fully involved if the landing obligation is to work effectively.

#### COMPLIANCE AND ENFORCEMENT

I agree that effective monitoring and enforcement mechanisms will be essential in successfully implementing a landings obligation. A range of options exist to meet the new requirements to document fully fishing activities, including CCTV, observers, reference fleets and the audit of self-reported data collected by fishermen. We will be exploring all these options with industry and wider stakeholders as part of our implementation work. We will be seeking a risk based and proportionate approach to enforcement, with the highest level of monitoring being deployed where there is greatest risk. Effective use of intelligence and information on the activities of the fleet will be key in targeting the enforcement approach on a risk basis.

#### WITHDRAWAL OF MEASURES DEEMED INCOMPATIBLE WITH THE LANDING OBLIGATION

We have encouraged the Commission to move quickly and table its proposal to amend the existing technical measures that are incompatible with the landing obligations. The major overhaul of the technical measures, which is expected to follow, will also be fundamental to successful implementation.

Early discussion between my officials and the Commission team about these proposals has been productive, providing an opportunity to influence; we will maintain that dialogue.

On effort restrictions, I agree that the current arrangements will need to be reviewed in the context of the landing obligation. The UK negotiating team successfully argued for an effort freeze under the Cod Recovery Plan at the December Council last year, due to concerns about the impact of further reductions on the ability to fish selectively. I expect that the role of effort management in relation to implementation of the landings obligation will be a key consideration in the development of the proposed North Sea Multi Annual Plan.

#### SEAFOOD SUPPLY CHAIN

The outcomes of the *'Fishing for the Markets'* project ([www.fishingforthemarkets.com](http://www.fishingforthemarkets.com)) which Defra commissioned to look at how to address discards caused by weak or absent markets have been shared with the Committee previously. The recommendations from the report are being taken forward in partnership with Seafish and members of the seafood industry.

The results of this research recognised that Government cannot solve the market problems alone but rather a coalition of partnerships could help to deliver solutions. The project recommended

improving markets through focused research and industry partnership projects. Seafish and retailers have already put in place a number of initiatives in this area as you highlighted. For example, campaigns have been targeted at consumers who are receptive to healthy eating messages in order to maximise the potential to influence behaviour changes. The landing obligation provides opportunities to take this issue further, as more unusual species become available with a more regular supply.

#### NON-QUOTA SPECIES

While the landings obligation will only apply to quota species, our fisheries management already takes into account the fishing effort expended on non-quota stocks, and the impact on the wider ecosystem, and this will become increasingly important. The new regulation also recognises this, providing a means to extend the landing obligation to other species where needed, when this is agreed by Member States.

I hope this letter provides a useful summary of the Government's approach to implementing the reformed CFP. There is still much work to do prior to the introduction of the landing obligation to ensure effective implementation and I welcome the Sub-Committee's continued interest in these issues.

*12 November 2013*

#### **Letter from the Chairman to George Eustice MP**

Your letter of 12 November on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

We note your agreement that Advisory Councils must be adequately funded. While we welcome the reassurance from the Commission to which you refer, it is critical also that such funding is disbursed in a timely manner, which has not been the case in the past. Given the critical role to be played by these bodies in the successful application of the reformed Common Fisheries Policy, we urge you to be vigilant as to any issues that may arise and to stand ready to apply pressure on the Commission as required.

As regards exclusion for high survival species, you acknowledge that implementation of the agreed text is subject to a high degree of uncertainty. While your acknowledgement is welcome, this uncertainty is not helpful. A much greater degree of urgency to address these issues and provide some level of clarity to the industry, at least on the process to be followed in identifying such species, is required.

On innovation, including both research and knowledge transfer, we are encouraged by your letter. It remains to be seen how Horizon 2020 funding can be used effectively and how the results of such research can be successfully transferred to the industry.

At this stage of the reform process, we are content to release the remaining three documents from scrutiny (12514/11, 12516/11 and 12517/11) and subsequently mark this strand of correspondence as closed. We will continue to follow implementation with close interest and may well return to it during the course of 2014. In addition, some of the material is salient to our current inquiry on the EU's contribution to food waste prevention.

*28 November 2013*

#### **CONSERVATION OF FISHERY RESOURCES THROUGH TECHNICAL MEASURES FOR THE PROTECTION OF JUVENILES OF MARINE ORGANISMS (13076/11)**

##### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

I have written to the Committees of both Houses today to provide an update on the overall impasse on the agreement of a number of affected multi annual management plans. The impasse primarily relates to the issue of whether or not to agree fishing opportunities in the context of management plans as the prerogative of Council in Article 43 (3) of the Treaty for the Functioning of the EU, and not technical detail.

In relation to this proposal to align the technical conservation legislation in accordance with the Treaty provisions, however, there is nevertheless a similar reluctance from some Member States to

cede co-decision power to the Parliament to determine technical detail. Views are also being expressed at working group level on preferring implementing acts rather than delegated acts, even where this runs counter to the Treaty provisions. I therefore include this dossier as one that is indirectly affected by the impasse.

More widely, however, the Commission plan to begin the overhaul of the technical conservation legislation next summer, and we are currently awaiting a 'quick fix' substantive amendment of the current legislation to address the discard ban elements – these important proposals are where we need attention to be focused. In these circumstances we anticipate this dossier is unlikely to be prioritised for working group discussion.

*28 August 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 28 August 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for the helpful update on this Proposal.

We understand that there is currently an impasse on the agreement on a number of affected multi-annual management plans, which primarily relates to the issue of whether or not to agree fishing opportunities in the context of management plans as a prerogative of Council in Article 43(3). We do, however, note that this dossier is one that is indirectly affected by the impasse.

We would agree that the proposal from the Commission to repeal elements of this legislation that are incompatible with the discard ban should, once published, be prioritised.

The Committee appreciates that this dossier is unlikely to be prioritised for working group discussion, and so we will continue to retain this Proposal under scrutiny and look forward to update in due course.

*12 September 2013*

### **CONSERVATION OF FISH STOCKS (18545/11)**

#### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

As recently reported to the Committees (follow up correspondence to EM 10460-13 'Commission Communication on Fishing Opportunities for 2014') Iceland and the Faroe Islands continue to fish the mackerel stock at unsustainable levels and to demand an unrealistically high level of share in the stock. It is hoped that fresh scientific advice on the state of the stock due in the autumn will give new impetus to the talks.

In the meantime we have continued to consider with the EU Commission what action to take in response, in particular to the latest decision by the Faroe Islands to unilaterally begin fishing Atlanto-Scandian herring at increased levels, thereby breaking the existing sharing agreement. You will therefore wish to be aware of a development on the issue of adopting trade measures in relation to unsustainable fishing activity by third countries. On 31 July the Committee for Fisheries and Aquaculture adopted an implementing measure under Regulation 1026/2012 of the European Parliament and the Council (successfully adopted following the proposal which was the subject of EM 18545-11) to apply trade measures against the Faroe Islands in respect of its fishing activity on the stock of Atlanto-Scandian herring. The implementing measure will apply from 7 days after publication in the Official Journal of the EU, which at the time of writing we expect to happen imminently.

Two specific measures are being introduced. First is a prohibition on export to the EU of herring or mackerel, or products made from those species, caught by vessels under the control of the Faroe Islands. Second, is a prohibition on the use of EU ports by Faroe Island vessels that fish for or transport herring or mackerel. These measures are in line with previously agreed Government policy for any trade measures introduced under Regulation 1026/2012 to be specific and targeted.

The new Icelandic Government has recently proposed a fresh round of talks aimed at making progress on the wider mackerel dispute. We hope that these will make progress towards reaching an agreement. However, if Iceland are not willing to engage meaningfully in negotiations we will continue

to support the Commission in taking all necessary measures to ensure that unsustainably caught fish is not imported into the EU.

*28 August 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 28 August 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

We are grateful for the update that you have provided on the proposed restrictive trade measures against the Faroe Islands. The decision by the Faroes to set unilateral limits on Atlanto-Scandian herring is regrettable and the EU's decision is therefore welcome.

We are content to close this strand of correspondence but will continue to monitor this issue through our scrutiny of related dossiers.

*12 September 2013*

### **CONTROLS ON FOOD AND FEED LAW, ANIMAL AND PLANT (9464/13)**

#### **Letter from the Chairman to Anna Soubry MP, Parliamentary Under-Secretary for Health, Department of Health**

Your Explanatory Memorandum (EM) on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 June 2013.

You highlight concerns in relation to proposed delegated and implementing acts, a concern also expressed by Ministers in the Department for Environment, Food and Rural Affairs in relation to the other elements of the package. We would be grateful to know whether the Commission has produced any further details on their use (and if not, when might they be likely to), whether any other Member States support the UK in their concerns, and whether these views have been communicated to the Commission.

On one specific point, it is proposed (Article 52) that the Commission be empowered to adopt delegated acts establishing the criteria and the procedures for determining and modifying the frequency of physical checks and to adjust them to the level of risk associated with those categories. This seems to us to be an important element of the risk-based approach to this legislation and we would therefore welcome your view as to whether you consider it to be essential or non-essential.

We share your view that the financing of official controls, across the EU, is important. The proposal seems sensible. We would therefore welcome clarification on how precisely the proposed regime would differ from the current UK approach and whether, in fact, the proposed new EU regime might be simpler than the current UK approach. As regards micro-enterprises specifically, we support their exclusion from financing requirements but would wish to be assured that they are nevertheless fully covered by control regulations.

On the issue of the impact assessment, it is clearly important that the Commission produces robust impact assessments. It is open to the Council to request that the Commission review its impact assessment. Given your criticism of the assessment, we assume that you have taken steps to request such a review. We would welcome information on the response of other Member States and of the Commission to your concerns.

Several years ago, illegal consignments of bushmeat into the EU were identified. Did prosecutions take place further to identification of those consignments? Are you able to comment on whether the proposed new regime might be more effective in tackling such problems?

We will retain the proposal under scrutiny and look forward to a response within 10 working days.

*20 June 2013*

#### **Letter from Anna Soubry MP to the Chairman**

Thank you for your letter of 20 June conveying the Agriculture, Fisheries, Environment and Energy Sub-Committee's views on this Explanatory Memorandum.

It may be helpful to explain that an initial meeting of the Council Working Group on this proposal took place on 14 June. The Commission gave a presentation of its proposal and a very brief presentation of the accompanying impact assessment. Member States were invited to give initial views; most were only able to give very high-level responses as they had not completed assessment of the proposal nor secured clearance from their national Parliaments.

Nonetheless, it is already clear that many have concerns about financial aspects and the very broad use of delegated and implementing (tertiary) acts in this proposal.

In relation to the proposed tertiary acts, in line with the UK's approach with other EU proposals based on co-decision and post-Lisbon comitology, we will be negotiating to determine that the split of powers is appropriate on a case by case basis.

The Commission intends to work with Member States to settle some of the requirements to be contained in tertiary acts in parallel to negotiations on the secondary legislation (i.e. the proposal). This is welcome clarification from the

Commission as we will be able to influence these requirements before finalising the secondary legislation. Some of these requirements will be key to understanding the scope and impact of the proposal. The remaining tertiary acts will be settled during the three year transition period following adoption of the proposal.

We are aware from informal discussions that the majority of other Member States share the UK's concerns about the use of tertiary acts. The UK has been proactive in raising these concerns with the Commission, who acknowledge that they will have to work closely with the Member States and the European Parliament on this.

You specifically mention the provisions of Article 52 under which the Commission will be empowered to determine and modify the frequency of physical checks. The UK supports the move to a more risk based system as it allows the enforcement authorities to target their resources more effectively concentrating on high risk countries/product combinations and new and evolving trade patterns. It also rewards those importers who have consistently complied with import legislation. We therefore believe this to be an essential part of the package.

Across the elements of the agri-food chain covered by the proposal, different arrangements currently apply for the financing of official controls. For example in the area of plant health and plant reproductive material the majority of controls are currently charged, irrespective of the size of business, at full cost. Animal health controls are generally not subject to charges, although some animal welfare controls are. For food and feed the UK must charge under Regulation 882 for controls on meat, imports, fishery products and the approval of feed establishments. These fees are not always at full cost.

The Commission's proposal would significantly extend charges to businesses along the whole of the agri-food chain and in some instances would increase existing charges by requiring the full cost to be recovered. This approach would simplify the current charging regime, but at the same time would introduce additional financial burden on UK business and potential burden on competent authorities. We are assessing the impact of that additional burden and the practical issues associated with the Commission's proposed approach, including extending charging to sectors which historically have not been charged.

As far as the proposed exemption for micro-enterprises is concerned, I can confirm that the proposal would not have the effect of exempting them from being the subject of official controls; those would still need to be undertaken, on a risk basis and with appropriate frequency. There is however one exception to this general principle. This features in the associated proposal on plant reproductive material (PRM) which is led by Defra. In that proposal, micro-businesses which produce small quantities of PRM are exempted from registering plant varieties on the national list of varieties. The national list provides consumer assurance as to the identity and characteristics of varieties.

At the Council Working Group on 14 June, the UK delegate asked for discussion of the Commission Impact Assessment. This was not taken up by other Member States at the meeting and we will need to pursue this further in subsequent meetings and at bilaterals with other Member States. In informal discussion with the UK Representation to the EU, the Commission has indicated that it will present the impact assessment in more detail in meetings to be held this Autumn.

In relation to illegal importation of bush meat into the EU, it is thought that this is being brought into the UK in luggage as personal imports. As such, these are not subject to official food controls as provided for in this proposal. Controls are carried out by UK Border Force at the point of entry. FSA

officials are not aware of prosecutions having been taken by the local authorities where bush meat was found on sale.

2 July 2013

### **Letter from the Chairman to Anna Soubry MP**

Your letter of 2 July 2013 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 17 July 2013.

Our overarching concern across the entire package is to ensure that the strategic aim of simplification and delivering a safe environment does not become lost during the negotiation of detail. This is particularly important against the backdrop of negotiations on the trade and investment partnership with the USA.

In your letter you comment on the use of delegated and implementing acts, noting that the majority of other Member States share similar concerns with the UK. A clear danger is that simplification of the framework legislation will simply lead to the displacement of detail in a myriad of new, tertiary legislation. An abundance of such legislation must obviously be avoided.

It is also important, though, that important issues are not simply deleted from legislation and lost in expectation of re-appearing in tertiary legislation at some point. This is our concern in relation to aspects of the Proposal which pertain to animal welfare. One such example is Article 150(b). It would be particularly helpful if you could set out your position on that article and your understanding of the Commission's motivation for including it in the proposal. More generally, your analysis of the impact of the draft legislation on animal welfare would be welcome.

You consider the aspects of Article 52 pertaining to the definition of risk to be an "essential" part of the package. Can you therefore confirm that you will be arguing against the delegation of power to the Commission in that instance?

We note your comments on financing and particular your acknowledgement that the new rules would simplify the UK's own charging regime. On the other hand, there are implications for certain businesses and there is clearly substantial analysis on this subject still to be undertaken, in addition to a great deal of debate. We look forward to further information from you as your analysis develops on that subject.

As regards the Impact Assessment, we would encourage you to maintain your representations on this matter and to update us on any progress.

We will retain the proposal under scrutiny and look forward to a response by 30 August 2013.

29 July 2013

### **Letter from Anna Soubry MP to the Chairman**

Thank you for your letter dated 29th July. I am now replying to provide the additional information and clarification requested.

One of the UK's primary aims during the negotiations on the package of proposals, and more specifically on the official controls proposal, is to maintain the focus on the simplification and improvement of control systems across the agri-food chain to ensure public protection, effective functioning of the Internal Market and facilitation of exports to countries outside the EU.

In particular, Defra is engaged in discussions on negotiations on the Transatlantic Trade and Investment Partnership with the USA, on which BIS has the overall lead and will feed in requirements across all departments to the European Commission. Sanitary and phytosanitary requirements will form part of these discussions, and it is Defra's aim that requirements will be aligned as much as possible to facilitate trade. Discussions are in their earliest phase, and the process of agreeing the TTIP is likely to be over the next 24 months.

In relation to the empowerments for delegated and implementing acts contained in the official controls proposal, it may be helpful to provide some update following recent discussions in the EU Council.

The Lithuanian Presidency is keen to progress the analysis of the proposal and has the ambitious plan to have completed an initial consideration of the entire text to identify Member States' concerns during their presidency. Discussions to date have addressed Articles 1 to 24 out of 162. This has



included several Articles that provide for delegated acts to establish more detailed control rules in specific sectors, such as the animal welfare controls.

From discussions to date it appears that Member States still have significant concerns about the Commission empowerments and all have maintained scrutiny reservations. In particular, the distinction between essential and non-essential elements of the basic act is an area that is likely to require further analysis, as a number of delegations requested the opinion of the Council Legal Service on what the Commission had proposed.

Whilst the matter is often of political nature and thus it is not always possible to determine by legal analysis that the use of delegated acts is appropriate, the Council Legal Service opinion may provide some clarity and facilitate the Member States' future consideration. We will give careful attention to this analysis in line with the UK negotiating approach to determine that the split of powers is appropriate on a case by case basis.

The Commission has given further reassurance that Member States experts will be consulted in the preparation of the delegated acts, with the intention to use current standing committees as much as possible. It acknowledged that some of the Articles setting out the empowerments were quite complex and agreed to provide further explanation by means of ad hoc papers. However, the fundamental point is that the Commission by repealing or amending current legislation does not intend to leave a regulatory vacuum but rather it intends to align it, by means of delegated acts, to more modern and risk-based principles. The Commission also acknowledged the need to improve the drafting of the proposal to better clarify and circumscribe the empowerments.

We will carefully consider any future Commission clarification to assess the potential impacts of the delegated acts. As far as Article 150(b) is concerned the Commission is fully aware of our significant concerns about the failings of the existing transport control regime; we will not allow this to be further weakened. On the contrary, we will continue to press the Commission to introduce the necessary improvements by the most effective means. We will therefore be looking at any proposals they make for more detailed prescription very carefully.

I would also like to further clarify Article 52 of the official controls proposal, whose provisions, whilst they constitute an important part of it, are not considered to be an essential element. Imports of animals, plants and certain products being imported from third countries will be subject to physical checks at border control posts at a frequency depended on the risks posed by each category of animal, plant or goods taking account of human, animal and plant health, animal welfare and the environment. Each category will pose different risks. Separate criteria and procedures and appropriate frequencies for risk based physical checks would need to be established for each category and the details of these would be better placed in tertiary legislation for each category rather than in the basic act. This is because tertiary legislation would enable increased responsiveness to new scientific or technical progress, emerging diseases or specific events.

7 October 2013

## CULTIVATION OF GENETICALLY MODIFIED CROPS (12371/10), SOCIO-ECONOMIC IMPLICATIONS OF GM CROPS (9665/11)

### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

As previously requested by the Committee, I now attach [not printed] copies of the two reviews that Defra commissioned some time ago on, respectively, the environmental and economic impact of GM crops. These are also available at the following web addresses:

(environmental review)

[www.scirp.org/journal/PaperDownload.aspx?paperID=33014](http://www.scirp.org/journal/PaperDownload.aspx?paperID=33014)

(economic review)

[http://www.environmentalevidence.org/Documents/Completed\\_Reviews/CEEI1-002.pdf](http://www.environmentalevidence.org/Documents/Completed_Reviews/CEEI1-002.pdf)

As I expect the Committee has noted, the Secretary of State, Owen Paterson, gave a widely reported speech recently on GM crops in which he commented on their actual and potential benefits. This drew on a broader range of evidence than the above Defra-commissioned reviews. As further background for the Committee, the appendix [not printed] to this letter lists examples of some of the

recent studies which have informed the Government's thinking on the impact of current GM cultivation.

*1 July 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 1 July on the above documents was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 July 2013.

Insofar as conclusions can be drawn from the reports commissioned by Defra, they indicate that a case-by-case basis must be adopted to the assessment of whether any single crop should be cultivated, and where.

We were unable to identify these reports on the website of your Department and would ask that you let us know when it is planned to publish these accessibly on your website.

Given the robust position adopted by the Secretary of State recently, we would be interested to know whether the Government intend to commission any additional research based on more comprehensive data. We would also like to know how the Government selected the studies, information on which was set out in an Appendix to your letter, as the basis for consideration of the Government's approach to this issue. The previous Government's work on Farm Scale Evaluations of herbicide tolerant GM crops, for example, was notably absent from the list.

Your letter did not comment on the latest state of play as regards discussions on the proposed Regulation allowing Member States to restrict or prohibit the cultivation of GMOs in their territory after a positive scientific assessment at the EU level. Information on any progress or anticipated progress would be helpful. What relevance do the inconclusive studies commissioned by Defra have for the UK's dialogue with other Member States on this dossier? How does the Secretary of State plan to take forward his robust position in order to influence the EU level decision making process as regards cultivation of GM crops?

At this stage, we are content to release the Report (9665/11) from scrutiny but will retain the Proposal (12371/10) under scrutiny. We look forward to your response by 30 August.

*15 July 2013*

#### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter of 15 July on the above dossiers.

Taking your first point, the Government acknowledges the importance of a case-by-case assessment of GM products and crops. This is enshrined in the Government's formal policy position.

Now that they have been published, Defra is currently in the process of arranging for the two reports to be placed upon the departmental part of the GOV.UK website and this should be completed shortly. In terms of the other reports appended to my previous letter,

These were selected as being illustrative recent examples of the current evidence base. The Government's support for GM technology reflects the general scientific consensus that GM crops are not inherently unsafe and can deliver important benefits. This consensus is reflected in a large and diverse range of scientific research papers and empirical evidence. The results of the farm scale evaluations in 2003 remain relevant even though the evidence base has evolved and matured significantly since then. Whilst Defra currently has no plans to commission any new research we will of course look at any significant new and emerging developments in order to keep abreast of the evolving evidence base.

On 27 June, the European Academies Science Advisory Council (EASAC) produced a report on GM crops that I would recommend to you and Committee members. The report highlights the benefits that GM crops have delivered so far and analyses the safety record of GM crops and its potential role in the future. It highlights the potential benefits that GM crops can deliver in the developing world in particular and warns of the grave scientific, economic and social consequences of current European Union policy towards GM crops. The report represents the views of prominent, independent scientists across the European Union and is available at:

[http://www.easac.eu/fileadmin/Reports/Planting\\_the\\_Future/EASAC\\_Planting\\_the\\_Future\\_FULL\\_REP\\_ORT.pdf](http://www.easac.eu/fileadmin/Reports/Planting_the_Future/EASAC_Planting_the_Future_FULL_REP_ORT.pdf)

The EU Cultivation proposal you refer to was last discussed in the Environment Council in March 2012 under the Danish Presidency. Since then, neither the Cypriot nor the Irish Presidencies sought to re-ignite discussions. As you may recall, the UK Government opposes the latest version of the proposal because of concerns about the proposed facility that would allow for unilateral Member State bans of GM crops for non-science/safety based reasons. The prospects for any progress being made on this dossier will depend upon the position adopted by the current and incoming Presidencies. If, and when, discussions re-commence then we will of course press for a resolution to the current problems at EU level in line with our stated government policy position on GM crops. We would hope that the recent EASAC report mentioned above might encourage some Member States to reflect upon the stance they take on this issue.

*31 August 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 31 August 2013 on the above documents was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

We note that you are arranging for the reports to be placed on the GOV.UK website. It is important that information on the issue is presented by the Government in a transparent manner.

We are pleased that you agree that a case-by-case assessment is required and would caution against broad statements relating to a "general scientific consensus" applicable to GM crops as a whole. You helpfully draw our attention to the EASAC report, which relates to crop genetic improvement technologies, of which genetic modification is one. In our own report on Innovation in EU Agriculture in 2011, referenced by the EASAC report, we concluded that it is critical for reasons of productivity, sustainability and competitiveness that appropriate technologies can be adopted swiftly after proper testing. We were clear that the EU decision-making procedure should help, rather than hinder, the adoption of appropriate new technologies. Such technologies include genetic modification but on a case-by-case basis.

Clearly, assessment on a case-by-case basis may well require you to commission new research and we would therefore urge you to ensure that assessment is supported by contemporary research.

Turning to the EU Cultivation proposal, we note the continued lack of progress. We shall continue to hold that proposal under scrutiny and look forward to an update in due course.

Please consider the strand of correspondence on dossier 9665/11 as closed.

*12 September 2013*

#### **DEEP-SEA STOCKS IN THE NORTH-EAST ATLANTIC (12801/12)**

##### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

It has been some time since I reported on this dossier, and I thought an update at this point would be helpful.

Since the Commission issued this proposal last July it has never been presented for discussion in working group, so there is no developing Council position. On the other hand, in the European Parliament both the Environment, Public Health and Food Safety (ENVI) and Fisheries (PECH) Committees have been considering the proposal, have held two public hearings featuring both environmental and industry representation, and have suggested a large number of amendments. The PECH rapporteur's report is likely to be voted on for adoption in September.

The European Parliament consideration reflects polarised views between pro-environment MEPs and pro-fishing industry MEPs. The PECH rapporteur's report with its suggested amendments is based on the structure of the Commission's proposal, which the UK believes is flawed in its core approach. As previously reported to the Committees, the UK analysis revealed significant problems with the original proposal, and we need to be able to work through these in working group to move towards a Council position.

We will be seeking a bilateral at official level with the Commission in September to explain these fundamental issues. In short, we believe applying appropriate risk-based spatial measures to be applicable to all vessels is the most effective way to protect vulnerable marine ecosystems (VMEs) and

to meet the other objectives of the proposal: this is also more readily enforceable than attempting to apply a ban on bottom fishing methods administered on the basis of catch percentages. The proposal of identifying by-catch and targeting fishing vessels according to catch percentages is unacceptable, and creates huge anomalies in terms of allowable capacity per Member State. This approach simply does not work due to the large range of spatial and depth distributions which deep sea species exhibit and their overlap with other targeted fisheries. Using a catch percentage criterion is arbitrary, unworkable and likely to incentivise discarding.

We believe therefore that the Commission proposal has unnecessarily set the environmental and fishing interests at odds, and that spatial measures along the lines previously discussed in the UK's original analysis will meet the objectives more effectively to the satisfaction of the interested parties, and this is the approach we will advocate. In the meantime, with competing priorities for agreeing fishing opportunities and reform issues in the latter half of this year, there are no current indications that the Lithuanian Presidency will be prioritising this dossier for working group discussion, which suggests that this may need to be progressed by the Greek Presidency in the new year.

*28 August 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 28 August 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for the helpful update you provide on this Proposal.

We understand that the ENVI and PECH Committees reflect polarised views, and have both suggested a large number of amendments, with the PECH rapporteur's report likely to be voted on in September. We note that the Government perceive the PECH's rapporteur's report to be flawed in its core approach, and we are pleased that you will continue to work through these in working group, as well as seeking a bilateral meeting with the Commission at official level.

We continue to support your position and appreciate that there are currently no indications that the Lithuanian Presidency will be prioritising this dossier for working group discussion. The Committee will continue to retain this Proposal under scrutiny and looks forward to an update in due course once the intentions of the Greek Presidency are clearer.

*12 September 2013*

#### **DEFINING CRITERIA DETERMINING WHEN RECOVERED PAPER CEASES TO BE WASTE (12263/13)**

#### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

We understand that the Government have yet to finalise their position but that there is unlikely to be a qualified majority in Council either in favour or against the proposal. In that instance, it will pass to the European Parliament for a vote. Should the Regulation eventually be adopted, we would urge you to work with the Commission to address drafting inadequacies that you and others have identified.

We are content to release this dossier from scrutiny and look forward to an update once the outcome of consideration by Member States is clear, including the position eventually adopted by the UK.

*12 September 2013*

#### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter of 12th of September regarding the above Explanatory Memorandum. I would be pleased to provide the Committee with an update regarding the progress of the proposals through the European legislative process.

As expected, at the initial indication of position taken on the 5th of September, no overall Qualified Majority was apparent either for or against the proposals. This was reflected on the 11th of

September, when the vote was formalised at COREPER. The UK abstained from this voting process as no position had been cleared by the scrutiny process at this point: this is something we will wish to avoid in future. However, a vote either way from the UK would not have been enough to secure a Qualified Majority.

In accordance with the established process, the Council will now not act upon the Commission's proposals, which will instead pass on to the European Parliament for scrutiny and a vote, which should take place within two months. The UK Government will look to influence the Commission in improving these proposals.

*28 September 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 28 September 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 16 October 2013.

Thank you for updating the Committee, confirming that there was no overall qualified majority, as was reflected when the vote was formalised at COREPER.

We understand the Proposal will now pass to the European Parliament, and we would be grateful for an update of the developing positions in due course.

*17 October 2013*

#### **DESIGNATION ON THE BALTIC SEA AS NITROGEN OXYDE EMISSIONS CONTROL AREA (10120/13)**

#### **Letter from the Chairman to Stephen Hammond MP, Parliamentary Under-Secretary of State for Transport, Department for Transport**

Your Explanatory Memorandum (EM) of 14 June 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 3 July 2013.

We are aware that, since the drafting of the EM, no Council Decision has been taken and that the Commission is now intending to seek a Council view in advance of HELCOM meetings planned for early autumn. We also understand that a large number of Member States share your concern about the Commission's handling of this process.

We would appreciate further information on the likely developments in Council as this becomes clearer, in addition to an explanation as to why an international agreement on the reduction of nitrogen oxide emissions in maritime transport is not in place as an alternative to such regional control areas.

Finally, you note that you would like to see further engagement with Russia well in advance of any proposal being submitted to IMO. We would be interested to know how hopeful you would be of a positive result should such further engagement take place.

As you will be aware, this Proposal has already been released from scrutiny, but we look forward to your response within 10 working days.

*4 July 2013*

#### **DRAFT PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE 2009/71/EURATOM ESTABLISHING A COMMUNITY FRAMEWORK FOR THE NUCLEAR SAFETY OF NUCLEAR INSTALLATIONS (11064/13)**

#### **Letter from the Chairman to Baroness Verma of Leicester, Parliamentary Under-Secretary of State, Department of Energy & Climate Change**

Your Explanatory Memorandum (EM) on the above draft proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 17 July 2013.

We noted in your EM that the Government will work with the Commission and Member States to ensure that before the proposal is adopted by the Council, it is amended to ensure: new legislative requirements are evidence-based; the Commission does not extend its competences; and that any proposed measures are proportionate. While it is clearly important that measures taken at the EU

level are appropriate and proportionate, we would urge you to consider the details of the measures being proposed as certain aspects may require a clear regulatory framework at the EU level. In addition, you mention in the EM the link with the establishment of the Office for Nuclear Regulation. Could you explain, please, how you would like to see the Commission's proposal amended in order that it is aligned with your plans for the ONR?

We would ask to be kept informed of discussions you have with the Commission and Member States. We would be particularly interested to know, for example, whether the UK's position has broad support amongst the other Member States.

Regarding the Commission's initial impact assessment, you note that a limited/initial analysis has been conducted by the Government, with the assessment to be considered in greater detail over the coming months. We would be grateful if you could provide us with a summary of this more in-depth analysis once it becomes available.

We are content to release the draft proposal from scrutiny and look forward to your response in due course.

18 July 2013

## ELECTRONIC IDENTIFICATION FOR BOVINE ANIMALS AND DELETING THE PROVISIONS OF VOLUNTARY BEEF LABELLING (8784/12, 13700/11), SURVEILLANCE NETWORKS IN THE MEMBER STATES (13701/11)

### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter dated 14 March 2013, in which you noted the position of the European Parliament on the question of the transition period for the introduction of electronic identification for bovines. I sent you a copy of my letter of 3 June, addressed to William Cash, in order to alert you quickly to the European Parliament's refusal to negotiate further without the inclusion of their amendments on cloned animals.

I am writing now to update you on the final negotiations between the Council, the European Parliament and the European Commission at the conclusion of the trilogue negotiation stage.

Since the trilogue in May, the Commission has worked with the European Parliament negotiators on their concerns about cloned animals, including discussion of a Commission declaration on its intention to publish proposals on cloned animals as reflected in their work programme for 2013. As a result, in late June the rapporteur for the European Parliament offered a deal on the following lines:-

1. Support all the inter-institutional agreements found during the trilogue meetings;

2. Support the European Parliament's amendment for conferring powers on the Commission to adopt a delegated act on the definitions of and requirements for the specific indications that may be put on labels;

3. To adopt a pragmatic approach on powers conferred on the Commission in Articles 22 and 13, as discussed below:

i. To put the current rules on the 'minimum level on controls' directly in Article 22 (that is, neither in delegated nor implementing acts) improving the wording to-

'That minimum rate of official controls shall be increased immediately where it is established that provisions on identification and registration of animals have not been complied with.'

ii. Support the Council's requirement for conferring powers on the Commission to adopt an implementing act for the maximum size and composition of the groups of animals under compulsory labelling referred to in Article 13 (6).

4. An improved statement by Commissioner Borg on the issue of cloning:

'The Commission confirms that in line with its 2013 working programme, it is working on the impact assessment in order to finalise and adopt as soon

as possible in the current year a stand-alone legislative proposal on all aspects of cloning for food production.”

A positive vote of the European Parliament will among others depend on the clarity of the Commission’s position on the cloning issue.

5. To accept the need for a transition period, which should be five years in duration, but that the report required from the European Commission [under Article 23a/’the technical and economic feasibility of introducing mandatory electronic identification everywhere in the Union’] shall be provided within four years of the end of the transition period, instead of five years.

#### VOLUNTARY BEEF LABELLING

(Points 2 and 3ii above)

The European Parliament has accepted the Commission’s proposal to delete the existing provisions on voluntary beef labelling. The UK has consistently supported this abolition as it believes the regulatory burden and costs associated with having claims independently verified weigh heavily on the industry, particularly small businesses. The proposal would also remove costs for the Competent Authorities administering the schemes. Voluntary beef labelling would come within the general EU provisions on food information, thereby avoiding duplication. Traceability would be maintained under the compulsory labelling rules. In this context it is suggested that we can accept a pragmatic approach to the powers conferred on the Commission as referred to in point (3) above

#### BOVINE EID

(Point 5 above)

The European Parliament has moved from refusing to accept any transition period to accepting a transition period of five years. We have been working with our delivery agency to assess the possibilities for bringing in EID in a shorter time period, in the light of the European Parliament’s reluctance to accept a transition period.

We have concluded that, although a five year transition period would be challenging to achieve, it is feasible. A lot will depend on how quickly the Commission can bring in the implementing act setting out the common technical standards for EID. We conclude that, although we still believe that Member States should be allowed the same amount of time for introducing Bovine EID as they had for sheep and goats, we would not want the dossier to fall on this issue. We therefore recommend that we agree to the 5 year transition period. We will work closely with industry, stakeholders and other administrations to implement the provisions within this timetable, including implementation of other provisions such as the removal of passports.

We are content with the reduction in the time period for the Commission to produce a report on mandatory EID to four years from five.

#### CLONING

(Point 4 above)

The European Parliament has agreed to remove its amendments requiring the labelling of products from cloned animals and their descendants (see point 4 above, which has been confirmed again by the European Commission this week). This was a red line for the UK.

#### ON-THE-SPOT CONTROLS; THE NEW WORDING PROPOSED BY THE PARLIAMENT FOR ARTICLE 22

(Point 3i above)

Currently, the minimum level of on-the-spot controls is set out in Commission ‘detailed rules’ regulations. These set out the regime of the annual programme of cattle identification inspections, which can affect the inspected farm’s Single Farm Payment claim. Current regulations require that Member States inspect 3% of registered holdings. This level is being maintained.

There has been much discussion on whether the level of official controls should be set through an implementing act or a delegated act; the Council supported the former, while the Parliament supported the latter. To avoid a stalemate, the Presidency proposed, as a compromise, including the

level of controls into the text of Article 22, and had proposed the wording below for Article 22(1) based on the current Commission Regulation (EC) No 1034/2010.

*1. Member States shall take all the necessary measures to ensure compliance with the provisions of this Regulation. The controls provided for shall be without prejudice to any controls which the Commission may carry out pursuant to Article 9 of Regulation (EC, Euratom) No 2988/95. Any sanctions imposed by a Member State on a keeper, operator or organisation marketing beef shall be effective, dissuasive and proportionate.*

*The competent authority shall carry out each year checks on identification and registration of animals which shall cover at least 3 % of the holdings.*

*Where the checks reveal a significant degree of non-compliance, the minimum rate of checks shall be increased in the following annual inspection period.*

*The selection of holdings to be inspected by the competent authority shall be made on the basis of a risk analysis.*

*Each Member State shall make an annual report to the Commission before 31 August each year on the implementation of the controls."*

The wording proposed by the Parliament in its deal above, however, reverted to the previous version of this Commission Regulation published in 2003. This text is:-

*That minimum rate of official controls shall be increased immediately where it is established that provisions on identification and registration of animals have not been complied with.*

It is not clear why the Parliament want to revert to the earlier wording. Rejecting this change would require rejecting the compromise. The European Commission gave oral assurances to Member States that the interpretation of the regulation does not change, as the change in 2010 did not cause a change to the level of official controls. The European Commission has also agreed to give a written assurance as follows to Member States in the minutes of the Council that will discuss adoption of the Regulation:-

*"Since national audit, control and inspection programmes are established according to EU legislation on a yearly basis, if an increase in the minimum rate of official controls, based on a significant degree of non-compliance, were to be required according to Article 22, it will have to be triggered in the next programme".*

In conclusion, we believe that the overall benefits of introducing bovine EID, abolishing cattle passports and deleting the provisions for voluntary beef labelling outweigh the reduction in the transition period. There would also be a danger that the Commission would not continue to propose the deletion of the voluntary beef labelling provisions if the dossier were to fall. We are confident that the Department and devolved administrations can bring in sensible improvements to the cattle identification regime using the powers and conditions set out in the current proposed text of the regulation.

We understand that the Council will now write to the Chair of the European Parliament's ENVI Committee signifying their acceptance of the proposed deal. We expect further consideration by the European Parliament in the Autumn, but we have no firm dates. We understand the next stage is for the legal linguists and translators to check and produce a revised official version including the agreed amendments.

I propose to you, therefore, that you give your support for us to vote in favour of the revised proposal in Council. I will continue to inform you of progress or issues arising during the continued passage of the proposed regulation.

18 July 2013

#### **Letter from the Chairman to David Heath MP**

Your letter of 18 July 2013 on the above legislative proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 July 2013.

On the substance of your letter, we note the compromise achieved between the European Parliament and Council. We are pleased to see that there has been substantial movement by the European Parliament, particularly on the issue of a transitional period for the introduction of electronic identification. You had originally pressed for a seven year transitional period, but appear satisfied that



the compromise period of five years will be challenging but workable. We note too your comments relating to animal cloning, on which we have received separate correspondence.

We would agree that the benefits of adopting the legislation with the tighter transitional period outweigh the risks of failure to adopt any legislation. On that basis, we are content to release the proposals from scrutiny.

Turning to the procedural aspects of your letter, it is very disappointing that you had not written to update us on this important proposal since 7 March. During that time, substantial progress has been made. As you indicate, you copied us into a letter to the House of Commons European Scrutiny Committee dated 3 June. This did not, however, constitute formal correspondence with the House of Lords and our Clerk therefore requested that you write to this Committee setting out similar information. Our Clerk gave a second prompt on 18 July, further to which we received your letter which included helpful information on the most recent developments. Whether or not we would have received your letter without the Clerk's second prompt, I am sure you will agree that the process has been far from acceptable. We trust that there will be no repeat.

*25 July 2013*

#### ENERGY COUNCIL LUXEMBOURG 7 JUNE (UNNUMBERED)

##### **Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

I am pleased to enclose a copy of my written statement to Parliament outlining the agenda items for the forthcoming Energy Council in Luxembourg on 7 June.

*3 June 2013*

#### ENERGY TECHNOLOGIES AND INNOVATION (9187/13)

##### **Letter from the Chairman to the Rt. Hon. Gregory Barker MP, Minister of State, Department of Energy and Climate Change**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 June 2013.

You broadly support the Communication and emphasise the need for genuine collaboration. We would agree. Ultimately, though, increased resources are required. That was the clear conclusion of the Committee's recent report on EU energy policy. We believe that there is insufficient attention in the Communication to the issue of financing and that, ultimately, the SET Plan is doomed to failure without a clear financing plan. We would welcome your view on our observation. Would you agree that the Commission's Integrated Roadmap, to be published by the end of 2013, must set out more clearly a financing plan?

A recent report by the European Union Committee examined "The Effectiveness of EU Research and Innovation Proposals". It was concluded that the bureaucracy and complexity of EU Research and Innovation programmes act as a barrier to private sector participation, especially for SMEs, who are often the driving force behind innovative approaches. We were unclear to what extent this issue was addressed by the Communication and reflected in your EM. We would therefore welcome commitment from you to press this issue with the Commission as attention turns to implementing the energy technology and innovation strategy.

In terms of the focus of research and innovation spending, we would agree with the Commission's emphasis on energy efficiency but would add that interconnectivity is a crucial part of the EU's energy system. Research and innovation to support greater interconnectivity, helping to drive costs down is therefore an additional priority on which EU efforts might helpfully add value to Member State action in this area.

We are content to release the Communication from scrutiny and look forward to your response within ten working days.

For your information, we are also writing directly to the Commission and enclose a copy of our letter.

20 June 2013

**Letter from the Rt. Hon. Gregory Barker MP to the Chairman**

Thank you for your letter dated 20 June, in response to our Explanatory Memorandum on the Commission's recent Communication on Energy Technologies and Innovation.

Regarding your observation on the SET Plan financing issue, this is clearly a key concern that needs to be addressed urgently for the SET Plan to be able to deliver its objectives. However, in the context of the Communication on Energy Technologies and Innovation, my understanding is that the Commission do intend to progress this through the development of their Integrated Roadmap and Action Plan.

In practice, the Commission intend that financing will be a key part of the Action Plan element. This will be developed to complement the Roadmap, as part of a 2 stage process. The Roadmap is intended to outline the path towards successful implementation of the EU's energy technology and innovation strategy. The Action Plan will then suggest clear responsibilities for SET Plan stakeholders, including on proposed financing and investment needs and sources. DECC is already working closely with our Member State colleagues, in fact leading efforts within the context of the SET Plan's Steering Group, to increase Member State collaboration as part of this process, in partnership with the European Commission.

Our work will help to inform development of both the Integrated Roadmap and the subsequent Action Plan, by directly seeking to align the National Programmes of Member States more closely to delivering SET Plan objectives. This is a feature of the Communication and has been an aspiration of the SET Plan from its introduction, but real progress has remained elusive. Coupled with the stimulus of a new EU level research and development funding Programme in Horizon 2020, we hope that these renewed efforts will create some much needed momentum in SET Plan Implementation and have the added benefit of encouraging and mobilising the significant private sector investment that will also be needed.

On the bureaucracy and complexity of EU research and innovation programmes point, we agree with the finding of the House of Lords report: "The effectiveness of EU research and innovation proposals". Specifically, that bureaucracy and complexity are creating barriers to private sector participation in EU research and innovation programmes. Some progress on simplification has certainly been made during the development and operation of the seventh Framework Programme (FP7), but more can be done to make life easier for participants, especially SMEs. It was therefore encouraging to see in the Commission's proposals for Horizon 2020, and in its statements of intent around this, that further simplification initiatives, particularly in respect of the funding model; reduced auditing and reporting requirements; greater acceptance of beneficiaries' accounting practices; and reduced time-to-grant are to be introduced.

We are working closely with the Department for Business, Innovation and Skills (BIS) who have the policy lead on this, to press for improvements. The Commission have promised these changes to its new programmes, so it is a question of keeping up the pressure and ensuring that the planned and possible future changes benefit UK participants and the energy technology sector as much as possible. Also, that they materialise in practice as well as in guidance notes. We are alert to this issue, as are BIS, so I am very happy to offer the commitment you seek to continue to press this further and to ensure that further opportunities to simplify are identified and actioned as quickly as possible.

Finally, I welcome your points on the importance of interconnectivity. My Officials will be happy to include them in our input to the Commission on the development of SET Plan activity and its related Work Programmes.

30 June 2013

**Letter from the Chairman to the Rt. Hon. Gregory Barker MP**

Your letter of 30 June 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 July 2013.

Thank you for providing us with your views as regards our observation on the SET Plan and the Commission's Integrated Roadmap. We understand that the Commission intend that financing will be a key part of the Action Plan, which will be developed to complement the Roadmap. We are pleased that the UK has been leading efforts to increase Member State collaboration.

On the effectiveness of EU research and innovation, we are glad that the Government agree with our finding that bureaucracy and complexity are creating barriers. We are pleased to note from your letter that the Government are pressing the Commission for improvements in this regard, as well as stating that your officials will stress the importance of interconnectivity, particularly in relation to the development of SET Plan activity and its related Work Programmes.

We are now content to mark this strand of correspondence as closed.

25 July 2013

## ENVIRONMENTAL ACTION PROGRAMME 2020 (16498/12)

### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs to the Chairman**

I am writing to update your Committee on progress on the above proposal. I am also attaching a high level impact paper, which acknowledges the strategic nature of the proposal, and that any subordinate legislation proposed by the Commission as a result of the Environment Action Programme decision, will need separate consideration at the appropriate stage.

During Working Party discussions UK concerns have found traction in regard to i) no new targets being adopted without clear and robust justification, and ii) the need to adhere to the principles of Smarter Regulation.

The European Parliament's Committee on the Environment, Public Health and Food Safety (ENVI) considered the proposal on the 24 April; and once Council has completed its consideration at official level in early May, the EP, Commission and the Presidency are expected to convene a series of trilogue meetings to develop a mutually acceptable text before the Environment Council on 18 June, where the Presidency hopes to secure agreement.

In your letter dated 7 February you raised further questions regarding the Explanatory Memorandum, which was first considered by the Agriculture, Fisheries, Environment and Energy sub-Committee on 16 January 2013.

I am pleased you agree that the Commission's focus should be on the implementation of existing legislation. Defra has a significant role in implementing EU environmental legislation, takes its duties on effective and appropriate implementation seriously. Defra will be responding to a Commission consultation on the Revision of the EU legal framework on environmental inspections, and I would be happy to share this response with you when it goes forward.

You asked about the Soil Framework Directive, where the UK and a number of other Member States have blocked adoption, and remain clear in their opposition. The Irish Presidency have been considering whether the text could meet the concerns of the blocking minority, but it is not clear that this will be possible.

The UK has continued to press for the 7th Environment Action Programme to refer to the full range of social, economic and environmental knowledge informing EU environmental policy making, rather than simply to the environmental science evidence base. The Irish Presidency plans to reflect this in the revised text it presents to Council.

The Commission views voluntary partnership agreements as one of the potential tools for securing progress on improved implementation without prolonged infraction proceedings against Member States. Partnership agreements would seek to address specific problems or challenges regarding how environmental protection or improvement is achieved, for instance in transboundary issues such as river pollution or air pollution where joint action between Member States can be more effective. As you will be aware, infraction proceedings can be costly for the Commission and the Member State in question. If the Commission were to prioritise effectively, they could focus on applying voluntary partnership agreements to the cases that would benefit most from this approach and would make the biggest savings whilst achieving improved compliance with EU legislation.

Due to the strategic nature of the Programme, there is little detail available on the Commission's plans for further work on risk management. When the Commission produces a Communication on this subject I will of course write to you separately.

11 May 2013

### **Letter from the Chairman to Lord de Mauley**

Your letter of 11 May 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us regarding the progress of the 7th Environmental Action Programme.

We are now content to release this from scrutiny. Your letter is not clear as to the nature of the text to which you propose to give agreement. We would therefore welcome sight, in confidence, of the draft text after the completion of trilogue meetings at the latest.

We look forward to your response in due course.

*22 May 2013*

### **Letter from Lord de Mauley to the Chairman**

In your letter of 22 May you indicated that you were content to release this proposal from scrutiny, but noted that you would welcome sight of the draft text.

I am attaching [not printed] the latest Council text on 7th Environment Action Programme for your information and I would be grateful if you could ensure that it is treated confidentially. As I am sure you will appreciate, it is vital that this information is not published, nor reported in any way which would bring detail contained in the document into the public domain. It is being provided under the Government's authority and arrangements agreed between the Government and the Committee for the sharing of EU documents carrying a limited marking.

*4 July 2013*

### **Letter from the Chairman to Lord de Mauley**

Your letter of 4 July 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 17 July 2013.

We are grateful to you for providing us with a copy of the latest Council text on the 7th Environmental Action Programme which, of course, we will treat with the strictest of confidence.

We note that agreement was not reached at Council on 18 June. We look forward to an update on progress in due course.

*18 July 2013*

## **EU FORESTS STRATEGY (13834/13)**

### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 16 October 2013.

We are supportive of the Commission's strategic approach and would encourage you to embrace the Strategy and its possibilities more strongly than expressed in your EM.

We would have expected a more detailed policy analysis from you as the issues covered are interesting and, in some instances, novel. You state that Member States' implementation of initiatives will be optional, but we would draw your attention to inclusion in the Strategy of policies such as the review of the plant health regime, which certainly will not be optional. Clarification of your position on the optional nature of the entire Strategy would be very helpful.

More detail from you would be welcome on the opportunities that you see to use rural development funding to support sustainable forest management in the UK. This is particularly so given that, in the context of previous scrutiny of forestry policy, the Committee considered as key the economic drivers in play in order to promote afforestation. We understand, too, that there is a risk that, during 2014 and 2015, new entrants into woodland creation or woodland management schemes in England may not be able to access funding due to the transition to the new Rural Development Programme. We would welcome confirmation as to whether this is the case and what action Defra is taking to

resolve the issue in England, as also any information that you may have on the work of the respective Devolved Administrations in the same area.

Your views on the various initiatives that the Commission intends to take itself would be of interest. These include the creation of a European Forest Bureau Network and assistance to Member States in the development of a conceptual framework for valuing ecosystem services.

You note that the Devolved Administrations were consulted in the preparation of the EM. Given the particular relevance of this issue across the UK, we would be grateful for an indication of the views expressed.

Finally, we would welcome any information that you have on the reaction of other Member States to the Communication.

We will retain the Communication under scrutiny and look forward to your response within 10 working days.

*17 October 2013*

### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter of 17 October in which you raised a number of questions on the EU Forests Strategy, which I will address in turn below.

#### COMPETENCE AND OPTIONAL NATURE OF THE STRATEGY

Since the Strategy is not a legislative proposal it does not represent a binding commitment that will have effect in UK law; rather, and based on the principle of subsidiarity, it presents a coherent and holistic view that should be used in other EU forest-related policies, such as rural development, international trade and nature protection, which are subject to binding EU rules. Member States are encouraged to use parts of the Strategy in their national forest policies such as the adoption of forest management plans, but these are not obligatory (although the Commission will monitor their uptake under the Strategy). The Communication states that the Member States, within their competence, will ensure the Strategy's implementation, but that requirement should be seen in the context of the guiding but non-binding nature of the Strategy's individual elements. We will remind others of this in the forthcoming discussions in Brussels.

The purpose of this Strategy is to take a holistic view on forests and forest management, ensuring that existing initiatives and legislation are not in conflict with each other. The on-going review of the Plant Health Regime involves the proposal of a new Plant Health Regulation, which is a separate process to this Strategy. The process is not optional, however, it commenced before the Forests Strategy was released and it is right that any action arising from this Strategy should take into account and not be at cross-purposes with the Plant Health Regime.

#### USE OF THE RURAL DEVELOPMENT PROGRAMME (RDP) TO FUND SUSTAINABLE FORESTRY MANAGEMENT

Rural development funding can be used to support sustainable forest management and indeed has been utilised for this in England. The UK is pressing for a general roll-over of the whole programme to avoid the problems facing new entrants in 2014 and 2015. England, Wales, Scotland and Northern Ireland plan to deal with the interim period in different ways. It should be noted that applications for afforestation agreed before 31 December 2013 can be implemented in 2014 and 2015

In England the indicative budgetary allocation has already been committed (and indeed been increased) for afforestation in 2014. Therefore when all the approved agreements are implemented the area of woodland actually planted will be greater than what has been achieved in any previous year of this programme period.

It is intended that we will be able to enter into new agreements for afforestation in 2015 under the new programme, but we are still assessing if and how this may be achieved in relation to delivery of the Common Agricultural Policy.

Scotland are taking a similar approach to England and by 31 December 2013 expect to have a fully committed woodland creation budget for 2014, and committed over 50% of the budget for 2015. Prospective applicants are being encouraged to continue to develop their woodland creation projects during 2014 ready for submission in 2015. The remainder of the 2015 budget is expected to be committed after it is opened in early 2015. So whilst there will be a gap in ability to approve Scotland

Rural Development Programme applications there is not expected to be any reduction in the level of planting activity on the ground.

In Northern Ireland the level of agreements already approved is sufficient to achieve the Programme targets. The Department of Agriculture and Rural Development (DARD) intend to submit a new Rural Development Programme to the European Commission during 2014, and plan to open new afforestation schemes in time for the 2014/15 tree planting season.

In Wales the intention is to recommence the processing of applications for woodland creation as soon as possible thereafter. This is dependent however on securing agreement of our proposals for forestry measures under the 2014-2020 RDP programme period.

#### SOLE COMMISSION ACTIVITIES

You asked about our view on the Commission's work on a conceptual framework for valuing ecosystem services. This is being taken forward through the Commission's Mapping and Assessment of Ecosystem Services (MAES) initiative, which is aimed at supporting Member States to undertake national ecosystem assessments. The UK has of course already undertaken its own UK National Ecosystem Assessment, published in 2011, which puts the UK ahead of many other Member States in this area. We welcome the efforts of the Commission to help other Member States to undertake their equivalent national assessments, and UK officials have been participating in the MAES working group to support this.

Additionally you asked about the creation of a European Forest Bureau Network. We support the creation of such a network to share information among the National Forest Inventories. Sharing of information and best practice will be useful in confronting cross-border issues such as plant health and biodiversity.

Briefly I will address the other activities the Commission proposes to undertake itself:

- We are strongly in favour of the proposal for including large companies in the block exemption and revising block exemptions for the forestry sector in line with our efforts for State Aid.
- We have no issue with the Commission monitoring Member State progress on the uptake of forest management plans. If an Action Plan does not follow the Strategy this will be a useful way to monitor the success of the Strategy.
- The UK is unable to adopt a position on the proposal to apply within the EU the International Standard for Phytosanitary Measures n° 15 on wood packaging materials until the evidence presented in the impact assessment and the details of the proposal are made available. However, we believe that the Forest Strategy should make note of this proposal in the spirit of its holistic nature. We do not advocate endorsing the proposal unless, and until, the EU adopts it.
- We are content with the Commission providing information at its disposal to Parties to the United Nations Convention to Combat Desertification in order to support the implementation of their Plans of Action for protecting forests and soil in areas most threatened by land degradation and desertification.
- We welcome the Commission's assurance to spread good practice through relevant fora.
- We welcome the Commission's help in ensuring that the Standing Forestry Committee's work builds on other EU policies relevant for forests and the forest sector to ensure a joined-up approach to Forestry.
- We welcome the Commission's work on the impact of EU consumption likely to contribute to deforestation and forest degradation. This will be useful to UK efforts to limit the negative effects of agricultural commodities such as palm oil, soya, beef and leather.

#### OTHER MEMBER STATES

Some Member States have submitted written comments on the Strategy. Member States have welcomed the Forest Strategy and its holistic, cross-cutting nature. Common themes are that an

Action Plan would be useful to follow up the Strategy with concrete proposals for further work, to note that competence for forestry lies solely with the Member States and that this should be the first principle from which Conclusions are drafted. The Member States called to attention the Legally Binding Agreement on Forests currently being negotiated among 46 European countries through Forest Europe and called for the Forest Strategy to work in harmony with the Agreement.

#### DEVOLVED ADMINISTRATIONS

The Devolved Administrations were consulted in the drafting of the Explanatory Memorandum. All Devolved Administrations provided information on their plans for the Rural Development Programme as detailed above. Scotland and Wales made no further comment and Northern Ireland noted there were no subsidiarity issues, the description of ministerial responsibility and the link to national forest plans.

*29 October 2013*

#### **Letter from Lord de Mauley to the Chairman**

Your letter of 29 October on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 20 November 2013.

Thank you for your helpful and informative reply.

We are grateful to you for the clarification of your position regarding the optional nature of the Strategy and your views on the various Commission initiatives. We would find it helpful to be kept abreast of the negotiations on the draft Conclusions to be adopted by the Council next year.

We also note the detail you provide as regards the opportunities to use rural development funding to support sustainable forest management in the UK. We appreciate that England, Wales, Scotland and Northern Ireland all plan to deal with the interim period in different ways.

Looking to the future use of rural development funding to support forestry, we were interested to read the European Court of Auditors (ECA) report on "Support for the improvement of the economic value of forests from the European Agricultural Fund for Rural Development". This highlighted clear concerns about the use of the provision in the EAFRD permitting the granting of finance to support the improvement of the economic value of forests. The concerns expressed by the ECA extended to Member State assessment of need and impact. Could you set out for us details of assessments undertaken in the UK of the effectiveness of measures financed by the EAFRD to support forestry, including the economic value measure but extending to other sustainable forest management measures?

In considering the recent ECA report, we were struck by the Court's criticism of the failure to define "the economic value of forests". This strikes us as very important and we would therefore welcome your specific view on that criticism and how it might be tackled.

We will retain the Communication under scrutiny and look forward to your response to the above points in due course.

*21 November 2013*

#### EU/MOLDOVA (13326/13)

#### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

Explanatory Memorandum (EM) 13326/13, concerns a proposal for a Council Decision relating to the Agreement between the European Union (EU) and Moldova on the protection of geographical indications (GIs) for agricultural products and foodstuffs (including spirit drinks, wine and aromatised wine).

The proposal relates to the establishment of a Joint Committee under Article 11 of the EU-Moldova Agreement, whose role would be to ensure the proper functioning of that Agreement in relation to GIs, and is non-controversial. The proposal could in due course lead to improvements in the degree

of protection which UK exports of products bearing GIs (such as Scotch Whisky) enjoys on the Moldovan market.

The proposal was deposited by the Commission on 4th September and Department officials have been in the process of finalising the EM to meet the timeline of Friday 20th September.

During discussion of this item at the meeting of the Trade Policy Committee (TPC) in Brussels on 13 September, the UK (amongst other Member States) laid down a scrutiny reserve on the proposal. However, the Lithuanian Presidency expressed a desire to make rapid progress on agreeing the draft Decision, and asked for all scrutiny reserves to be lifted by the time the proposal goes before COREPER on 20th September. This was an unpredicted request which was not previously anticipated.

Departmental officials promptly discussed the issue with the Committee Secretariat as soon as the issue arose. Unfortunately, due to time constraints, a waiver could not be sought. As a consequence, I regret that it was necessary to give the United Kingdom's agreement to this draft Council Decision before the measure had cleared scrutiny.

*10 September 2013*

## EU STRATEGY ON ADAPTATION TO CLIMATE CHANGE (8556/13)

### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 22 May 2013.

We note that the Commission's Communication is a rather general, high-level document. The emphasis is, rightly, on action at the national and local level, with the support of the EU to improve the information to support policy and to ensure that the EU's own policies are adapted to climate change.

You are critical of the Commission's suggestion that it take a legislative approach should it judge by 2017 that Member State action has been inadequate. We agree that the EU's adaptation focus should be on those policy areas of genuine trans-boundary interest, such as water policy and plant health. We would nevertheless welcome information from you on how else you consider Member States can be encouraged to take appropriate action. In that light, and given your confidence as to the advanced state of the UK in this regard, how is the UK supporting other Member States?

We will retain the Communication under scrutiny and look forward to your response within 10 working days.

*22 May 2013*

### **Letter from Lord de Mauley to the Chairman**

Thank you for your question following the Explanatory memorandum on the Communication from the Commission: 'An EU Strategy on adaptation to climate change', on how Member States can be encouraged to take appropriate action and also how the UK is supporting other Member States.

It is important to note that 15 Member States have already developed their own national adaptation strategies. The Commission is committed to assist other Member States to develop strategies as well. It will provide financial support for adaptation through the proposed LIFE instrument, which includes a climate action sub-programme.

The Commission will also use multi-annual work programmes to define strategic goals and thematic priorities. Generally, priority will be given to adaptation flagship projects that address key cross-sectoral, trans-regional and/or cross-border issues. Projects with demonstration and transferability potential will be encouraged, as will green infrastructure and ecosystem-based approaches to adaptation as well as projects aiming to promote innovative adaptation technologies. This comprises both hard and soft technologies, such as more resilient construction materials and early warning systems.

The Commission will also support the exchange of good practice between Member States, regions, cities and other stakeholders. This will help Member States with the development of their national strategies.



The UK government is supporting other Member States by sharing information about its experience in developing the UK climate change risks assessment (published in January 2012) and its National Adaptation Programme (to be laid in Parliament in July 2013) in different ways:

- Through bilateral engagement. For example, recently my officials presented our work to their Slovenian counterparts.
- Through international fora. For example, the OECD in April published a document 'National adaptation planning: lessons from OECD countries', which includes the UK as a case study. The recent international peer review of the UK approach to disaster risk reduction (the Hyogo Framework) cited the climate change risk assessment and national adaptation programme as good models to follow.
- Through the Environment Agency (EA). The EA has been working with European counterparts through the interest group on climate change adaptation of the EU Environmental Protection Agency network. It fulfils a leading role in exchanging knowledge on practical adaptation issues, for example the management of flood risk.
- By supporting the UK Climate Impacts Programme to facilitate an International Dialogue on national climate change risk assessments, involving other EU Member States as well as the USA, Canada and Australia.

*1 June 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your officials wrote to our Committee on Wednesday 12 June requesting that we provide a scrutiny waiver as regards the dossier above in time for the EU strategy on adaptation to climate change to be agreed at the Environment Council on Tuesday 18 June.

On this occasion, we are content to provide a scrutiny waiver on the Communication, but request that the Committee be provided with further information following the Council.

We may, of course, request further information once we have had an opportunity to consider your letter of 1 June.

*14 June 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 1 June on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 June 2013.

We are grateful to you for your helpful clarification about the progress being made by other Member States. Whilst we are pleased to note that 15 Member States have developed their own national adaptation strategies, we are concerned that this means 12 have not as yet.

We are further appreciative of the information you provide as regards the support the UK Government is providing to other Member States.

The Committee is also grateful to you for allowing us to see the draft Council Conclusions. As you will be aware, we have already provided a scrutiny waiver for this Communication, and are now content to mark the strand of correspondence as closed.

*20 June 2013*

### **EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT (EAFRD) (8340/13)**

#### **Letter from the Chairman to David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 22 May 2013.

This is a sensible piece of legislation, which must be adopted with urgency. Most critical, we consider, is to ensure clarity for the spending of rural development funding, because this is multi-annual in

nature. We would emphasise that those wishing to access funds should be able to do so with some clarity on future programming, both in 2014 and in later years.

We will retain the proposal under scrutiny and look forward to information from you in due course when more clarity is available on the issues that you intend to raise in the course of discussions with the Commission, European Parliament and other Member States.

*22 May 2013*

**Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries,  
Department for Environment, Food and Rural Affairs to the Chairman**

Thank you for your letter dated 22 May 2013. I am replying as the Duty Minister during the Conference Recess. Since David Heath's last letter there have been a few recent developments on the Common Agricultural Policy Transitional Regulation of which I would like to make you aware.

On 5 September, the Lithuanian Presidency issued a revised version of the Regulation which has gone some way to address the UK's concerns outlined in my previous letter. You will recall that one of our main issues was the lack of flexibility for Member States to set different transfer rates between financial pillars year on year. The latest Presidency text provides this flexibility, provided the rate of Pillar 1 to Pillar 2 transfer does not decrease. Furthermore, Member States may review their transfer rate decision by 1 August 2017, which is also a welcome amendment.

Also in early September, the European Parliament issued its report on the Transitional Regulation with a number of proposed amendments. Further amendments to the Regulation have since been tabled by MEPs ahead of the vote in Agriculture Committee on 30 September. Fortunately they have also proposed similar changes to the inter-Pillar transfer provisions to those of the Council. The majority of the rest of the EP amendments are minor and do not effect UK interests. However, a few amendments do propose to unpick certain elements of the political deal achieved on the main CAP package back in June, which is clearly unacceptable. Even the Chair of the EP Committee on Agriculture has told MEPs that this is an inappropriate use of the Transitional Regulation, and it is unlikely that these amendments will make it through the Committee vote. They certainly will not be accepted by the Council or the Commission.

Our main outstanding issue on the Transitional Regulation is related to Rural Development provisions for 2014. The UK wants a full rollover of all the existing Rural Development Programme rules with the ability to use new programme funds if necessary until the end of 2014. This will ensure continuity of support for beneficiaries throughout 2014 and facilitate a smooth implementation of the new CAP Regulations to begin 1 January 2015.

The Commission are reluctant to agree to a full roll over. Instead they propose Member States can enter into new agreements with beneficiaries only on certain elements of the existing Rural Development Programme and that these must switch to the new programme rules as soon as the new programme has been approved by the Commission.

The latest Council text partly addresses the issue by proposing some additional Rural Development elements that can be rolled over into the 2014 transitional year. However it has not addressed the need to make sure they can be continued to the end of the year. Some of the European Parliament's amendments deliver what we want, and we will support them in trilogue which we expect to take place in the second part of October. We will continue to seek a rollover and a 1 January 2015 start date for the new programme and will engage with the Commission and work with other Member States to achieve our desired changes at both official and Ministerial level.

In terms of process for this Regulation, the European Parliament is expected to vote in Committee on their amendments on 30 September. Following this, the Agriculture and Fisheries Council in October is expected to discuss and come to an agreement on the Transitional Regulation which it will then present to the Parliament for them to vote on in Plenary. Ideally the Transitional Regulation will be formally adopted alongside the main CAP Regulations in November. I hope that, at this stage and given the tight timeframe, this response provides enough information for the Committee to give scrutiny clearance to allow discussions to move ahead freely.

*24 September 2013*

**Letter from the Chairman to Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs**

The letter of 24 September 2013 from Richard Benyon MP on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

Thank you for your informative and helpful update.

We would agree that the focus should be on resolving the issues related to rural development funding.

We note the urgency of this issue, particularly in relation to the Agriculture and Fisheries Council in October, which is expected to discuss and come to an agreement on the Transitional Regulation. Given this tight timeframe, we are content to release the Proposal from scrutiny, and look forward to an update in due course.

*10 October 2013*

**EUROPEAN CARBON MARKET IN 2012 (16537/12)**

**Letter from Baroness Verma of Leicester, Parliamentary Under Secretary of State, Department of Energy & Climate Change, to the Chairman**

Thank you for your letter of 28 February regarding our update of 11 February. Following the European Parliament's positive plenary vote on backloading, now is an appropriate time to provide you with an update on the UK position regarding the European Commission's proposals for structural reform of the EU Emissions Trading system set out in their Carbon Market Report

In parallel with the back-loading process, the UK has continued to be a strong advocate of structural reform. We believe that reform is required urgently to reduce the surplus of allowances in the system, increase the incentive for low-carbon investment through a higher carbon price and bring the system in line with our ambition of a 40% EU emissions reduction (or 50% with a global deal). We have called on the Commission to bring forward legislative proposals for reform by the end of this year and are working closely with other Departments to reach a UK government position on the detailed options, including those set out in the European Commission's Carbon Market Report. We will provide you with a further update in due course.

*1 August 2013*

**EUROPEAN COURT OF AUDITORS (ECA) SPECIAL REPORT 21/2012: COST-EFFECTIVENESS OF COHESION POLICY INVESTMENTS IN ENERGY EFFICIENCY (UN-NUMBERED)**

**Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

I am today submitting an Explanatory Memorandum on the European Court of Auditors (ECA) Special Report 21/2012: Cost-effectiveness of Cohesion policy investments in Energy Efficiency?

I regret that the deposit of this document was delayed having been missed by the system of sifting documents both within the Cabinet Office and my own Department. As soon as this was picked up, your officials were alerted to this by Cabinet Office and it was agreed that I should write in this respect.

As I understand it, the document was missed as these reports now appear to be circulated by the Council Secretariat in a different format than hitherto has been the practice; they now issue as an information note to delegations with a web link to the published report, rather than under the previous cover note arrangements that reproduced the contents of the letter from the President of the ECA (with the text of the report and the Commission's replies attached) when submitting the report to the President of the Council. I have reminded my officials of the importance of working closely with the Cabinet Office to ensure we continue to identify documents that should be submitted for scrutiny, and I am advised that such oversights are extremely rare. My scrutiny co-ordinator and officials will monitor the EU website closely to prevent a similar situation occurring in the future.

I also regret that as a result of the oversight, Council conclusions have already been reached on the report. The conclusions were discussed by the Committee of Permanent Representatives (COREPER) on 20th February and 15th May. The conclusions essentially note the ECA's recommendations on this report and encourage the Commission and Member States to continue to improve management and control systems for Structural Funds in the current programming period with a view to optimising the implementation in the next programming period, starting in 2014. They also encourage the Court to continue its thorough examination of programmes and projects financed under the cohesion policy and to contribute with its recommendations to designing this policy to become even more efficient and result-oriented in the next programming period, starting in 2014.

The UK comments on the draft conclusions, together with the final Council conclusions, are attached to this letter [not printed].

4 June 2013

## EUROPEAN COURT OF AUDITOR'S SPECIAL REPORT NO.6/2013- DIVERSIFYING RURAL ECONOMY (UN-NUMBERED)

### **Letter from the Chairman to George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

We note the observations of the Court and the response from the Commission. We were particularly pleased to note the examples of good practice in England that were highlighted in the Report.

We were disappointed, however, that the EM did not provide much detail as regards your views of the recommendations made in the Report. Furthermore, you comment that each of the devolved administrations are now considering the recommendations, "amongst other lessons learned during 2007-13", but again, offer little detail. We would be grateful, therefore, for more detail regarding your views of the recommendations made by the Report, as well as what "other lessons" were learned during the 2007-13 period.

Additionally, we would be interested to know of the Government's view in relation to the Report's criticism of the reliability of England's monitoring information, including what steps are being taken to improve on this for the 2014-20 period.

We will release the Report from scrutiny, and look forward to your response within 10 working days.

28 November 2013

## EUROPEAN COURT OF AUDITORS (ECA) SPECIAL REPORT 20/2012: EU WASTE POLICY OBJECTIVES (UN-NUMBERED)

### **Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

I am today submitting an Explanatory Memorandum on the European Court of Auditors (ECA) Special Report 20/2012: Is Structural Measures funding for Municipal Waste Management infrastructure projects effective in helping Member States achieve the EU waste policy objectives?

I regret that the deposit of this document was delayed having been missed by the system of sifting documents both within the Cabinet Office and my own Department. As soon as this was picked up, your officials were alerted to this by Cabinet Office and it was agreed that I should write in this respect.

As I understand it, the document was missed as these reports now appear to be circulated by the Council Secretariat in a different format than hitherto has been the practice; they now issue as an information note to delegations with a web link to the published report, rather than under the previous cover note arrangements that reproduced the contents of the letter from the President of the ECA (with the text of the report and the Commission's replies attached) when submitting the report to the President of the Council. I have reminded my officials of the importance of working

closely with the Cabinet Office to ensure we continue to identify documents that should be submitted for scrutiny, and I am advised that such oversights are extremely rare. My scrutiny co-ordinator and officials will monitor the EU website closely to prevent a similar situation occurring in the future.

I also regret that as a result of the oversight, Council conclusions have already been reached on the report. The conclusions were discussed by the Committee of Permanent Representatives (COREPER) on 20th February and 15th May. The conclusions essentially note the ECA's recommendations on this report and encourage the Commission and Member States to continue to improve management and control systems for Structural Funds in the current programming period with a view to optimising the implementation in the next programming period, starting in 2014. They also encourage the Court to continue its thorough examination of programmes and projects financed under the cohesion policy and to contribute with its recommendations to designing this policy to become even more efficient and result-oriented in the next programming period, starting in 2014.

The UK comments on the draft conclusions, together with the final Council conclusions, are attached [not printed] to this letter.

*4 June 2013*

## EUROPEAN COURT OF AUDITORS SPECIAL REPORT: HAS THE EU SUPPORT TO THE FOOD-PROCESSING INDUSTRY BEEN EFFECTIVE AND EFFICIENT IN ADDING VALUE TO AGRICULTURAL PRODUCTS (UN-NUMBERED)

### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

I am today submitting an Explanatory Memorandum on the European Court of Auditor's (ECA) Special Report. I regret that the deposit of this document was delayed having been missed in the system of sifting documents both within the Cabinet Office and in my own department. As soon as this was picked up, your officials were alerted to this by the Cabinet Office and it was agreed that I should write in this respect.

As I understand it, the document was missed as these reports now appear to be circulated by the Council Secretariat in a different format than hitherto has been the practice; they now issue as an information note to delegations with a web link to the published report, rather than under the previous cover note arrangements that reproduced the contents of the letter from the President of the ECA (with the text of the report and the Commission's replies attached) when submitting the report to the President of the Council. I have reminded my officials of the importance of working closely with the Cabinet Office to ensure we continue to identify documents that should be submitted for scrutiny, and I am advised that such oversights are extremely rare.

*30 May 2013*

## EUROPEAN COURT OF AUDITORS (ECA) SPECIAL REPORT 23/2012: REGENERATION OF INDUSTRIAL AND MILITARY BROWNFIELD SITES (UN-NUMBERED)

### **Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

I am today submitting an Explanatory Memorandum on the European Court of Auditors (ECA) Special Report 23/2012: Have EU Structural measures successfully supported regeneration of industrial and military brownfield sites?

I regret that the deposit of this document was delayed having been missed by the system of sifting documents both within the Cabinet Office and my own Department. As soon as this was picked up, your officials were alerted to this by Cabinet Office and it was agreed that I should write in this respect.

As I understand it, the document was missed as these reports now appear to be circulated by the Council Secretariat in a different format than hitherto has been the practice; they now issue as an information note to delegations with a web link to the published report, rather than under the previous cover note arrangements that reproduced the contents of the letter from the President of the ECA (with the text of the report and the Commission's replies attached) when submitting the report to the President of the Council. I have reminded my officials of the importance of working

closely with the Cabinet Office to ensure we continue to identify documents that should be submitted for scrutiny, and I am advised that such oversights are extremely rare. My scrutiny co-ordinator and officials will monitor the EU website closely to prevent a similar situation occurring in the future.

This report has not reached the stage of conclusions for Member States to discuss. It is expected that the report will be the subject of discussion in July, at the Structural Actions Working Group.

4 June 2013

## EUROPEAN COURT OF AUDITORS SPECIAL REPORT NO.8/2013 – SUPPORT FOR THE IMPROVEMENT OF THE ECONOMIC VALUE OF FORESTS FROM THE EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT (UN-NUMBERED)

### **Letter from the Chairman to Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 20 November 2013.

We note the observations of the Court and the response from the Commission. We will pursue these issues in the context of our scrutiny of the EU's Forest Strategy (13834/13).

We are content to release the Report from scrutiny and do not require a response to this letter.

21 November 2013

## EUROPEAN INNOVATION PARTNERSHIP 'AGRICULTURAL PRODUCTIVITY AND SUSTAINABILITY' (7278/12)

### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 14 March 2013. I am writing to update you on the European Innovation Partnership on agricultural productivity and sustainability and to respond to the issues raised in your letter.

The Rural Development Regulation provides the legislative basis for the EIP. The legislative text agreed at June Agriculture Council confirms what EIP activities can be funded under the new Rural Development Programme including possible support for national Operational Groups. The scope is broad, allowing Member States flexibility in determining how they wish to support setting up national Operational Groups within their RDP, if at all. It is worth noting that the Regulation allows for Operational Groups to consider issues around forestry as well as farming that may drive agricultural productivity and sustainability.

With no expected changes to the EIP part of the legislation, we are now pressing ahead with developing the next Rural Development Programme for England, and our approach for the EIP will be determined within this wider context. Over the coming months we will informally consult a range of stakeholders on all aspects of the Rural Development Regulation including the EIP and Operational Groups.

We are also considering possible approaches for supporting Operational Groups with the Commission and other Member States and developing the detail of how to go about programming for innovation within the RDP more generally.

As members of the Committee will be aware, the Government is already supporting a number of activities to promote innovation and applied research in the agricultural industry. The UK's agri-tech strategy, due to be published by the Science Minister, David Willetts, and the Defra Secretary of State Owen Paterson, at the end of this month, will support growth by encouraging the domestic and global uptake of world class UK based agri-science and associated technologies and stimulating their translation into high-tech agricultural systems in the UK. This Strategy will forge stronger links between the science base and the business sector, to better align and accelerate the translation of research into improved products, skills, practices and knowledge with practical applications, and to improve access to advice for the farming community on best practice and new technologies.

In addition, Defra is currently developing a specification for a Sustainable Intensification Research Platform. This Platform will bring together environmental and agricultural research groups to collaborate in developing sustainable intensification metrics, improve decision support tools and share information with the aim of increasing productivity while at the same time enhancing the environment. It is important that activities related to the EIP complement these existing initiatives and we will be further analysing the costs and benefits of the different options relating to the Operational Groups.

I previously informed the Committee that the European Commission had gone out to tender for an EIP Network that would act as a central information point in support of innovation in agriculture. This contract has now been awarded to a group comprising seven partners from seven European countries, led by the Vlaamse Landmaatschappij (VLM, the Flemish Land Agency). The Network 'went live' on 11th July.

I have also mentioned that the High Level Steering Board for the EIP would be producing a Strategic Implementation Plan (SIP). This was agreed and published on 11th July 2013. The SIP sets out the Steering Board's strategic advice on how to create an innovation culture in European agriculture that bridges science and practice, where within this vision the EIP may sit, and the potential issues, bottlenecks, solutions associated with it. The SIP is to be treated as a general recommendation in order to leave sufficient flexibility for the EIP to remain open to new insights throughout its implementation and to rely on bottom-up initiatives.

Your letter mentioned concern with following a 'bottom up' rather than systems approach in driving innovation. The Commission has been clear that the EIP offers an opportunity for driving further application of research, bringing together researchers and farmers more closely to apply innovative techniques to issues farmers are experiencing. The issues chosen by OGs to be examined will largely depend on the participants of the group, and the Commission sees the farmer having a key role in determining the topic, 'bottom up'. However, knowledge exchange is a two way process, and innovation clearly requires the active participation of all main players, including farmers and other parts of the supply chain.

Your letter also highlighted the EU's Scientific Committee on Agricultural Research (SCAR) report "Agricultural Knowledge and Innovation Systems in Transition – a reflection paper", published in March 2012. Defra participated in the working group that produced this report and we have continued to work in this area with colleagues from the European Commission and other countries. A second report from the working group will cover issues such as incentivizing innovation and the use of information and communication technologies in agriculture. This is due to be published by the end of this year.

I hope this information is helpful. I will continue to keep you updated on developments on the EIP and expect to provide insights into the preferred approach in the autumn.

*18 July 2013*

#### **Letter from the Chairman to David Heath MP**

Your letter of 18 July 2013 on the above Communication was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 24 July 2013.

Thank you for your very helpful and informative letter, as regards updating us on this dossier.

This item is of particular interest at present, as we are considering launching an inquiry into food waste prevention and will be reflecting on implementation of the CAP reform later in the year.

We are now content to release the Communication from scrutiny, and would welcome your offer to keep us updated on the development of the EIP in due course.

*25 July 2013*

#### **EUROPEAN STRATEGY ON PLASTIC WASTE IN THE ENVIRONMENT (7367/13)**

#### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 25th April on the above Proposal following consideration by the Agriculture, Fisheries, Environment and Energy Sub-committee on the 24th April.

The issues that you have raised are clearly very important and I have replied along the lines of each point you have raised.

#### SUBSIDIARITY

I agree that the issue of subsidiarity will need to be closely examined and monitored during the consultation process and thereafter as any legislative proposals develop as a result of that process. The principle of subsidiarity requires that both the objectives of the proposed action cannot be sufficiently achieved by the Member States acting on their own, and that they can be better achieved by action on the part of the EU. In areas of shared EU competence this will require both a legal and policy assessment of any subsequent legislative proposals.

#### DOOR STEP COLLECTIONS/PAY-AS-YOU-THROW

It will be necessary to examine whether there is agreement by Member States on the approach to be taken to door step collections for plastic waste, charging for residual waste, and tackling the issue of plastic bags or any other suggestions that may be made in relation to plastic waste reduction. If agreement can be reached, EU legislation may achieve harmonisation with a uniform approach across the EU. However, the UK Government will take an independent view during negotiations and at the point at which draft legislative proposals are developed on these subject areas as to whether the aims of any proposal can be sufficiently achieved by Member States acting on their own and that they cannot be better achieved by action on the part of the EU. Therefore these concerns will be reflected in the UK's response to the Green Paper.

#### SINGLE USE CARRIER BAGS

You mentioned your concerns regarding a pan-European approach to tackling the issues of single use carrier bags. Many Member States, including the UK, have already taken voluntary action or have established recycling systems in place to deal with certain plastics, such as bags, at end of life. The voluntary agreements with the major retailers in the UK resulted in a reduction of 40% of carrier bags distributed between 2006 and 2010 and some countries in the UK have already taken steps to charge for single use carrier bags. Wales introduced a 5 pence charge 2011 with significant reductions in supply being reported. Northern Ireland introduced a 5 pence charge on all single use bags on 8 April 2013. The Scottish Government has announced their intention to introduce a charge similar to the Welsh system requiring retailers to charge for single use carrier bags. I will stress these national activities in my response to the European Commission as they show that we on national level remain determined to tackle the blight caused by discarded carrier bags.

#### BIO-BASED PLASTICS

Whilst bio-plastics have a role, the UK believes that food production must remain the primary goal of agricultural production. The production of biomass for bio-based plastics which are not waste derived must not undermine food security, negatively impact biodiversity, or lead to an increase in greenhouse gas emissions via indirect land use change.

The recovery and disposal of waste including plastics requires a permit under EU legislation with the principal objective of preventing harm to human health and the environment. This legislation also allows Member States to provide for exemptions from the need for a permit, providing general rules are laid down for each type of exempt activity, and the operation is registered with the relevant registration authority. The UK is one of the few Member States that makes widespread use of exemptions to encourage small-scale low risk waste operations e.g. for the composting and land-spreading of small amounts of 'green waste'.

We are considering how the current arrangements for regulating the spreading of waste and non-waste materials on land to confer agricultural or ecological benefit can be integrated and made simpler, and secure increased protection of soils and the wider environment. In this context we would need to consider whether the composting and land-spreading of bio-plastics would affect the potential risk to the environment and the scope of the current exemptions.

References to the UK science base in this area have been made in the paper response.



## PLASTIC WASTE IN THE MARINE ENVIRONMENT

It is generally accepted that the sources of the majority of litter in the marine environment are terrestrial. We recognise that litter has an impact on the marine environment and that plastics in general constitute the majority of litter items. Plastic can cause harm to marine wildlife including through smothering of the seabed and imposes costs on local communities and fishermen.

## EXPORT OF WASTE

I note your comments on the size of waste plastic exports. Like other raw material supply chains; the market for waste plastic is global. The export trade in plastic recyclate reflects a mixture of both demand from overseas re-processors and, in some cases, collections of material in excess of the capacity of re-processors in Europe to utilise it.

The export of waste material is a legitimate aspect of a global marketplace and has many benefits including the global resource use of recyclable waste material, reducing global carbon emissions and helping to meet recycling targets. However, the environmental and economic impacts of exporting wastes illegally can be highly significant particularly for developing nations.

There impacts include the effect on human health from sorting through mixed wastes; increased emissions from landfill created by the disposal of residual waste and impacts on water tables and human health caused by disposal in rudimentary landfill operations. There are also concerns about whether the legal standards on environmental protection and health and safety in some countries are equivalent to those in Europe. This can damage consumer confidence and participation in recycling. There are also economic impacts on the industrialised countries, including the loss of potentially significant resources and the continued reliance on virgin materials. Finally there is the potential cost to the European taxpayer from the rejection and repatriation of the waste to Europe.

We believe that a greater focus on quality recyclates by local authorities and the waste management industry should help to ensure that co-mingled waste gets properly sorted and that the final output from waste management sites is of sufficient quality to go direct to a reprocessor regardless of whether that reprocessor is in the UK, Europe or the Far East.

Government officials are currently assessing the results of a recent public consultation on the quality of recyclates, including proposed regulations covering waste management sites involved in the sorting of mixed waste materials. We are also exploring with the Environment Agency the potential for enhancing enforcement of the Waste Shipments Regulation by using information on the quality and destination of outputs from waste management facilities which will also be delivered by the proposed regulations.

## RECOVERY

You asked for clarity concerning the term “recovery”. The term is defined in Article 3 (15) of the Waste Framework Directive (WFD) (2008/98/EC) where it means ‘any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, in the plant or in the wider economy’. The WFD also includes a helpful non-exhaustive list of what it means by recovery operation at Annex II [not printed].

I do hope this has addressed your concerns, and also the detail in the Green Paper response.

## RESPONSE

In the response, the UK has offered a broad welcome to the Commission’s examination of the issues, and agrees that the management of plastic waste provides both opportunities for promoting economic growth and for improving the environment. We’ve clarified that this does not mean we would support arguments for more EU wide legislation, adopting a generally sceptical stance and seeking further clarification of the Commission’s intent.

## NEXT STEPS

We have now submitted the UK Government’s response to the Commission’s consultation. Responses will inform the Commission’s work programme for 2013, including its review of waste policy and legislation, the results of which will be presented in 2014.

4 July 2013

### **Letter from the Chairman to Lord de Mauley**

Your letter of 4 July 2013 on the above Paper was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 July 2013.

You helpfully addressed our queries in your letter and we were interested too to read your response to the Green Paper.

While we will monitor with interest the Commission's reaction to its consultation, we are content to release the Green Paper and to close this strand of correspondence.

*25 July 2013*

### **FACILITATING BETTER INFORMATION ON THE ENVIRONMENTAL PERFORMANCE OF PRODUCTS AND ORGANISATIONS (8310/13)**

#### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 May 2013.

We note that this is a non-binding recommendation, with no mandatory requirements. As such, we would agree with your position in supporting the overall objective of the Commission in its objective of allowing a greater market uptake of resource-efficient products and greener business practices, as well as removing barriers to green products in the Single Market. We would, though, highlight our concerns as regards whether this would contribute to the international process and as regards likely wide support among all Member States. Is there any indication, at present, as to whether any Member States are likely to adopt the Recommendation?

You highlight your own concerns, such as with costs to businesses and benchmarks. Opposition to the latter is driven by a concern around costs. We would ask you to provide your analysis of whether the potential benefits of a single resource efficient market might outweigh those costs and, furthermore, how such a market might be developed without benchmarks.

We would be grateful for information on whether your concerns have been communicated to the Commission, and whether there has subsequently been a dialogue between you. Are these concerns being addressed? Additionally, no mention is given to views expressed by other Member States or the Devolved Administrations. Have any other Member States or the Devolved Administrations raised similar concerns and/or support?

We noted in your EM that the EU is still in the process of "improving and clarifying the definitions of green goods". The definition of 'green' is fundamental to this discussion, and we would be interested to know whether the Government have their own definition in this regard?

You also note that the Government contributed to the Commission's public stakeholder consultation on the policy options, and that you are now planning your own stakeholder engagement. We would be interested to know more details of this engagement, including the timeframe, which stakeholders will be consulted, and a summary of the outcome of those discussions.

As regards the recommendation for various groups to use the environmental footprinting methods, your EM noted that you support the principles in relation to Member State use, with careful consideration required. In terms of companies and private organisations, schemes related to the measurement or communication of life cycle environmental performance and the financial community, the Government offer no opinions. We would be grateful to know whether you similarly support the principles for these groups, as you do for Member States, and if not, what concerns you have.

We will retain the Communication under scrutiny and look forward to your response within 10 working days.

*22 May 2013*

### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter dated 22 May, in which you raised a number of questions about the Explanatory Memorandum on the above Communication.

I am pleased that the Committee agrees with our support for the Commission's overall objective of allowing a greater market uptake of resource efficient products and greener business practices, and removing barriers to green products in the single market.

You ask whether there is any indication at present as to whether any Member States are likely to adopt the Commission's Recommendation. We have contacted all the EU attachés in other Member States to ask their plans but so far we have only received responses from Greece, Finland, Luxembourg, Latvia and Netherlands.

- For Greece, the Recommendation is a low priority. They are focussing on implementing Directives and reducing costly infringements and are not expecting to adopt it.
- Finland has not yet decided to what extent it will adopt the Recommendation, and will wait for the results of the ministerial working group before finalising a position. They have a "carefully positive" approach, supporting wider European goals targeting resource efficiency, but highlighting that for the Recommendation to be successful and to really facilitate green growth, the methods created have to be user-friendly, cost-efficient and extensive.
- Luxembourg are very positive about the initiative taken by the Commission but cannot say yet whether they will fully adopt it.
- Latvia, the ministries within Latvia have not yet agreed a position.
- Netherlands are in favour of a green economy, and feel that measures such as externalising environmental costs, moving taxes, and stimulating innovation, are important. They suggest that green economy could be stimulated by broader implementations of sustainable buying, measuring a product's energy efficiency, better integration of the green economy in other policy areas, improving communication, and simplifying rules.

The responses received are non-committal; however this is not surprising as this is still at a very early stage of the consultation process with Member States seeking to establish their own approaches.

You asked for our analysis of whether the potential benefits of a single resource efficient market might outweigh the costs to business. The Commission's impact assessment of their proposal is a qualitative comparison of the economic, social and environmental impacts of the policy options. The UK Government has not made its own economic analysis of the voluntary pilot initiative.

We do know that the potential economic benefits of resource efficiency are significant. For example, simply using resources (like water, energy and natural materials) more efficiently could bring direct savings to UK businesses of around £23 billion a year, as well as increasing their resilience and improving the potential to exploit comparative advantage. Therefore the potential benefits of a single resource efficient market may well outweigh the costs of this voluntary pilot.

However, we cannot say at present how many of the potential benefits of a single resource efficient market might be delivered through implementing harmonised EU environmental footprinting methods, or whether the benefits of the methods would outweigh their associated costs. This will depend on the future development of the footprinting methods and future decisions about their implementation (for example, which EU policy tools might be used to implement them, which products and organisations would be covered, how data gathering, assessment and benchmarking would be organised and monitored.).

You ask how a single resource efficient market might be developed without benchmarks. Our concerns about benchmarking relate to proportionality and the potential burden of developing benchmarks for all organisations and products on the market, assessing all organisations and products against them, and keeping the benchmarks and assessments up to date. Comparability between assessments for multiple environmental impacts is very difficult to achieve, especially for complex products and products with flexible uses, and for organisations with complicated supply chains.

We support a more targeted approach of identifying "hot spots" within product supply chains and targeting action to address these. This is a really good approach for helping businesses and others to deliver environmental benefits in the most cost effective way. UK businesses in the grocery and home improvement sectors are working together on identifying and tackling their "hot spots" through the Products Sustainability Forum which the Government funded Waste and Resources Action Programme (WRAP) co-ordinates. Action to tackle an identified "hot spot" could involve benchmarking of products, but this is only one option.

You ask whether we have had dialogue with the Commission about our concerns, and whether they are being addressed as a result. You also ask about whether other Member States or devolved administrations have raised similar concerns and/or support.

We have agreed our position with the Devolved Administrations. We have participated in discussions with the Commission on this issue at meetings of the Commission's Integrated Product Policy and Sustainable Industrial Policy group, on which all Member States have a seat. We have also raised UK concerns as part of the consultation process that was held between 9 January 2012 and 4 April 2012, including in a consultation meeting and in our written consultation responses on environmental footprinting methods, and a wider consultation on the EU Sustainable Consumption and Production Action Plan. A brief summary of the main points of the consultation from Member States, is attached at Annex A [not printed].

The Recommendation was also discussed at the informal Meeting of EU Environment Ministers in Ireland on 22 – 23 April 2013. Member States were supportive of the action and they felt it would:

- Create order and fewer systems.
- Be continued development. This is the first step.
- Need to be tested, to be assured we are going in the right direction
- Be less burdensome as it is now.
- Need simplification for all SMEs affected

Further dialogue is expected during the three year pilot process.

In relation to further clarification of EU definitions of green goods, you ask whether the Government has a definition of what is green. The government does not yet have its own definition of green goods, which to be sufficiently effective would need to be agreed with trade partners, but it does have the following useful definitions:

- The Government publication 'Enabling the Transition to a Green Economy: government and business working together' answers the question "What is a green economy?" explaining that it is not a sub-set of the economy at large – our whole economy needs to be green. A green economy will maximise value and growth across the whole economy, while managing natural assets sustainably. Our vision is that our green economy of the future will :
- Grow sustainably and for the long term,
- Use natural resources efficiently,
- Be more resilient and
- Exploit Comparative Advantages
- The low carbon and environmental goods and services (LCEGS) sector is defined by Innovas as traditional environmental services and renewable energy, as well as emerging low carbon activities - such as low carbon building technologies and carbon finance .

In terms of stakeholder engagement, we are planning initial discussions on the forthcoming pilot in advance of the Commission's volunteer application deadline of 26 July 2013. The first meeting will be held on 4 June 2013, for internal stakeholders and Devolved Administrations, with the objective to consider the UK approach to participation in the development of the Commission's proposal. Following this meeting there will be a wider stakeholder event on 7 June 2013, with a small focused group of relevant people, recommended by the Waste and Resources Action Programme (WRAP) and the British Standards Institute, who have a particular interest in the EU recommendation, to discuss the approach further and agree how we can contribute to the process. This should help us understand the various industries positions regarding the recommendation and if or how they intend to engage with the pilot process, giving the UK Administrations an appreciation of the appetite and enthusiasm for involvement.

Once these meetings have been held, we will forward the minutes of the wider stakeholder meeting to the Committee for information. We envisage further engagement, and the involvement of a greater number of stakeholders throughout the Commission's three year pilot process.

Finally, you ask whether we support the principle of others using the environmental footprinting methods (companies and private organisations, schemes related to the measurement or communication of lifecycle environmental performance and the financial community). If the EU

environmental footprinting methods are to be effectively implemented in future, this will require the participation of all the parties mentioned, and so it is important that they are aware of the activity. We are very happy for all parties to participate in the initial voluntary piloting stage, but it is a matter for them to decide.

*3 June 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 3 June on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 June 2013.

Thank you for helpful and detailed response.

We are particularly grateful for the information you provide as regards the positions of Greece, Finland, Luxembourg, Latvia and the Netherlands. We would of course be grateful to know of the views of additional Member States (if possible) when possible.

Regarding clarifying the definition of what is 'green', the Committee notes the comments made in your letter, but consider that if the EU is to debate a "Single Market for Green Products", much greater clarity on what this encompasses is required. As such, we would look to the Government to press this point with the Commission and other Member States.

Your comments on stakeholder engagement are welcomed, and we are appreciative of your offer to forward the minutes of the wider stakeholder meeting on 7 June to us.

We are content to release the Communication from scrutiny and look forward to your response in due course.

*20 June 2013*

#### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter dated 20 June 2013, in which you requested further information regarding the views of Member States on the original Commission Communication issued on 10 April 2013. You also suggested that we press to achieve greater clarity on the "Single Market for Green Products" with the Commission and other Member States.

The pilot exercise for Product and Organisation Environmental Footprinting, which called for volunteers was closed on 26 July 2013. The selection of pilots will be announced at the first PEF Berlin World Summit on 8 and 9 October 2013. This will provide a better understanding on the sectors that have applied to participate in the pilots as well as those Member States that are keen to be involved.

In testing the single footprinting methodology, the exercise will establish the environmental footprint for all products, which will enable greater clarity and the ability to compare similar products.

As promised I have attached [not printed] a copy of the minutes from the wider stakeholder meeting held on 7 June 2013.

*24 August 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 24 August 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for your response, including the minutes taken from the wider stakeholder meeting held on 7 June.

We understand that the pilot exercise for Product and Organisation Environmental Footprinting was closed on 26 July, with the selection of pilots to be announced on 8 and 9 October.

You note that the selection of pilots will provide a better understanding of the Member States that are keen to be involved. We would welcome, though, any additional information that you may have regarding the views of Member States other than those regarding which you have previously written.

Furthermore, in terms of pressing for greater clarity of the definition of 'green' with the Commission and other Member States, what action has the Government taken (or plans to take), in order to achieve this?

We look forward to your response by 3 October.

*12 September 2013*

### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter dated 12 September 2013, in which you requested additional information that we might have received with regard to further views of Member States on their involvement in the Product and Organisation Environmental Footprinting pilot exercise. While I do not have further information on the views of individual Member States, the following information about the pilot exercise applications may be helpful.

A recent publication from the Commission, on 5 September 2013, has revealed that a total of 90 applications have been received from businesses who wish to participate in the first pilot phase. There have been 70 applications to pilot Product Environmental Footprinting (PEF) and 20 for Organisation Environmental Footprinting (OEF), covering a wide range of sectors, including textile, detergent, furniture, paper, retailers and electricity.

Organisations from a total of 19 Member States have applied to take part in the exercise as well as organisations from the USA, Asia and multinational companies. Most of the applications are from businesses, but 3% are from public administrations. A breakdown of the applications is attached at Annex A [not printed] and further information regarding the uptake of the call for volunteers can be found at:

[http://ec.europa.eu/environment/eussd/smgp/product\\_footprint.htm](http://ec.europa.eu/environment/eussd/smgp/product_footprint.htm)

The applications are presently under review and the selected pilots will be announced at the first PEF World Summit on 8 – 9 October 2013.

You also ask if there are any actions or plans to press for greater clarity of the definition of “green”. The original Communication from the Commission to the European Parliament and Council “Building the Single Market for Green Products” published 9 April 2013, does explain that the Commission’s initiative is a step towards removing this ambiguity by improving the way environmental performance of products and organisations is measured and communicated .

It further goes on to explain that ‘Green products’ can be defined as those that use resources more efficiently and cause less environmental damage along their life cycle (from the extraction of raw materials to their production, distribution, use, and up to the end of life (including reuse, recycling and recovery)), compared to other similar products of the same category. ‘Green products’ exist in any product category regardless of being ecolabelled or marketed as green; it is their environmental performance that defines them as “green” .

The Commission’s intention is that the definition of ‘green’ will be developed based upon assessment against methods resulting from the footprinting pilot, and the evaluation will result in improved environmental footprinting methods, which can be used to make robust comparisons between products and organisations. Accordingly, although it is important point, the Government has no immediate plans to press for any further clarification of this definition of “green”.

*24 September 2013*

### **Letter from the Chairman to Lord de Mauley**

Your letter of 24 September 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

Thank you for your helpful and informative response, including the Annex [not printed] with a breakdown of the applications to pilot Product Environmental Footprinting and Organisation Environmental Footprinting.

Please mark this strand of correspondence as closed.

*10 October 2013*

## FINANCIAL PROVISIONS FOR ANIMAL AND PLANT HEALTH PACKAGE (10726/13)

### **Letter from the Chairman to David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 July 2013.

We would welcome clarification on how the proposed budget compares to the current budget, which is spread across several spending programmes. Figures are given in the Commission impact assessment, but they cover the period 2005-11, rather than the current financing period (2007-13).

Over the period 2005-11, the UK received around €220 million under the food safety budget, the fourth highest recipient after Italy, Spain and France. How was that budget spent in the UK and what audit was made of its effectiveness?

In its impact assessment, the Commission notes that there have been weaknesses in the planned spending of these funds in the past. Are you content that the proposal addresses previous weaknesses in terms of assessment of effectiveness and robust financial oversight?

Your concern about the inclusion of compensation in plant health programmes was not clear and so we would welcome an elaboration from you of that concern.

Under the financial implications heading of the EM, it states that there are “no additional financial burdens or impacts”. We considered this a somewhat strange assertion for a proposal that relates specifically to financial provisions, and so we would be grateful for further information and clarity in that regard.

Finally, it is clear that you are still developing your position on this issue. What implications does the recent agreement on the Multiannual Financial Framework have for the timing of adoption of this proposal and hence the necessity to finalise a position? We would invite you to inform the Committee of your position once cleared across Government.

We will retain the proposal under scrutiny and look forward to your response by 30 August.

11 July 2013

### **Letter from David Heath MP to the Chairman**

Thank you for your letter dated 11 July and for the time that the Agriculture, Fisheries, Environment and Energy Sub-Committee spent in considering the detail of this proposal. I am now writing to provide the additional information and clarification requested.

Firstly I would like to clarify that this proposal is primarily intended to consolidate the existing funding framework and to provide equivalent levels of funding to Member States for current programmes. There is expected to be an extension of funding to some priority plant health programmes and this will be achieved through savings in animal health programmes. These savings will primarily be gained through natural successes of, for example, the Transmissible Spongiform Encephalopathies (TSE) surveillance programme of healthy slaughtered cattle which is to be scaled back from 2013 now that Bovine Spongiform Encephalopathy cases have reached very low levels, which are continuing to decrease, in the UK and throughout the European Union.

I would also like to provide some high level information of UK funding during the period 2005-2011. The Commission's Impact Assessment notes that the total amount received during this period was around €121 million. Please note that this is not the €220 million stated in your letter which we have confirmed was a typographical error with the Clerk of the Committee. This does indeed make the UK the fourth highest recipient of co-financing of all Member States and I have provided approximate values (in rounded GB Pounds) for the main work areas where the UK received co-financing in the table below. Please note that the UK also received co-financing for the EU Reference Laboratories for Aquatic Animal Health (Crustaceans), Foot and Mouth Disease, Swine Vesicular Disease, Bluetongue and Newcastle Disease and for the Salmonella National Control Programmes.

Year	Co-financing received in the following areas*	Amount (£)
2005	TSE surveillance (including TSE monitoring, compensation for the cohort cull and scrapie eradication)	£12 440 000
	Brucellosis eradication programme (Northern Ireland)	£1 452 000
	Avian Influenza surveillance (includes EU Reference Laboratory)	£100 000

2006	TSE surveillance	£11 375 000
	Brucellosis eradication programme	£1 623 000
	Avian Influenza surveillance	£1 359 000
2007	TSE surveillance	£6 412 000
	Brucellosis eradication programme	£939 000
	Avian Influenza surveillance	£529 000
2008	TSE surveillance	£5 307 000
	Brucellosis eradication programme	£1 956 000
	Avian Influenza surveillance	£300 000
2009	TSE surveillance	£3 512 000
	Brucellosis eradication programme	£1 045 000
	Avian Influenza surveillance	£257 000
2010	TB eradication programme (England, Northern Ireland and Wales)	£23 057 000
	TSE surveillance	£5 056 000
	Brucellosis eradication programme	£1 017 000
	Avian Influenza surveillance	£280 000
2011	TB eradication programme	£22 630 000
	TSE surveillance	£5 551 000
	Brucellosis eradication programme	£892 000
	Avian Influenza surveillance	£122 000

\* Note: the Avian Influenza surveillance team hold the figures in GBP (£) but the other figures have been converted to GBP (£) using the September 2013 Cabinet Office Exchange rate of £1 = €1.171 for ease of reference.

The use of this funding is routinely monitored and audited both domestically and by the Commission. Policy Audits periodically review the effectiveness of co-financed schemes and expenditure is subject to the usual monitoring and controls applied to all departmental expenditure. In addition, strict eligibility criteria are applied when authorising claims to the Commission which are also regularly audited by the Food and Veterinary Office or their delegated representatives. This provides assurance that the funding is allocated in line with the requirements and that the delivery has been effective. The Commission's Impact Assessment also provides examples of successful outcomes such as the effective monitoring and eradication programmes for TSEs, which allowed the UK to successfully lift the ban on beef exports in 2005/6.

I would also like to confirm that I believe that the proposal successfully addresses the concerns raised in relation to robust and effective financial oversight in the Commission's Impact Assessment by ensuring that there are clear objectives and indicators for programmes. There is also a requirement for both an interim (2018) and ex-post evaluation (2022) explicitly stated in the proposed Regulation. Additionally the proposal specifically aligns with the requirements of the new Financial Regulation (EU, Eurotom) No. 966/2012.

In relation to financial compensation of direct losses incurred by operators in relation to statutory action against priority pests in the event of a Plant Health incident the UK is concerned that this may act against best-practice (biosecurity). This element will be negotiated under the Plant Health element of the package and the UK will seek to ensure that there is no obligation on Member States to pay compensation. Within the UK it is the longstanding policy not to pay compensation for such direct losses.

I would also like to clarify the statement that there are no significant financial impacts relating to this proposal. This is because the proposal is a consolidation of the existing financial support framework and is intended to support the ongoing co-financing of existing programmes such as the approximately £25 million of co-financing that the UK receives for our TB eradication programme annually. The minor changes that are proposed to provide simplification, enhance financial oversight and reduce administrative burdens are welcomed by the UK and do not significantly impact on the co-financing currently received. UK policy leads for animal and plant health will have increased clarity on eligible costs and the level of co-financing (generally 50%) and this will allow for individual policy teams to plan



their budgets more effectively over the 2014-20 period both annually and over multi-annual programmes.

This proposal is both in line with the agreed Multiannual Financial Framework 2014-20 and is being taken forward to an accelerated timeline during 2013 in order to ensure that there is a legal framework to deliver the co-financing from 2014. The Lithuanian presidency is seeking an indicative agreement from Council by 17 October when the European Parliament's Rapporteur will present their draft report. The Government is therefore currently clearing negotiating lines in parallel with the Parliamentary scrutiny process and is seeking clearance of both procedures by the beginning of October 2013.

I can confirm that the Government and Devolved Administrations broadly support the proposals, providing they remain in line with the requirements of the Multiannual Financial Framework 2014-20, and I would be happy to provide a further update following the Council meetings. I hope that, at this stage and given the tight timeframe, this response provides enough information for your Committee to give scrutiny clearance to allow discussions to move ahead freely.

*19 September 2013*

**Letter from the Chairman to Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs**

Your predecessor's letter of 19 September 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

We are grateful to you for clarifying the issues that we raised in our previous letter of 11 July 2013.

We are now content to release this Proposal from scrutiny and look forward to further updates following the Council meetings in due course.

*10 October 2013*

**FINANCIAL SUPPORT FOR ENERGY EFFICIENCY IN BUILDINGS (8703/13)**

**Letter from the Chairman to the Rt. Hon. Don Foster MP, Parliamentary Under-Secretary of State, Department for Communities and Local Government**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 June 2013.

We disagree that the report lacks any policy implications. Energy efficiency in buildings is a matter of critical importance to wider policy on energy and climate change. It is extremely important that Government takes responsibility to ensure that appropriate finance is in place. As the Commission notes, Member States are in the driving seat to ensure that more cost-effective investments take place. We look to you to inform us of your strategy thus far to boost energy efficiency buildings in a cost-effective manner, utilising innovative new technology.

There are a range of specific suggestions made by the Commission which have clear policy implications. These include:

- a review of the rules for state aid as applying to energy efficiency;
- the continuing development of a common EU-wide energy certification scheme for the energy performance of non-residential buildings;
- the use of the European Regional Development Fund over the period 2014-2020 to support energy efficiency measures; and
- the development of technical guidelines on the use of innovative financial instruments.

We would welcome comment from you on the above areas.

It is noted in the Report that Member States will be required to publish, by April 2014, a long term strategy for mobilising investment in the renovation of the national stock of residential and commercial buildings and to facilitate the establishment of financing facilities for energy efficiency improvement measures. Is the UK on track to meet that target?

We note that you considered that consultation was not applicable for this report. The Commission document made reference to a public consultation which ran between February and May 2012. We would welcome clarification from you on whether the Government will be consulting within the UK on any of the issues raised by the Commission and, if not, why not.

You conclude that there are no financial implications deriving from the document. For a report assessing “financial support for energy efficiency buildings”, this seems particularly odd. Use of regional funding for energy efficiency could have implications if co-financed by the Government, or by Devolved Administrations. Similarly, changes to state aid rules could also presumably have some impact. We would welcome further explanation of the analysis that led you to your conclusion.

On the matter of financing, you provided a table setting out funding for energy efficiency under the current Multiannual Financial Framework. The figures that you provided in both euros and sterling do not appear to be aligned and we would therefore welcome clarification.

Regrettably, the EM is of an extremely poor quality. It fails to give adequate attention to a number of considerations, including scrutiny history, the interest of Devolved Administrations, subsidiarity, policy implications, consultation, financial implications and timetable.

The Committee scrutinised the Energy Efficiency Directive, which should have been recognised in the scrutiny history section of the EM. Contrary to your position, we consider that Devolved Administrations have a clear interest in the energy efficiency of the building stock. We would welcome confirmation that you have in fact liaised with the Devolved Administrations in the production of this EM.

Turning to the process of producing the EM, you will know that the original deadline for this EM was 8 May, but was extended twice to 10 June at the request of your officials. When the EM was finally submitted, it was only sent to the House of Commons scrutiny committee, and our Secretariat were required to chase your officials to receive a copy. Furthermore, despite being given two extension requests – and a guide regarding the Committee’s position on subsidiarity – the subsequent EM is still of very poor quality, and was not even properly disseminated to the House of Lords.

Unfortunately, this is not the first poor EM that we have received from your Department. In an attempt to help your Department improve its performance, our staff have made contact with DCLG officials to offer training on the conduct by Government of EU scrutiny. Other Departments have found this useful in the past. We would very strongly recommend that you encourage your officials to improve their understanding of the process through dialogue with the Committee, as offered.

We will retain this Report under scrutiny and look forward to your response within 10 working days.

*27 June 2013*

#### **Letter from the Rt. Hon. Don Foster MP to the Chairman**

Thank you for your letter of 27 June, 2013, in which you set out a range of concerns your Committee, has regarding my Department’s Explanatory Memorandum (EM) on the above report. I accept that there were deficiencies in the EM and am very sorry both for this and that the submission didn’t recognise the extensions to the deadline that we had been given. I hope that this letter is helpful in responding to some of the issues you raise.

Your letter included an offer of training for DCLG staff on the conduct of EU scrutiny which I welcome. I have asked my officials to follow up on this offer.

The Committee disagreed with the EM’s view that the Commission report lacks policy or financial implications, requesting comment in particular on the specific suggestions made by the Commission below:

- The state aid rules applying to energy efficiency may be reviewed;
- Development of an EU-wide certification scheme for the energy performance on non-residential buildings;
- Use of the ERDF over the period 2014-2020 to support energy efficiency measures; and
- The development of technical guidelines on the use of innovative financial instruments.

Each of these suggestions is considered in turn below.

We welcome the Commission's commitment to keep state aid rules under review to ensure that there remains appropriate flexibility for Member States to provide financial support for energy efficiency as they move towards the implementation of the Energy Efficiency Directive.

The development of an EU-wide certification scheme for the energy performance of non-residential buildings is an area where the UK will need to engage with both the Commission and across industry in future, as we recognise there may be an impact on implementation of the UK National Calculation Methodologies which underpin the production of Energy Certificates and related documents.

The proposed EC ERDF Regulation covering 2014-20 requires more developed regions (which cover most of England) to allocate at least 20% of their resources to supporting the shift towards a low-carbon economy in all sectors. The share drops to 15 and 12% respectively in transitional and less developed regions. Guidance for Local Enterprise Partnerships (LEPs) on the 2014-2020 ERDF programme (to be published imminently), states the government believes that the policies and measures it has in place will help to ensure substantial progress towards meeting the Green House Gas (GHG) target and Renewable Energy target by 2020 and that it would not be practical to use EU funds to focus on large scale energy generation investments.

It therefore proposes that EU funds in England in this thematic objective should be focused on activities that deliver the Energy Efficiency target and create jobs/ growth in low carbon technologies, whilst also contributing to GHG emission reductions and decentralised renewable energy production. Those activities that need to be implemented now to achieve longer term targets will also be supported. Therefore, in no particular order, the focus should be on:

- Build the market in low carbon environmental technologies, goods and services including via domestic retrofit
- Support the non domestic sector to deploy low carbon technologies and focus on energy efficiency
- Development of "hole place" low carbon solutions (including heat and cooling networks, urban design, sustainable urban mobility, decentralised energy systems such as local heat or electricity grids and off grid energy systems such as biomass heating, community energy solutions, climate change adaptation measures and demand management)
- Activities that accelerate the development, innovation, adoption and deployment of low carbon technologies and related supply chains/infrastructure

The Committee also requested comments on the Commission's development of technical guidelines on the use of innovative financial instruments. The report states that these are to be developed during the first half of 2013, and we will consider these in detail when they are available.

The Committee ask about progress in producing a national strategy for mobilising investment in the renovation of the national building stock. The Council's report under the EPBD is intended to inform development of this strategy, a requirement of Article 4 of the EU Energy Efficiency Directive. The Department of Energy and Climate Change (DECC) is coordinating the Government's overall implementation of the Directive. The implementation of Article 4 of the Directive is led by DCLG and DECC jointly, with input from the Devolved Administrations. I can confirm that the strategy will be developed and submitted in line with the Commission's deadline of April 2014.

The Committee note that the Commission's report refers to consultation taking place between February and May 2012. This consultation informed the development of the report on financial support for energy efficiency in buildings. You request clarification as to whether the UK will consult on any of the issues raised by the Commission. The Government has no plans to run general thematic consultation on energy efficiency financing in buildings. We have publicly consulted on the development of the Green Deal, the UK's major policy instrument aimed at providing finance for building energy efficiency. As we work towards Energy Efficiency Directive's transposition deadline of 5 June 2014, we will be consulting on those areas where there are new and substantial obligations on entities outside of Government. One example of this is the requirement for large enterprises to conduct energy audits every four years under Article 8 of the Directive. Where we already have major policy initiatives in place, such as the Green Deal, we will draw on these existing measures to help demonstrate our compliance with the requirements of the Directive; and demonstrate UK leadership on energy efficiency.

You seek clarification of the pound-euro conversion rates in the EM. Officials have double-checked the figures in the EC's report in light of the monthly exchange rate set by the Cabinet Office, using

the July exchange rate. We apologise for the discrepancies in the EM and would be happy to resubmit this with corrected figures if appropriate.

The Committee consider that there should have been reference to scrutiny of the Energy Efficiency Directive. 12046/11- Proposal for a Directive of the European Parliament and of the Council on energy efficiency and repealing Directives 2004/8/C and 2006/32/EC was submitted by the Department of Energy and Climate Change (DECC) on 7 July 2011. The Commons European Scrutiny Select Committee considered it politically important and cleared it from scrutiny on 31 January 2012 (Report No. 256, Session 10/11). The Lords European Committee cleared it from scrutiny on 11 October 2012 (Sift No. 1435, session 10/11). I apologise for the omission of such a reference in the EM.

The Committee requests confirmation that the Devolved Administrations were consulted on the production of the EM. This was the case, and I apologise for the omission of a reference to this, using the appropriate wording, in the EM.

I note your intention to retain the EM under scrutiny, and would be happy to provide further information is helpful.

*12 July 2013*

#### **Letter from the Chairman to the Rt. Hon. Don Foster MP**

Your letter of 12 July 2013 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 July 2013.

The information that you provided in the letter was very helpful in clarifying the issues that we raised in our earlier letter to you. There are clearly wider issues relating to energy efficiency policy that we can take forward in our regular dialogue with the Department of Energy and Climate Change.

We are pleased that staff from your Department will be meeting with our own officials to receive training on the process of EU scrutiny and we hope that this will be of assistance to the Department as a whole in supporting parliamentary scrutiny of relevant EU documentation.

We are content to release the Report from scrutiny and to close this strand of correspondence.

*25 July 2013*

#### **FISHING OPPORTUNITIES FOR 2014 (10460/13)**

#### **Letter from the Chairman to Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 3 July 2013.

The overarching messages are, as you indicate, positive. On the other hand, a figure of nearly 40% overfishing is unsustainably high and discrepancies in available data across regions are very worrying. It is unquestionable that strenuous efforts are still required to put EU fisheries on a trajectory towards sustainability. This must include appropriate control and enforcement effort.

We note that the Commission proposes to apply the precautionary principle in the absence of advice. We would welcome your view on this suggestion and your understanding of how the Commission propose to establish a TAC in those instances.

You acknowledge the concerns expressed by the Commission about stocks of North Sea cod and of whitefish in the West of Scotland, Irish Sea and Celtic Sea. In your EM, you note that the Government are working with the industry to improve the situation. What additional action is, in your view, required and when might it be taken?

The Commission makes reference to amendments to fishing opportunities in order to take into account the forthcoming discard ban. It is unclear to us whether consideration of the discard ban will affect the 2014 fishing opportunities or the 2015 opportunities and we would welcome clarification of that point.

Finally, you refer to the continuing need for agreement by Iceland and the Faroe Islands to join Norway and the EU in the sustainable management of mackerel. We would welcome an update on the progress of those discussions.

We are content to release the Communication from scrutiny and look forward to your response within 10 working days.

4 July 2013

### **Letter from Richard Benyon MP to the Chairman**

Thank you for your letter dated 4 July 2013.

I share your view on the 39% figure quoted in the Commission's Communication indicating the proportion of fish stocks that are overfished, and agree that this is unsustainably high. While agreeing on these figures, however, I do have reservations about the limitations of the Commission's Communication itself. While it provides a useful overview, the fish stocks being summarised in this way are not identified in the annexes [not printed], which limits its usefulness as a comprehensive reference document to help establish a full picture. I certainly agree, however, that strenuous efforts to address the remaining stocks being overfished are still required.

I believe the key reforms of the Common Fisheries Policy now moving towards adoption by the European Parliament will at least provide an improved framework to work within to build on the progress made, although much work remains to prepare for implementation of these reforms. Data collection is a key tool in this process. Though not yet complete, I include the European Maritime and Fisheries Fund (EMFF) as a key element within this framework, where the Data Collection – Multi Annual Programme (DC-MAP) under the EMFF will in time replace the existing Data Collection Framework, with systemic improvements to help resolve the discrepancies you have noted in available data across EU fisheries.

On setting fishing opportunities related to stocks for which there is no scientific advice, I support the principle of applying the precautionary approach as noted by the Commission. But as always the procedure used will need careful consideration. In this context the Commission referred back to their policy communication in 2000 (Communication from the Commission on the Precautionary Principle) but have not further specified how they will apply this approach this year.

Our own view is that all known information related to such stocks should be taken into account and considered on a case by case basis. From previous experience we are wary of any signs of a blanket approach being applied by the Commission without full consideration of the wider context in each case. We believe an absence of scientific advice should not automatically result in a reduced Total Allowable Catch (TAC) unless there are declining trends or other information to support such decisions.

Amendments to fishing opportunities to take into account landing obligations will not affect the actual TAC setting process for next year – although there are exceptions in areas where the UK does not fish, e.g. salmon in the Baltic and fisheries in the Skagerrak, where the landing obligation is likely to apply from 2014. Otherwise under the agreed timetable, the landing obligations for pelagic fisheries will apply from 2015. In this context it is important to note that the scientific advice for most stocks for 2014 also now includes an assessment of appropriate fishing opportunities in the context of a landing obligation being in place. Our briefings to industry and interested parties on this year's advice have highlighted the need to guard against misinterpretation of this element included in the scientific assessment before the landing obligations actually apply.

I do indeed acknowledge the concerns about stocks of North Sea cod, and of whitefish in the West of Scotland, Irish Sea, and Celtic Sea. Government is working in partnership with fishermen to reduce fishing mortality by radically cutting levels of unwanted catches. Fishermen across the UK are now using highly selective gears to cut discards from habitually high discard fisheries.

For example, discards of cod, plaice and other whitefish have been cut from the Irish Sea nephrop fishery, and discards haddock of and whiting have been reduced from mixed fisheries in the Celtic Sea as a result of new selective gears introduced into these fisheries recently. Through Catch Quota (CQ) management schemes the UK has incentivised the take up of selective gears as well as the spatial avoidance of cod by providing additional quota and fishing effort to vessels which fully document their catch.

We have expanded schemes in England in 2013 both in terms of numbers of participants and species under trial. The latest results (for 2012) demonstrate that under this type of management participating vessels have virtually eliminated discards of the stock under trial. For example, discards of North Sea cod were 0.1 percent of their total catch of cod. They have also shown they can cut discards of any species to around 1% of their total catch. By instigating a system of Real Time

Closures (RTCs) our vessels are cutting fishing mortality by avoiding aggregations of juvenile and mature spawning fishing. In 2012 there were 282 RTCs in UK waters.

Looking forward, we anticipate adapting our RTC system to make better use of e-log information to ensure that the most up-to-date information is used to decide on the location and timing of a closure. Vessel owners may also receive additional effort for catching less than 5% cod in their total catch. This year we are enhancing our scrutiny to ensure the efficacy of measures taken by fishermen. Our key challenges for achieving stock recovery for the next couple of years will be to maintain momentum with the fishing industry to extend selectivity measures and build on the behaviour change we are beginning to see. This can be done through improving management procedures we have in place so that they better incentivise the practices which we want fishermen to adopt.

Finally, the dispute on the management of the North East Atlantic mackerel stock between the EU and Norway on the one hand, and Iceland and the Faroe Islands on the other, is unfortunately still ongoing. It is frustrating that despite some 15 rounds of negotiations Iceland and the Faroe Islands continue to fish the stock at unsustainable levels and to demand an unrealistically high level of share in the stock. I hope that fresh scientific advice on the state of the stock due in the autumn will give new impetus to the talks. We continue to consider with the EU Commission ways of breaking the deadlock including the possible application of trade measures.

*18 July 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 18 July 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 July 2013.

We are grateful for your comprehensive reply to our queries and we are now content to close this strand of correspondence.

We look forward to scrutinising the Commission's legislative proposals for 2014 fishing opportunities in the autumn.

*25 July 2013*

#### **FLUORINATED GREENHOUSE GASES (15984/12)**

##### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter dated 13 February 2013, which expressed an interest in how negotiations are progressing and concerns regarding how a proposed revised EU fluorinated greenhouse gases (F gases) Regulation is being taken forward. I thought you might welcome an update before the summer recess.

There have been nine European Environment Council Working Party meetings in total that have considered the European Commission's proposal and subsequent drafts produced by the Irish Presidency. We have recently received a third re-drafted text from the Irish Presidency that will be discussed in detail under the Lithuanian Presidency at Environment Council Working Party meetings, the first four of which are scheduled for 1, 5, 19 and 26 July.

The UK and other Member States have submitted detailed written comments to the Commission in December 2012 and the Irish Presidency in February, May and June 2013. All Member States maintain scrutiny reserves and none, including the UK, have yet declared firm positions. Broadly speaking the Nordic Member States generally want greater ambition whilst southern Member States have concerns about costs and feasibility of certain aspects of the proposal. We are actively engaged with other Member States to determine and develop positions and alliances.

We are approaching a broad consensus in Council on a number of key elements relating to training and certification requirements, control of use provisions and reporting and record keeping requirements. However, on other elements of the proposal we are concerned that, despite hearing the broad range of views expressed by Member States to date, many of these have not been fully considered or reflected in revised Presidency texts. Significant new elements not in the Commission's original proposal, such as an alternative to a pre-charge ban and new arrangements for distributing quotas are also being considered for inclusion by the Presidency but have yet to be considered in any detail. We have therefore not made substantial progress on many of the key elements of the proposal

and so there are a number of fundamental issues still to resolve as we move forward. These relate mainly to agreeing the ambition and pace of a Hydrofluorocarbon (HFC) phase-down, agreeing a fair and proportionate methodology for the allocation of quotas for placing HFCs on the market and finding an alternative to the Commission's proposal to ban the pre-charging of refrigeration and air-conditioning equipment with F gases.

We are therefore hopeful that the Lithuanian Presidency will provide Council with the opportunity to enter into more detailed discussions on these issues during the forthcoming Working Party meetings in July so that we can work towards an agreed Council position.

In parallel with the process ongoing in the Council, the UK has been closely engaged with the European Parliament. Since February 2013 we have established an ongoing dialogue with several key MEPs and their advisors in both the ENVI Committee (lead Committee) and TRAN Committee, including rapporteurs and shadow rapporteurs. We have had extensive discussions and exchanges of views on both the proposals and MEP amendments and have backed this up with a number of detailed technical briefings that have been widely read in the Parliament.

A vote in ENVI Committee on possible amendments to the Commission's proposal took place on 19 June. We have concerns about a number of the Committee's amendments that were voted through. We have particular concerns about the necessity, feasibility and timing of the additional specific product bans that have been proposed. We believe that a significant number are unrealistic and undeliverable by UK businesses. There are other new elements that ENVI have proposed to introduce such as a charging regime, a ban on exports of products and equipment containing F gases, and comprehensive changes to existing training and certification requirements for personnel and companies that we have concerns will impose disproportionate additional costs on UK businesses and consumers.

Both the Parliament and the Council have been working with a first reading agreement in mind. However, following the ENVI vote, they now appear to be a significant distance apart on a number of the key elements of the proposal. This must put a first reading deal in jeopardy unless significant compromises can be agreed on both sides. Because progress in Council has been slow relative to that in ENVI Committee, there is no prospect of trilogue discussions beginning before September and more realistically October this year.

We believe that we must continue to seek a first reading agreement deal if at all possible. If we are to bring in new measures on F gases then they need to be agreed quickly and transparently so as to avoid adding to business uncertainty and to allow investment for the future.

8 July 2013

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 8 July 2013 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 17 July 2013.

We welcome the update that you have provided before the summer recess on this extremely important issue.

As you note, a first reading agreement between Council and the European Parliament (EP) appears distant, particularly following the vote in the EP's Environment Committee (ENVI).

You summarise the position of other Member States and note that you are working with some to determine and develop positions and alliances. It would be helpful to receive an update on any aspects of your position that have changed or evolved since the original EM, and a summary of the evidence on which your position is based.

One of your particular concerns related to additional specific product bans, a number of which, you believe, are unrealistic and undeliverable by UK businesses. We would welcome greater precision from you on this, explaining which proposed bans you oppose, on what evidence base businesses claim them to be undeliverable and the environmental impact assessment that you have undertaken in each instance as to the implications of opposing the introduction of a ban. Where businesses have concerns, have they proposed alternative dates or would they oppose any ban at all?

In your previous letter of 26 January 2013, you informed us that you were receiving a clear message from industry that they need certainty to assist their long term business planning objectives. To what extent would clear restrictions on specific products provide that certainty?

We look forward to your response to the above queries and to an update on the progress of negotiations across the key issues following the working party meetings in July.

We will continue to retain the Proposal under scrutiny, and look forward to a reply by 30 August 2013.

18 July 2013

### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter of 18 July in which you requested an update on our position regarding the above proposal and further explanation of our concerns related to additional specific product bans.

We continue to support in principle the further proportionate regulation of fluorinated greenhouse gases (F gases) and the broad approach taken by the European Commission, with a phase down of hydrofluorocarbons (HFCs) at its core. There is no one size fits all solution to regulation in this area and so policy measures must take account of the numerous types of products and equipment concerned as well as the technical feasibility and costs and benefits of replacing F gases. In this context we are opposed to controls on F gases that would result in unacceptable costs and impacts on businesses, regulators or the environment or have a negative impact on growth. We recognise that the long term use of F gases with a high global warming potential (GWP) is not sustainable. Therefore, where continued use of F gases is necessary, we want to discourage the use of those F gases that have a high impact on the climate, in favour of energy efficient and safe F gases that have a lower GWP. We also support actions that will further improve the containment and end of life treatment of products and equipment that contain F gases. These broad principles continue to underpin our analysis of the various elements of the European Commission's proposal and the options that are emerging for possible adjustments.

In broad terms, our position remains the same and we are still working to determine with other Member States, the Presidency and the Commission the detail of how each of the elements of the proposal will work together. However, in my previous letter to you I highlighted a number of proposed amendments that had been voted through by the European Parliament's Environment (ENVI) Committee on 19 June as well as a number of significant new elements not in the Commission's original proposal that are being considered in Council working parties. On many of these issues our position is inevitably evolving as more details on the specific proposals emerge and as we are able to consider them further.

You asked for greater precision on which proposed specific use bans we oppose, the basis for that opposition and whether alternative dates for bans might make them acceptable to business. Annex A [not printed] contains a brief note, which sets out our thinking on specific use bans. This includes a summary of the barriers to the uptake and market penetration of alternative refrigerants that will have a significant impact on the pace of a transition to low GWP refrigerants. In assessing the feasibility of proposals for specific bans we have taken into account a wide range of information available to us including published reports, submissions from industry and independent expert advice.

Care is needed in defining and implementing bans because circumstances and requirements are different for each market sector and even for the sub-sectors within a given market. Specific bans must therefore be considered on a case by case basis, taking into account the range of products and equipment concerned, the technical feasibility (including economic and safety constraints) of alternatives, their availability and their broad costs and benefits. Non-targeted wide-ranging bans could have adverse effects including forcing the application of technologies that could increase overall greenhouse gas emissions in certain market sectors where energy efficient alternatives are not available.

Banning uses where it is clear that there are safe, effective alternatives can assist the phase down by ensuring that HFCs remaining on the market are effectively reserved for applications where alternatives don't currently exist. Targeted bans can provide certainty for businesses regarding those uses of F gases that will be restricted in future, helping investment decisions for end users as well as providing market certainty. Targeted bans also have the potential to stimulate significant development in the developing small business sector in the UK, providing alternatives to F gases. All of these are important additional factors that need to be considered.

However, no greater certainty is provided when bans are implemented where there is no suitable alternative available on the market and no significant evidence that alternatives will be available when a ban comes in to force. Banning uses in hope, rather than expectation, can have significant consequences for businesses and the environment. In the context of the broad bans proposed by the ENVI Committee in the stationary refrigeration and air conditioning sectors, it appears to recognise these concerns to some extent. However, the Committee proposes a "safety net" whereby exemptions from bans can be sought for applications where alternatives do not exist. Whilst we



believe that for critical uses, where it is already known that there are no suitable alternatives, as well as in unforeseen exceptional circumstances there should be provision to exempt HFC uses from targeted bans, we don't believe such provisions should be used to support unworkable bans. In particular we, other Member States and the European Commission are all concerned about the administrative and other consequences of putting in place a broad ban supported by an exemption procedure that would be used to address many F gas uses that we already know could not comply with an untargeted ban.

For example, the broad ban proposed by the ENVI Committee on the use of all F gases irrespective of GWP in new stationary refrigeration equipment by 2020, does not take account of the range of systems employed in this sector. It is crucial that suitable alternatives are available for each sub-sector. Alternatives are certainly available in some sub-sectors of the commercial and industrial markets, particularly for large equipment (e.g. supermarket systems and some large industrial equipment). However, for small and medium equipment, safe, energy efficient alternatives to F gases and lower GWP HFC blends are not currently available.

For similar reasons we have concerns about unworkable broad bans for stationary and mobile air-conditioning given the complexity of this market sector. The stationary air-conditioning market is complicated because of the wide range of equipment configurations and the sector suffers from the same problems as the stationary air-conditioning in terms of suitable alternatives. It is therefore difficult to understand the rationale for a broad ban in this sector since in the short term there are no non-flammable alternatives that are environmentally beneficial or that can be cost-effectively used in many of these applications.

Turning to the progress that we have made since I last wrote, we have seen encouraging developments under the Lithuanian Presidency. Four Council working party meetings in July have clarified the key issues on which Member States need further clarification in order to make progress towards a Council position. The Commission's proposal for a ban on the pre-filling of refrigeration and air-conditioning equipment with F gases at the point of manufacture (pre-charge ban) was also considered in some detail and we have had some preliminary discussion of the proposed ENVI Committee amendments.

On the pre-charge ban, Member States agreed that an alternative traceability option proposed initially by the Irish Presidency should be given further consideration as a priority. We expect further discussion leading to a decision on this issue in early September on the basis of further information from the Lithuanian Presidency in response to questions raised by Member States. Proposals from France and Denmark for auctioning were separated from the pre-charge ban discussion and will be discussed in the context of the allocation mechanism for HFCs.

On the ENVI Committee amendments, most Member States were opposed to the broad bans being proposed and there was strong opposition to the proposal to ban exports from the EU of products and equipment containing HFCs.

We are expecting a further redraft of the Commission's proposal from the Lithuanian Presidency in early September and four further Council working party meetings are planned from 13 September. The Presidency intends to finalise its views on a Council position by late September and in early October to seek a mandate from Coreper to enter into trilogue discussions. Whilst we are encouraged by the efforts and approach taken by the Lithuanian Presidency, the prospects for agreeing a final Council position will depend heavily on the extent to which the many questions raised by Member States can be addressed in the next redraft of the Commission's proposal.

*27 August 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 27 August 2013 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 11 September 2013.

We are grateful for the analysis that you have provided in response to our queries. We would nevertheless welcome some further clarification.

First, you refer to controls on F gases that would result in unacceptable costs and impacts on businesses, regulators or the environment or have a negative impact on growth. Could you, please, provide us with details of those costs and impacts – on all three groups – and the evidence used to arrive at them?

Second, it is clear that there is considerable uncertainty about the practicality of certain product bans on the basis of current information. Your position on product bans requires further explanation. You

would appear to accept that some targeted bans are appropriate and, indeed, provide helpful certainty to business. You also accept the concept of targeted bans with the possibility for exemptions, but you do not support untargeted bans with the possibility for exemptions. Could you please indicate: how you interpret the difference between targeted and untargeted bans; which targeted bans you would support; and how targeted bans with exemptions would function given your general misgivings about break points?

As you note, the Government position is evolving as more details on specific proposals emerge. We look forward to an update by 3 October on discussions in Council, including progress towards a Council position following meetings in the second half of September.

We will continue to hold the Proposal under scrutiny.

*12 September 2013*

### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter of 12 September in which you requested an update, following discussions in the September Environment Council working party meetings, and further information on costs and impacts and on product bans.

With regard to your questions on potentially unacceptable costs and impacts on business, regulators and the environment, there are a range of potential impacts on all three groups given the breadth of the regulation. The European Commission's impact assessment identifies and assesses a range of potential impacts drawing on a considerable amount of evidence. As I have said in previous correspondence, the final shape of each of the elements of the Regulation proposed by the European Commission is still under development and I will come back to the progress made later in this letter. This means that detailed impact assessment of the proposal will be completed later in the process. However, there is a considerable body of published evidence available to help us identify the potential impacts and costs of the proposals. This is contained in European and international reports and assessments as well as reports commissioned and published by stakeholders. There is a broad range of other information available, including assessments and publications made since the Commission's proposal was published. This broad range of information relates mainly to analysis and non-papers produced by the Presidency, Commission and other Member States to inform and shape the progress in the Council Working Group meetings. These documents are restricted and therefore not published or publically available. We have also received considerable advice and evidence from a wide range of stakeholders.

Therefore, I feel it would be helpful to the Committee for me to provide some specific examples from the draft Regulation where there are potentially very significant impacts that can be identified for all three groups. This I hope will provide an overview of the potential for significant impacts and much of the evidence I refer to in these examples underpins our consideration of the other elements of the proposal.

The Commission has made a proposal that would prevent equipment pre-filled with hydrofluorocarbons (HFCs) at the time of manufacture from being placed on the European market. This is commonly described as the pre-charge ban. This element in the proposal has been included by the European Commission solely as a means to help ensure the integrity of the proposed HFC phase down. The European Commission's impact assessment justifies the inclusion of a pre-charge ban on the basis of an assessment of low environmental impact and cost to business.

The Council Working Group has since gathered considerable evidence that costs to businesses and environmental impacts will in fact be significantly higher than assessed by the Commission. The pre-charge ban is in fact likely to result in increased emissions and increased production and installation costs that cannot be justified. Our own assessment is that annual costs relating to a pre-charge ban are likely to be in the range of 300 – 500 million euros a year (250 – 425 million pounds sterling as per Cabinet office conversion rate September 2013). These costs would fall directly on manufacturers and end users. Direct emissions to the environment are also likely to increase as a result of having to charge equipment in the field rather than in more precise factory conditions and energy consumption could increase as a result of incorrectly charged equipment. Manufacturers could incur further costs as a result of claims made under the warranty of such equipment where incorrect installation and charging of the equipment cause it to fail. It is not possible to accurately assess these costs or the likely energy costs, but this does indicate that estimates of 300 – 500 million euros (250 – 425 million pounds sterling) a year are conservative. The Commission has since acknowledged shortcomings in its assessment and has accepted the figures presented by the Presidency in its non-paper proposing an alternative way forward and comparing this with the Commission's own proposal.

Specific use bans can, as I outlined in my last letter, have significant impacts on businesses and the environment. I explained in some detail the issues that will affect the potential for and impact of bans and I will come back to the issue of bans. Evidence of the impacts on businesses and the environment is most thoroughly outlined in the case of refrigeration and air conditioning, for instance, in the July report by the consultants SKM Enviros completed on behalf of the European Partnership for Energy and the Environment (EPEE). There is considerable related evidence on the availability of alternatives in different sectors and equipment in many international assessments such as those conducted under the Montreal Protocol, as well as in the Commission's own impact assessment.

The existing EU F gas Regulations have only been in place since 2006 and have only been fully implemented in the UK since 2011, following transitional arrangements set out in the EU F gas Regulation and agreement of ten Commission Regulations that flesh out the obligations in relation to certification, leakage checking, labelling and reporting. In that time the UK has been engaged in a considerable effort to ensure that F gases are only handled by those who are trained and certificated to do so. Our own evidence from accreditation and certification bodies in the UK and our own impact assessment on implementation of the proposal, is that in the refrigeration and air conditioning sector some £27 to 30 million (31.5 to 34.5 million euros) has been invested by individuals, SMEs and larger businesses in training and certification in the largest market sector (stationary refrigeration and air-conditioning). In excess of 29,000 engineers are now certificated.

Simple adjustments in certification and training requirements such as requirements to broaden or update training or to revalidate certificates can have significant impacts on individuals and businesses that have only just invested similar amounts to comply with current Regulations. This can lead to non-compliance, considerable additional burdens on Regulators and potential long term impacts on the environment should compliance be compromised.

The above examples are all illustrative of the breadth of the evidence that we have considered and are continuing to develop to enable us to assess the potential impacts of what are developing proposals for a new Regulation.

Turning to your second question on product bans, I explained in my last letter of 27 August how I interpret the difference between targeted and untargeted bans. I provided specific examples of what we would consider to be broad bans as opposed to more targeted bans in the case of stationary refrigeration and stationary and mobile air conditioning. In essence, untargeted bans might cover a range of applications for which there is no consistent pattern of availability of alternatives. This could mean unrealistic deadlines for banning the use of a large number of different applications where suitable alternatives are not yet available or cannot be expected to be available. A ban that covers a large number of applications, for which there are no suitable alternatives available at the time that the ban comes into force, would therefore be considered untargeted. Targeted bans would be defined for a more homogeneous group of applications in terms of when alternatives are or are likely to be available. I provided in my last letter an analysis of the barriers to the uptake and market penetration of alternatives that sets out the issues that need to be considered in determining whether alternatives are or are likely to be available to support a ban. As also explained in my previous letter, the availability of alternatives and hence the feasibility of a ban must be assessed on a case by case basis.

With regard to the relationship between bans and the possibility of exemptions, I see no merit in defining a ban that we know from the outset covers a wide range of different applications for which suitable alternatives will not be available at the time the ban comes into force and hence will need to be exempted from the ban. This will simply cause considerable uncertainty and significant burdens for both businesses and regulators. However, I accept that it will not always be possible to define bans for which there will be absolutely no need for an exemption of any sort. There may for instance be some niche applications with no alternatives captured by the ban, or the development of suitable alternatives for some applications may not make the progress expected by the time a ban comes into force. Hence, targeted bans may need to be supported by the possibility of limited exemptions to cover these inevitable uncertainties. This is quite different from putting in place a broad ban coupled with an exemptions safety net in the face of the absolute certainty of significant numbers of requests for exemptions coming forward.

I support the bans set out in the Commission's proposal that are additional to those in the existing Regulation and which have been assessed by the European Commission as feasible and of benefit in supporting the HFC phase down. Consideration has been given in Council Working Party meetings to the possibility of including further bans on technical aerosols, foams that contain F gases and mobile and stationary refrigeration equipment. At present the Council has only considered adding a further ban on stationary refrigeration equipment containing F gases with a high global warming potential and I would support the inclusion of such a ban, although there is still some discussion to be had on when such a ban might come into force. I have already outlined in my last letter to you my thinking on

further bans proposed by the European Parliament and where bans in some of these areas may be practicable. Should any proposals for further bans come forward for further consideration by the Council I would, as explained in my last letter, need to consider them on a case by case basis.

You also asked me to update the Committee in relation to progress with discussions in the Council Working Party meetings, including progress towards an agreed Council position. In this respect, I am pleased to confirm that, during the four Council working party meetings in September, excellent progress has been made in resolving the outstanding key issues referred to in my letter of 27 August. Following discussion of the key issues and some welcome drafting suggestions by the Presidency that took account of the wide range of Member State views, we believe that we are now close to agreement on an ambitious yet proportionate Council position that broadly aligns with the Commission's objectives. I am optimistic that this position will be formally agreed in time for trilogue discussions to begin very early in October.

In particular, a suitable alternative to the Commission's pre charge ban, which I have mentioned previously, has been finalised by the Presidency and has received the broad support of the Council working party. This builds upon an initial suggestion put forward by the Irish Presidency for an alternative approach that would still preserve the integrity of an HFC phase down without the economic and environmental impacts of the pre-charge ban. The approach, which has been accepted as a suitable compromise by the Commission, proposes the complete documentation and tracking of HFCs pre-filled into equipment at the time of manufacture so as to ensure that they are fully accounted for within the overall HFC phase down.

In relation to alignment of the Council working party position with the proposals made by the European Parliament, we believe that there is broad agreement on the objectives of the Regulation. Nevertheless it is clear that there remain some pivotal points where the Council and Parliament will disagree. These relate to the need for broad bans in addition to an HFC phase down and the method by which HFC quotas are allocated. The aim moving forward will therefore be to confirm the objectives of the proposed new Regulation and to develop and agree proportionate compromise proposals that will meet the requirements of the Parliament, the Council and the Commission for more ambitious control of F gas emissions. I hope that, at this stage and given the tight timeframe, this update provides sufficient information for the Committee to give scrutiny clearance.

*30 September 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 30 September 2013 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 16 October 2013.

Your letter indicates that the UK's position and that of other Member States has been shaped by information that you feel unable to share with the Committee. This clearly renders our scrutiny of this dossier and of your position extremely challenging. On the other hand, you helpfully provided some specific examples with clear information.

Our concern is to ensure that there is an incentive on industry to continue to innovate, identifying alternatives even where none are currently known. We hope, like you, that the overall phase-down approach will deliver that incentive, without the need for an array of specific product bans. There may be a need to integrate a degree of flexibility into the legislation, both in the form of a future review but also in the form of allowing additional bans to be introduced through secondary legislation.

We are aware that trilogues are now under way and that COREPER will be asked to adopt a negotiating mandate towards the end of October, in advance of the second trilogue in the first week of November.

At this stage we are content to release the proposal from scrutiny. We remain keenly interested in this challenging dossier and look forward to an update on progress after the second trilogue.

*17 October 2013*

## FUTURE OF CARBON CAPTURE AND STORAGE IN EUROPE (8101/13)

### **Letter from the Chairman to the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 May 2013.

As you will be aware, we published a report on EU Energy Policy on 2 May, which drew conclusions and made recommendations in relation to Carbon Capture and Storage (CCS).

We concluded that, while CCS is technically feasible, it faces both financial and political obstacles. We observed that the slow progress thus far of CCS demonstration projects in the EU suggests that a stronger incentive needs to be developed at EU and Member State level. That requires a stable source of national and EU funding and a credible carbon price or regulatory approach. Such an approach should include a provisional target date for application of CCS to new fossil fuel power stations.

We would hope that you will take our conclusions and recommendations into account when drawing up your response to the Commission, which we look forward to receiving in due course.

In the meantime, we shall retain the Communication under scrutiny.

*16 May 2013*

### **Letter from the Rt. Hon. Michael Fallon MP to the Chairman**

Thank you for your letter of 16 May regarding the Explanatory Memorandum on the Future of Carbon Capture and Storage in Europe.

The Government believes that the priority for CCS at this stage is for the European Commission to work collaboratively with Member States and industry to deliver the first few European full chain projects. We have taken the lead in Europe through the £1bn CCS commercialisation competition, £125m research and development programme and the wider Electricity Market Reforms which include Contracts for Difference for low-carbon technologies such as CCS. We believe such a course of action is necessary because we need CCS if we are to meet emission reduction targets.

Recognising the obstacles to CCS in Europe, as noted by the Sub-Committee, the Government wants to see the Commission take short term actions focussed on delivering the first few European CCS projects. These early projects can then inform the detail of the longer term measures required to support CCS.

Enclosed is a copy of the Government's response to the Commission's Communication on CCS [not printed]. This took into account the conclusions relating to CCS in your Sub-Committee's report on EU Energy Policy; No Country is an Energy Island: Securing Investment for the EU's Future, 14th Report of Session 2012-13, HL Paper 161. The Secretary of State sent a copy of the Government's response to this report to Baroness Scott with his letter of 1 July.

I hope the Committee will now consider lifting its scrutiny on this communication. Please let me know if there is any other way we can help.

*16 July 2013*

### **Letter from the Chairman to the Rt. Hon Michael Fallon MP**

Your letter dated 16 July 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for your helpful reply, including a copy of the Government's response to the Commission's Communication on CCS. We were particularly pleased to note that this response referenced the Committee's recent EU energy policy report and factored in your response to that report. We would also like to take this opportunity to once again thank the Government for their detailed response to the Committee's report and the Secretary of State for his evidence session on 15 July.

Ultimately, and as your response acknowledges, reform of the EU Emissions Trading System (ETS) is key. We were surprised to read in your response that you have set out your position on reform of the ETS. It was our understanding from the Government's response to our recent report and from the debate that was recently held in Grand Committee that the Government were still finalising their position on reform. This was more recently confirmed in Baroness Verma's letter of 1 August on the

Commission's Carbon Market Reform report (16537/12). We shall pursue these issues in the context of that correspondence.

We are content to release the Communication from scrutiny. As consideration of CCS will form part of our ongoing scrutiny of the 2030 climate and energy package, please consider this strand of correspondence as closed.

*12 September 2013*

## GREEN INFRASTRUCTURE (GI) – ENHANCING EUROPE'S NATURAL CAPITAL (9436/13)

### **Letter from the Chairman to Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

Unfortunately, we found your EM on this dossier to be inadequate in relation to the subject matter. That is, we were very disappointed by the lack of detail and substance provided on the content of this Communication. Indeed, more attention was given to the background of the Communication, with barely two lines on the subject matter itself. As you may be aware, this is not the first EM from your department that we have found to be lacking, and so we would be grateful for confirmation that your department will endeavour to produce higher quality EMs in the future that provide more detailed analysis.

We do, however, note that this Communication is a rather general, high-level document that focuses on the implementation of GI measures at the national and local level within Member States, and we would agree with the Government's broad support of the Communication.

You note that there may be merit in a trans-European GI initiative, but it would of course have to be looked at in the context of appropriate national-level implementation. We would welcome detail of the analysis underpinning your statement and information as to how you will judge the merits of such an initiative. The Commission indicate that these could be along the lines of the Trans European Networks for energy and transport, which are highly significant initiatives. None of the examples given by the Commission are applicable to the UK, but may have budgetary consequences. We would urge you to engage pro-actively with the Commission at this early stage of their development of a possible initiative.

Your EM notes that you have consulted the Joint Nature Conservation Committee and Natural England, with plans to share the Communication with the Green Infrastructure Partnership in England. We would be grateful for more information regarding these consultations, including whether stakeholders are generally supportive. Further to this, we would be interested to know whether this Communication has received widespread support (or opposition) amongst other Member States.

We are content to release this Communication from scrutiny and look forward to your response within 10 working days.

*14 June 2013*

### **Letter from Richard Benyon MP to the Chairman**

Thank you for your letter dated 14 June about the Explanatory Memorandum (EM) for the European Commission's Communication on green infrastructure. I am sorry that you consider it lacked sufficient detail. We always try to provide high-quality EMs and will aim to meet a standard you consider acceptable in the future. To that end, my officials, with support from the Joint Nature Conservation Committee (JNCC), have revisited the EM and provided more detail on the contributions to EU policies and the EU strategy for green infrastructure. This further detail is provided as an annex [not printed] to this letter. I trust you will find it useful.

You raised a number of questions on the EM. Firstly, we will judge the merits of any trans-European GI initiative that affects the UK on the basis of its benefits and impacts at both local and national levels. It is difficult to give you a precise answer on this without having details of a particular scheme, but generally we shall want to assess its scope to act as a flagship for other large-scale GI projects; whether it can deliver ecosystem resilience and vitality or any additional benefits; how well it fits with local and national objectives and priorities; what is the extent of stakeholder engagement and support;

the risks and challenges associated with it; and the plans for its long-term sustainability. The resource implications will also be a consideration.

We certainly recognise that “green corridors” akin to road networks may not always be the most appropriate spatial approach. For example, they may not always be the best way to secure ecosystem resilience because ecosystems are not always linear. I can confirm that the UK has engaged proactively with the EU working groups that led to the development of this Commission Communication on GI and that we will continue to engage as necessary on the development of any trans-European initiative that affects us.

As for consultation, the views of the JNCC and Natural England were sought because they are our statutory advisers. They played a key role in drafting this response. They are both generally supportive of the Commission’s Communication and helped the UK Government shape its content. Their main reservations relate to EU-level mapping exercises because Member-State datasets may not easily align with one another and will use different GI definitions. It may also become a resource-intensive activity that will deliver data of limited value for local-level GI design.

UK-based NGOs also served on the EU working Groups that led to this Communication and support it. We understand that other Member States also broadly support the Communication. We have shared it with the Green Infrastructure Partnership (GIP) and will seek their views on how best to take forward the Strategy and what material we might be able to offer to the Commission to inform their future work. The GIP was established by Government to support the development of green infrastructure in England and now brings together over 300 stakeholders from the public, private, charitable and academic sectors. We currently provide facilitation support to the GIP but this will cease from April 2014 when we hope members will continue with the partnership in some form.

*26 June 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 26 June 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

Thank you for your helpful and informative reply. We are grateful to you for providing the additional information and detail as regards the detail on the contributions to EU policies and the EU strategy for green infrastructure. We would, however, note that had this information been provided in the original EM, we would have been able to release the Communication from scrutiny much sooner.

We note your comments regarding the merits of any trans-European GI initiative, and are pleased that the Government have been, and will continue to be, proactively engaging with the EU working groups that led to the development of this Communication.

The Committee is grateful for your explanation as to why the Joint Nature Conservation Committee and Natural England were consulted, and we note the general support from UK-based NGOs and other Member States. We are also reassured that the Government have shared the Communication with the Green Infrastructure Partnership in order to seek a broader range of views for taking the Communication forward.

Please consider this strand of correspondence as closed.

*11 July 2013*

#### **GREENHOUSE GAS ALLOWANCES (13052/12)**

##### **Letter from Baroness Verma of Leicester, Parliamentary Under- Secretary of State, Department of Energy & Climate Change, to the Chairman**

Thank you for your letter of 28 February regarding our update of 11 February. Following the European Parliament’s plenary vote now is an appropriate time to provide you with an update. This follows on from recent correspondence between The Committee and the Secretary of State on backloading in letters of 27 June and 4 July relating to Explanatory Memorandum 8096/13: GREEN PAPER - A 2030 FRAMEWORK FOR CLIMATE CHANGE AND ENERGY POLICIES.

On 3 July the European Parliament’s Plenary voted on the EU ETS “backloading” proposals. As you are aware, the Government supports backloading as a short-term measure to strengthen the system while discussions around more permanent, longer-term structural reform take place. Therefore we

were very pleased that the European Parliament voted in favour of the proposals by a margin of 344 to 311 votes. One amendment (of a possible four) was voted through, which sets out the following conditions:

- Backloading can only take place if a Commission impact assessment establishes that there will be no significant impact on sectors deemed to be at risk of carbon leakage;
- Backloading must be limited to a one-off intervention within Phase III (i.e. before 2020); and
- The amount to be backloaded must not exceed 900m allowances.

The European Parliament also gave a mandate to their rapporteur to commence trilogue negotiations with the Council, based on the above conditions. Therefore the focus now will shift to the Member States forming final positions, given that there is still no Qualified Majority to support the proposals in Council.

With a view to moving the Council towards a formal position, the Lithuanian Presidency held one Working Party on backloading on 19 July where they invited comments on both the European Parliament amendment and the previous Presidency text. A large number of Member States, including the UK, intervened to set out that they were flexible and could support the Presidency text, though preferred to agree to just the European Parliament amendment in the interests of getting a quick agreement. However, there was no movement from Member States who were previously opposed or undecided, meaning that a Qualified Majority is still yet to emerge. Two groups within the supportive camp also remain – those insisting on a link to structural reform, and those opposed. The Presidency will attempt to reconcile these views at the next Working Party in September, with the hope that a mandate for trilogues can subsequently be agreed by a Qualified Majority of Member States and negotiations can progress. The UK Government will continue its work to build that majority and we will update you on progress later in the year.

*1 August 2013*

#### **Letter from the Chairman to Baroness Verma of Leicester**

Your letter dated 1 August 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for your update regarding this Proposal and the timing of auctions of greenhouse gas allowances (“backloading”).

As we stated in our recent report, *No Country is an Energy Island: Securing Investment for the EU's Future*, we support the backloading proposal to amend the ETS in the short-term, but caution that it will be ineffectual without a commitment to a timetable for longer-term structural reform. We are pleased that the Government remain of a similar view.

We understand that the European Parliament has given a mandate to its rapporteur to commence trilogue negotiations with the Council, with the focus now on Member States forming final positions, given that there is still no Qualified Majority in Council.

We look forward to an update on negotiations after the next Working Party in September.

*12 September 2013*

HONEY (13957/12)

#### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

Further to our correspondence at the end of 2012, I am now in a position to provide you with an update on the progress of the negotiations on this proposal.

#### THE STATUS OF POLLEN IN HONEY

In the EU discussions to date, all Member States have broadly agreed with the proposition that pollen should be defined as a natural constituent of honey rather than a distinct ingredient. However, Hungary tabled a counter-proposal suggesting that pollen specifically from GM plants should



nevertheless still be treated as an ingredient for the purpose of the EU regulation on GM food and feed (1829/2003). On this basis, authorised GM pollen in honey would require labelling if it constituted more than 0.9% of the total pollen content, whereas under the Commission's proposal it would only have to be labelled if it was more than 0.9% of the total honey product.

In response to this, the Commission and a clear majority of Member States, including the UK, expressed the view that there is no justification for treating GM pollen differently, and this was also questioned by the Council Legal Service (CLS). Moreover, it was pointed out that Hungary's idea is impractical because there is no analytical method available that will enable GM pollen to be quantified as a proportion of the overall pollen content. On this basis, the Irish Presidency concluded that the Hungarian proposal should not be considered further.

With limited support from some other Member States, Hungary has also raised questions about the compatibility of the Commission's proposal with the relevant judgement made by the European Court of Justice in Case C-442/09. In response the Council Legal Service (CLS) has suggested that it would be advisable to amend the recitals to the proposal to give a clearer rationale for changing the legal position on pollen in honey. The Commission accept this, and it is expected that a revised text will be presented to Member States shortly. At the last Working Party the CLS presented the legal opinion on the Honey proposal. The Commission took note of this and is preparing a response to the CLS legal opinion. A Foodstuffs (Attachés) meeting will be arranged once the Commission's view is available, to discuss and progress a general approach on this proposal.

#### COMITOLOGY

On the questions regarding comitology and the use of delegated versus implementing acts the views of the Commission and Member States differed. Many Member States including the UK called for the comitology procedure to follow that of the other Breakfast Directives where implementing acts are proposed. The Council Legal Service (CLS) explained that the use of implementing acts rather than delegated acts is the most appropriate vehicle to use for the Commission to set out verification methods. This was agreed by most MSs and is now reflected in revised text. The delegated acts procedure has been proposed for amendment of technical aspects related to both annexes of the directive.

The UK and a majority of MS did not support the use of delegated acts for Annex I [nor printed] and some for Annex II [not printed] also. Annex I [not printed] details the names, product descriptions and definitions and Annex II [not printed] the composition criteria for honey. The majority of MS view these as being essential elements including any technical changes and should be dealt with using the Ordinary Legislative Procedure (OLP) rather than through delegated acts as proposed by Cion. Annex II [not printed] contains compositional criteria for honey while the UK acknowledged that this is largely technical in nature a small change to the parameters contained in this Annex [not printed] could have a significant effect on the marketability of a honey. At the latest attachés meeting on 8 April, it was agreed that implementing acts were appropriate for methods of verification but the amendment of Annex I [nor printed] and Annex II [not printed] should be carried out through the full Ordinary Legislative Procedure.

We believe it is important to resolve issues on this honey proposal as soon as possible and that the expected revisions to the text are likely to do this adequately. Further delay would not be helpful for UK businesses, and we will continue to push for a sensible resolution which avoids getting bogged down in any wider GM-specific issues. For us the key point is to establish that pollen is not an ingredient of honey, regardless of whether it comes from conventional or GM plants. There are positive signs that this could go through Council on these terms, although a bumpier ride in the European Parliament is likely. Initial discussions in the EP have been halted due to their request for an Impact Assessment and may not resume until after the summer.

I am writing at this time because I feel it would be useful (should it be necessary ) to have your committees clearance to vote in favour of the proposal at Coreper along the lines discussed above as this will signal the UK's desire to see this issue resolved speedily.

21 May 2013

#### **Letter from the Chairman to David Heath MP**

Your letter of 21 May 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 June 2013.

Thank you for your informative reply regarding the status of pollen in honey and our questions regarding comitology.

We understand that it would be beneficial in helping to resolve these issues if this item was released from scrutiny, and so on that basis, we are content to release it. We would, however, be grateful if you could please keep us updated with progress on this matter, particularly regarding the revised text and the comitology procedure.

We look forward to your response in due course.

5 June 2013

### **Letter from David Heath MP to the Chairman**

Further to our correspondence at the end of 2012, I am now in a position to provide you with an update on the progress of the negotiations on this proposal.

#### THE STATUS OF POLLEN IN HONEY

In the EU discussions to date, all Member States have broadly agreed with the proposition that pollen should be defined as a natural constituent of honey rather than a distinct ingredient. However, Hungary tabled a counter-proposal suggesting that pollen specifically from GM plants should nevertheless still be treated as an ingredient for the purpose of the EU regulation on GM food and feed (1829/2003). On this basis, authorised GM pollen in honey would require labelling if it constituted more than 0.9% of the total pollen content, whereas under the Commission's proposal it would only have to be labelled if it was more than 0.9% of the total honey product.

In response to this, the Commission and a clear majority of Member States, including the UK, expressed the view that there is no justification for treating GM pollen differently, and this was also questioned by the Council Legal Service (CLS). Moreover, it was pointed out that Hungary's idea is impractical because there is no analytical method available that will enable GM pollen to be quantified as a proportion of the overall pollen content. On this basis, the Irish Presidency concluded that the Hungarian proposal should not be considered further.

With limited support from some other Member States, Hungary has also raised questions about the compatibility of the Commission's proposal with the relevant judgement made by the European Court of Justice in Case C-442/09. In response the Council Legal Service (CLS) has suggested that it would be advisable to amend the recitals to the proposal to give a clearer rationale for changing the legal position on pollen in honey. The Commission accept this, and it is expected that a revised text will be presented to Member States shortly. At the last Working Party the CLS presented the legal opinion on the Honey proposal. The Commission took note of this and is preparing a response to the CLS legal opinion. A Foodstuffs (Attachés) meeting will be arranged once the Commission's view is available, to discuss and progress a general approach on this proposal.

#### COMITOLOGY

On the questions regarding comitology and the use of delegated versus implementing acts the views of the Commission and Member States differed. Many Member States including the UK called for the comitology procedure to follow that of the other Breakfast Directives where implementing acts are proposed. The Council Legal Service (CLS) explained that the use of implementing acts rather than delegated acts is the most appropriate vehicle to use for the Commission to set out verification methods. This was agreed by most MSs and is now reflected in revised text. The delegated acts procedure has been proposed for amendment of technical aspects related to both annexes of the directive. The UK and a majority of MS did not support the use of delegated acts for Annex I [not printed] and some for Annex II [not printed] also. Annex I [not printed] details the names, product descriptions and definitions and Annex II [not printed] the composition criteria for honey. The majority of MS view these as being essential elements including any technical changes and should be dealt with using the Ordinary Legislative Procedure (OLP) rather than through delegated acts as proposed by Cion. Annex II [not printed] contains compositional criteria for honey while the UK acknowledged that this is largely technical in nature a small change to the parameters contained in this Annex [not printed] could have a significant effect on the marketability of a honey. At the latest attachés meeting on 8 April, it was agreed that implementing acts were appropriate for methods of verification but the amendment of Annex I [not printed] and Annex II [not printed] should be carried out through the full Ordinary Legislative Procedure.

We believe it is important to resolve issues on this honey proposal as soon as possible and that the expected revisions to the text are likely to do this adequately. Further delay would not be helpful for UK businesses, and we will continue to push for a sensible resolution which avoids getting bogged down in any wider GM-specific issues.

For us the key point is to establish that pollen is not an ingredient of honey, regardless of whether it comes from conventional or GM plants. There are positive signs that this could go through Council on these terms, although a bumpier ride in the European Parliament is likely. Initial discussions in the EP have been halted due to their request for an Impact Assessment and may not resume until after the summer.

I am writing at this time because I feel it would be useful (should it be necessary ) to have your committees clearance to vote in favour of the proposal at Coreper along the lines discussed above as this will signal the UK's desire to see this issue resolved speedily.

*16 July 2013*

#### **Letter from the Chairman to David Heath MP**

Your letter of 16 July 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 July 2013.

We are grateful for the comprehensive update that you have given, explaining the state of discussions on delegated acts and on the status of GM pollen in honey.

We support the European Parliament's request for an Impact Assessment and would welcome clarification from you of the scientific opinion on the basis of which the Hungarian proposal was deemed impractical.

We are content at this stage to release the Proposal from scrutiny and look forward to an update in due course, including progress in both the Council and the European Parliament.

*25 July 2013*

#### **HUMANE TRAPPING STANDARDS (12200/04)**

##### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

This issue has been under consideration by the Commission for sometime and previously considered by your Sub-Committee on Agriculture, Fisheries, Environment and Energy.

Further to your letter of 18 October 2012 to Richard Benyon, I am writing to tell you that I have recently been informed that following a rather long period of inactivity this proposal has been withdrawn by the Commission and so is no longer under consideration.

*9 May 2013*

#### **IMPLEMENTATION OF THE COMMUNICATION ON SECURITY OF ENERGY SUPPLY (13642/13)**

##### **Letter from the Chairman to Baroness Verma of Leicester, Parliamentary Under Secretary of State, Department of Energy & Climate Change**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 16 October 2013.

This Report provides an interesting and helpful review of progress in the EU's external relations concerning energy policy, with suggestions for future policy to be discussed in the Council. Given that no legislative proposals have been suggested at this point, we are content to release the Report from scrutiny, but will of course examine any possible proposals in the future.

We would agree with you that greater coherence in the EU's external energy relations can help improve security of supply (for both the EU and the UK), as well as help facilitate an extended and integrated energy market, particularly for trading across borders. This would also have the added benefit of helping to attract investors. As you may recall, these were both matters covered in the

Committee's recent report on EU energy policy, No Country is an Energy Island: Securing Investment for the EU's Future.

It should be noted, however, that whilst the Committee agree with the Government on the importance of respecting EU/Member State competence, as was highlighted during our energy inquiry, a single EU voice is crucial when it comes to international agreements. This is something we would hope the Government would agree with.

Finally, with regards to reference to discussions the Commission will be holding in the autumn, the Committee would be grateful for a summary of these talks when possible.

We look forward to your response in due course.

*17 October 2013*

## INFORMAL ENERGY COUNCIL VILNIUS 19-20 SEPTEMBER (UNNUMBERED)

### **Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

I am writing to report discussions at the Informal Energy Council in Vilnius on 19-20 September, where I represented the UK.

On the first day of the Informal Council, Ministers discussed the external dimension of EU energy policy. The Presidency asked Member States for views on priorities in external energy policy so that the EU can make the best use of its energy partnerships and ensure a more level playing field with non-EU power producers. Member States agreed that extending the Energy Community Treaty beyond 2016 and to new countries such as Georgia was important and that a stronger internal market would also strengthen the EU's external relationships by increasing the EU's global competitiveness. A fully functioning internal market would be the best way to improve the EU's security of supply. Better interconnections across the internal energy market would also improve the flow of gas and electricity across the region, helping to reduce the EU's import dependency on third countries. The UK reminded the Council of the need to respect national competence on external matters and the right of Member States to speak with their own voice in international organisations. The Presidency concluded that the subject of external energy policy would return to the Energy Council in December.

The second day of the Informal Council began with a discussion of the internal energy market. Member States agreed on the need to ensure the timely implementation of Projects of Common Interest under the TEN-E package, to address infrastructure gaps in the EU network, and the need to adopt good quality network codes. There was some debate over the issue of the development of capacity mechanisms, with a number of Ministers arguing that Member States should be allowed to pursue these at the national level to address security of supply concerns, and others that a stricter harmonised EU approach was needed. I and a number of other Member States called for further progress on the exploitation of shale gas in the EU as an important part of improving security of supply and competitiveness.

In the last session on the 2030 climate and energy framework, Ministers restated their views on the Green Paper. Commissioner Oettinger argued that Member States should be flexible and realistic in their approach to agreeing new carbon reduction targets. He expressed support for a renewables target for the electricity sector and new goals on energy efficiency linked to GDP. On the subject of targets, an equal number of Member States spoke in support of a multi-target approach as advocated a single target approach, with both groups recognising the need to take better account of EU competitiveness. I argued for the need to provide future investors with the necessary certainty to enable investment in new energy infrastructure by adopting a technology-neutral and ambitious approach to carbon reductions.

*26 September 2013*

## INTERNATIONAL AVIATION EMISSIONS (15051/13)

### **Letter from the Chairman to the Rt. Hon. Gregory Barker MP, Minister of State, Department of Energy and Climate Change**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

We read your EM with interest. As you will no doubt be aware, we scrutinised the “Stop the Clock” Proposal last year. While lending our support to the Government’s position, we emphasised that it should not be extended beyond one year.

Following the outcome of ICAO discussions, the Commission’s recent Proposal is a pragmatic, but complex, one. We would welcome your view on its practical application.

Even if applied practically, this is clearly a politically sensitive dossier. You emphasise that it will be crucial to take account of third country concerns during the negotiation process and you observe that third countries are already unhappy with the Proposal as it stands.

We would be very concerned that, in the absence of a wording acceptable to third countries, the suspension to international flights will simply be extended.

Further information from you on the reservations that have been expressed would be helpful, and we would welcome confirmation that the Government would not accept a one year extension to the current suspension.

We will retain the proposal under scrutiny and look forward to your reply within 10 working days.

*28 November 2013*

## IONISING RADIATION: BASIC SAFETY STANDARDS FOR PROTECTION (14450/11)

### **Letter from the Chairman to Baroness Verma of Leicester, Parliamentary Under Secretary of State, Department of Energy & Climate Change**

Your letter of 25 April 2013 on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us regarding the above EU nuclear safety and decommissioning dossiers. We are now content to mark the strand of correspondence in relation to EM 14400/12 (“stress tests”) as closed. As regards 17752/11 (the decommissioning Proposal), we would be keen to be kept informed on any progress this dossier makes under either the Irish or Lithuanian presidencies.

We are now also content to release EM 14450/11 (safety standards) from scrutiny, and look forward to an update on its progress in due course.

*22 May 2013*

## LAND USE, LAND USE CHANGE AND FORESTRY (7639/12)

### **Letter from the Chairman to the Rt. Hon. Gregory Barker MP, Minister of State, Department of Energy and Climate Change**

Your letter of 29 April 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us regarding the agreement reached between the Council and the European Parliament.

Please mark this strand of correspondence as closed.

*22 May 2013*

## LEAVING A BITTER TASTE? THE EU SUGAR REGIME (UN-NUMBERED)

### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 8 May in response to mine of 1 March to Lord Carter.

I must apologise for not alerting you in advance of the extended delay in producing the Government response to the Sub-Committee's report on the EU Sugar Regime. Despite our poor performance on this occasion, the Department does not make every effort to meet deadlines for responding to the committee's reports and will continue to do in future.

Regrettably, the factors I mentioned in my previous letter have continued divert resources from finalising the response to the sugar report. However, we are putting measures in place to ring-fence that resource so that the further delay is minimised.

*16 May 2013*

## LITHUANIAN PRESIDENCY – COUNCIL PRIORITIES (UNNUMBERED)

### **Letter from the Chairman to the Rt. Hon. Edward Davey MP, Secretary of State, Department of Energy and Climate Change**

I am writing to inform you of the energy and climate change issues we expect to be dealt with in the Council of Ministers under the Lithuanian Presidency. I would be interested in your views on which issues your Committee considers a particular priority and may specifically want to be kept updated on during the course of the Presidency.

The Presidency has timetabled an Energy Council for 12 December. Climate change issues (where DECC takes the lead) are dealt with at Environment Councils, which are scheduled for 14 October and 13 December. The Presidency has arranged an Informal Energy Council on 19-20 September and an Informal Environment Council on 16-17 July.

#### Overview

The Lithuanians consider energy security one of the main priorities for their Presidency. Aside from this, the next Conference of the Parties (COP) to the UNFCCC annual meeting falls during their Presidency and will be in Warsaw this year. In the area of energy and climate change, the Lithuanian Presidency intend to focus on:

- Working on completion of the internal energy market
- Strengthening the external dimension of European energy policy
- Taking forward work on the 2030 framework for EU climate and energy policies
- Delivering an effective Presidency for the COP in Warsaw in November

#### ENERGY ISSUES

We expect negotiations to continue on the draft Directive amending Directives relating to the quality of petrol and diesel fuels and on the promotion of the use of energy from renewable sources. The draft Directive seeks to address Indirect Land Use Change (ILUC) emissions and encourage the transition to advanced biofuels. The Lithuanian Presidency also plans to take forward work on the Regulation on the notification of investment projects in energy infrastructure.

With their focus on energy security, the external dimension of EU energy policy will be important. It will be the main theme of the Informal Energy Council in Vilnius in September and the Presidency intends to pick up work on the 2011 Communication on Security of Energy Supply and International Cooperation. The internal energy market is also seen as part of the energy security agenda and there will be discussions of a Communication on State support in the electricity sector that is due to be published in July. This is likely to include guidance on capacity mechanisms, renewable support schemes and cooperation mechanisms, on demand side response and storage.

We expect the Commission to begin the process of seeking Council adoption of a proposal for the revision of the Nuclear Safety Directive in September. Also in September we are expecting the

completion of the adoption process on the Directive on basic safety standards protecting the health of workers and the general public against the dangers of ionising radiation. Negotiations will continue on a number of other nuclear issues:

- Council Regulation establishing a Community system for registration of carriers of radioactive materials (discussions will continue provided that sufficient progress is made via bi-lateral discussions with the MS that are opposed to this regulation).
- Council Regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia.
- Council Regulation establishing an Instrument for Nuclear Safety Cooperation.

Euratom agreements with other States on nuclear safety issues.

During the Lithuanian Presidency the Commission may also be seeking a new negotiating Directive on any new proposals to amend the Convention on Nuclear Safety (CNS) as part of its role in co-ordinating EU positions in relation to international organisations. Any such request will need to be made before the CNS Effectiveness and Transparency Working Group make their final recommendation on a list of possible actions that could be taken to strengthen the International Nuclear Safety Framework.

#### CLIMATE ISSUES

On climate change, Lithuania is keen to focus on closing legislative files during its Presidency, before the European Parliament comes to the end of its term. They hope to reach a First Reading deal with the European Parliament on the proposal for a Regulation on fluorinated greenhouse gases. They also intend to take forward discussions on the proposal on maritime greenhouse gas emissions.

The Presidency will continue the EU's preparation for the nineteenth Conference of the Parties (COP19) in Warsaw in November 2013. This will include developing the EU's detailed position on the new legally binding global climate regime that will be agreed in 2015 and to accelerate work to raise effort to reduce further global greenhouse gas emissions before 2020, when the new global regime will come into force. Removing obstacles to progress at COP19, defining the shape of the Warsaw outcome, and securing the specifics surrounding the climate finance and loss and damage outcomes will also be essential pieces of work for the Lithuanian Presidency ahead of COP19.

Work has also begun on the EU's ratification of the Amendment to the Kyoto Protocol adopted by the EU and all its Member States at COP18 in Doha last year. This piece of work will be especially important in light of how the EU will be perceived by other Parties at COP19 and in terms of demonstrating to the other Parties the EU is taking the steps necessary to ratify.

On the EU Emissions Trading System (EU ETS), we expect Lithuania to close one legislative file and begin negotiations on another:

- Firstly, subject to a positive vote at the July Plenary of the European Parliament, Lithuania will move quickly to form a Council position on the Commission's "back-loading" proposals, with a view to concluding a First Reading Deal in September / October.
- Secondly, following the General Assembly of the UN's International Civil Aviation Organisation in the autumn, it is expected that the Commission will bring forward new proposals to amend Aviation EU ETS. Lithuania will progress these proposals as much as possible during their Presidency, given that they will need to be agreed before the European Parliament rises in Spring 2014.

2 July 2013

**Letter to Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 18 July to Lord de Mauley requesting an update on progress with the above proposal. I am replying as the Minister responsible for this area of policy.

I am pleased to inform you that the European Parliament adopted the 7<sup>th</sup> Environment Action Programme at its first reading on 24 October. The document was finalised by the Council Legal Services on 7 November and will be formally adopted by Council during the week commencing 18 November. The document will then be signed off by the Council's Legal Service on 20 November and published in the Official Journal by the end of this year.

The UK together with Slovenia and Cyprus supported Malta in a statement on land use. We had shared concerns with respect to references to the setting of targets on land use found in the programme. We believe that the application of targets should remain the prerogative of Member States, given the diversity of domestic planning regimes. The statement will be laid on adoption when the Council approves the European Parliament's position.

The blocking minority on soils composed of Austria, the Netherlands, France, Germany, the UK and Malta also proposed a statement. It noted that across the EU, progress has already been made to ensure soil protection, including contaminated site identification and the development of monitoring systems. Emphasis should be placed on strengthening these efforts by sharing best practice examples and further development of guidelines, taking full account of regional differences and the principle of subsidiarity. This statement will also be laid on adoption.

In addition, the UK will table an individual statement:

*"We believe the priority objectives set out in the present general action programme are without prejudice to future negotiations of the measures necessary to implement those objectives. Any new measures or modifications to existing legal frameworks should be considered within the appropriate Council formation and adopted under the relevant Treaty provisions."*

This statement will be laid alongside the other statements.

12 November 2013

**Letter from the Chairman to Dan Rogerson MP**

Your letter of 12 November on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

Thank you for your reply, informing the Committee of the formal adoption of this Proposal and the statements made by the blocking minority and the UK individually.

Please consider this strand of correspondence as now closed.

28 November 2013

**LITHUANIAN PRESIDENCY PRIORITIES FOR THE ENVIRONMENT, AGRICULTURE, FISHERIES AND ANIMAL HEALTH AND WELFARE (UNNUMBERED)**

**Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

I am writing to provide you with an overview of the Lithuanian EU Presidency's priorities over the coming months in terms of Defra's Council business. Lithuania holds the six-month rotating Presidency of the EU Council of Ministers from 1 July until 31 December 2013.

18 July 2013



## LONG TERM INFRASTRUCTURE VISION FOR EUROPE AND BEYOND (I4835/13)

### **Letter from the Chairman to the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 20 November 2013.

You will be aware that we published a report on EU energy policy in May 2013, which contained material on the EU's energy infrastructure, including its financing.

One of the short term tasks cited by the Commission, now that the list of the first projects of common interest (PCIs) has been approved, is the need to work with the investment community. The urgency of such work was at the heart of the Committee's report. How are you, as the Government, acting to work with investors to attract funding towards energy infrastructure?

A long term priority for the Commission is to develop high voltage electricity connections, while taking into account distributed generation and demand-response. In our report, we recommended that the potential offered by distributed generation should be recognised more clearly in energy strategies. The Commission's Communication makes scant reference to this. We would welcome your own thoughts on the future role of distributed generation in the EU's long term energy infrastructure vision.

Also of interest would be your position on the Commission's suggestion that the Union should pursue its efforts to develop a pan-European vision for a carbon-dioxide transport network, with a view to identifying PCIs in 2015.

Finally, we would welcome your view on how the development of electricity storage could be boosted as part of the wider approach to energy infrastructure.

We look forward to your response within 10 working days. In the meantime, we shall retain the Communication under scrutiny.

*21 November 2013*

## MAKING THE INTERNAL ENERGY MARKET WORK (I6202/12)

### **Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

Thank you for your letter of 25 April confirming the release from scrutiny of the Communication on making the internal energy market work. You asked to be informed of the outcome of the June Energy Council. I attach the conclusions on the above Communication which the Council agreed. These contain language which is acceptable to the UK, including on capacity mechanisms.

You also noted the European Commission's forthcoming non-binding guidance on capacity mechanisms. My officials are actively engaging with the Commission as they are developing their guidance to explain the UK's rationale and approach, as well as to take account of Commission views as the detailed design of the UK Capacity Market is finalised.

*27 June 2013*

### **Letter from the Chairman to the Rt. Hon. Michael Fallon MP**

Your letter of 27 June 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 July 2013.

Thank you for your informative reply.

We note that your officials are engaging with the Commission as they develop their guidance to explain the UK's rationale and approach, as well as to take account of Commission views as the detailed design of the UK Capacity Market is finalised.

We are also grateful to you for providing the conclusions agreed at the June Energy Council.

We look forward to continuing engagement with the Government on these issues further to the Government's recent response to our report, No Country is an Energy Island: Securing Investment for the EU's Future. Please consider this strand of correspondence as now closed.

11 July 2013

MARITIME SPATIAL PLANNING AND INTEGRATED COASTAL MANAGEMENT  
(7510/13)

**Letter from the Chairman to Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs**

Your letter on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 May 2013.

We are grateful to you for the information provided in response to our last letter. As you may be aware, the Scottish Parliament wrote to our Committee expressing several concerns relating to the principle of subsidiarity. A copy of that letter is attached [not printed] for your reference.

Your letter notes that initial discussions indicate that many other Member States share similar concerns to the UK Government and would prefer greater flexibility as regards to more generic and high-level overarching requirements. We would therefore be grateful if you could provide us with a detailed update on the progress of the negotiations and the nature of the amendments proposed in due course.

We will continue to retain the Proposal under scrutiny.

16 May 2013

**Letter from Richard Benyon MP to the Chairman**

Thank you for your letter dated 16 May enclosing a copy of the letter your Committee received from the Scottish Parliament. They have also written to the Secretary of State in very similar terms and I enclose a copy of the reply. We note that the Scottish Parliament has agreed not to raise concerns based on the principle of subsidiarity though they consider that the proposal may raise proportionality issues.

You asked for an update on progress. There have been detailed discussions within the Friends of the Presidency group and further meetings are scheduled before the end of June. Several Member States have expressed concerns that the proposals go beyond what is necessary to establish a framework for maritime spatial planning and integrated coastal management. Many have argued for simplifying the Directive to avoid or minimise added burdens or that may give rise to subsidiarity issues. The UK and a number of Member States have submitted substantial changes to the text and consequently we anticipate further detailed discussion on this dossier under the Lithuanian Presidency.

I hope the Committee finds this additional clarification helpful. We will keep you updated as the dossier progresses and/or as any developments arise.

4 June 2013

**Letter from the Chairman to Richard Benyon MP**

Your letter of 4 June on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 June 2013.

Thank you for attaching a copy of the Secretary of State's letter to the Scottish Parliament.

We are grateful to you for your helpful letter, which helpfully clarifies the main concerns of numerous Member States. We are also glad to hear that the UK's position on this matter has support from elsewhere.

We will continue to retain the proposal under scrutiny, and look forward to receiving an update on any progress or developments in due course.

20 June 2013

**Letter from Richard Benyon MP to the Chairman**

Thank you for your letter dated 20 June in which you asked for an update on progress on this proposed Directive. The overall position is largely unchanged from the one I described in my letter dated 4 June, although the Friends of the Presidency (FoP) group has now completed a full read

through of the draft Articles. The group will discuss the Commission's supporting Explanatory Memorandum and the recitals, which have not yet been considered, during the Lithuanian Presidency.

Following the initial read through, the Irish Presidency circulated a revised version of the draft Directive together with a summary working paper. These aimed to reflect points and drafting suggestions made by Member States during the FoP meetings as well as written comments submitted, including those from the UK. These documents were considered briefly at the final FoP meeting on 25 June and will be discussed further at the next meeting on 3 July.

While Member States were grateful for the improved text circulated by the Irish Presidency, many stated that the changes did not go far enough. They continued to share the UK's view that the proposal goes beyond what is required to establish a framework for maritime spatial planning and integrated coastal management. Several, including the UK, made clear they would argue for further changes in order to simplify the draft Directive and to ensure that decisions on priorities, form and content of any plans and strategies remained with Member States. The Commission have stated that they recognise Member States' concerns and that some redrafting will be required including to provide more time for transposition and implementation, which was one of the UK's major concerns.

The Lithuanian Presidency intends to have three to four meetings on the draft proposals with the hope of reaching a general approach by December 2013. We consider that this is ambitious given the depth and wide range of concerns raised during the FoP discussions and the fact that very few Member States have openly welcomed this proposal. My officials have an early meeting with the Lithuanian Presidency to discuss timing and to set out our concerns in more detail. Officials have also held a series of meetings with key MEPs and/or their advisers to explain the UK position and approach as EP discussions on this dossier are due to begin in July.

Going forward my Officials will continue to take the approach set out in the Explanatory Memorandum of 26 March 2013, to seek amendments and make clear that objectives and minimum requirements for plans and strategies are illustrative rather than mandatory. We will reinforce the underlying principle that it is for Member States to decide priorities and how they deliver them.

I hope the Committee finds this additional clarification helpful. We will keep you updated as the dossier progresses and/or as any developments arise.

*4 July 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 4 July 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 17 July 2013.

Thank you for your helpful letter informing us of the current position of this Proposal. We note that the overall position is largely unchanged since you last wrote to us, other than the Friends of the Presidency group having now completed a full read through of the draft Articles.

We understand that despite a revised version of the draft Directive being circulated by the Irish Presidency, which was welcomed by Member States, many felt the changes did not go far enough. We are pleased to see that the Commission recognise Member State concerns and will subsequently redraft the text, particularly regarding transposition and implementation.

We are also reassured that your officials will be meeting the Lithuanian Presidency, on top of the meetings already held with key MEPs and/or their advisers.

We look forward to an update on the progress of this Proposal in due course.

*18 July 2013*

#### **Letter from Richard Benyon MP to the Chairman**

Thank you for your letter of 18 July, in which you requested an update on any significant developments. I am writing to provide you with progress on this proposed Directive and to seek a waiver from the Committee on the proposal in advance of any decisions being made at COREPER 2 and the General Affairs Council (GAC).

Movement on this dossier has been fairly rapid and a number of revised drafts have been produced by the Lithuanian Presidency. Our negotiations have resulted in successfully hollowing out many of the requirements allowing for increased flexibility for Member States. You will recall we had concerns that previous versions did not allow Member States to determine their own priorities and we were pushing to ensure objectives and minimum requirements for plans and strategies were illustrative

rather than mandatory. The latest text takes on board many of our suggestions and is moving in the right direction. However, we still have some concerns, in particular on the Integrated Coastal Management (ICM) element and on timing for implementation of the directive.

We are pushing for either deletion of the ICM element or for it to be made voluntary. At the last meeting a small group of Member States, including the UK, Netherlands, Italy, Malta and Poland, put forward a written statement reiterating that the content of this proposal could be taken forward through non-regulatory means and urged the Presidency to consider deleting or making the ICM elements entirely discretionary. This grouping constitutes a fragile blocking minority and not one for blocking the entire proposal. The Member States involved would probably be content with a high level framework as long as the content is right. Therefore, there is a risk that if we take too hard a line the UK will become marginalised and lose valuable negotiating power. Estonia has subsequently supported this statement. The Presidency understands Member States' concerns and as a result is considering the wording on ICM to increase flexibility by allowing Member States to cover this element via their Maritime Spatial Planning (MSP) processes.

Both the Commission and Council Legal Services are in agreement that the use of multiple legal bases is reasonable and there are no subsidiarity issues. We are exploring further whether to pursue the argument that the legal base should be Article 192(2), which would require unanimity from Member States. We would have to argue that both MSP and ICM could fall within town and country planning or land use for the purpose of Article 192(2). Defra legal advice is that there is an argument but not a very strong one.

The Presidency has drafted a further revision of the proposal which will be discussed at the next two Friends of the Presidency Meetings (informal working group on the MSP/ICM directive) on 2 and 16 October. As well as looking at specific drafting changes, the Presidency is likely to concentrate on agreeing an approach, in particular with regards to the ICM element. Going forward, the Presidency is aiming to agree a partial General Approach to submit to COREPER 2 in late October or early November. It is also aiming to agree a Council General Approach at the 19 November General Affairs Council. This is quite ambitious and it has indicated that to make this possible it will only seek a partial General Approach, leaving any discussions on the recitals for a later date.

In the European Parliament the TRAN Committee, which is leading on the dossier, has prepared a report on the draft directive. We support the majority of the draft amendments put forward by the Rapporteur and have supplied briefing to UK MEPs on our position. The ENV Committee and PECH Committee have also put forward amendments that are less favourable and we have also supplied briefing on these. Officials have held further meetings with key MEPs and/or their advisers to explain the UK position and approach. Some MEPs have requested suggested amendments, which officials have supplied. There will be a vote on the subsequent report on 5 November.

As well as lobbying MEPs, an egram has been sent to embassies in each capital with briefing for discussions with appropriate contacts in each country and UKRep has been lobbying counterparts in other Member States, including those from economic portfolios. We will continue with this approach.

As you know this proposal has not cleared scrutiny. Voting against because of lack of scrutiny clearance would reduce our leverage in the last phase of negotiating a partial General approach and also weaken our position when the Council comes to negotiate the mandate for the trilogues next year under the Greek Presidency (who are pro the proposal). This is a risk as the UK has been at the forefront of shaping opposition to the proposal and if we become marginalised the end result may not be favourable to the UK. I hope that, at this stage and given the tight timeframe, this update provides enough information for the Committee to give scrutiny clearance.

*30 September 2013*

**Letter from the Chairman to George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs**

Your predecessor's letter of 30 September 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

Thank you for your update. We were surprised to read that the UK has been pushing for deletion of the Integrated Coastal Management element. This is the first indication that you have given us of that change of position. We would welcome an explanation of the policy and its rationale.

As previously stated, we continue to support the inclusion of ICM, but at a framework level so as to avoid prescription.

We will retain the Proposal under scrutiny and look forward to clarification from you on the Government's position within 10 working days.

*10 October 2013*

### **Letter from George Eustice MP to the Chairman**

Thank you for your letter of 10 October in which you asked for clarification of the UK negotiating position. I am writing to you to reaffirm our approach and update you on the direction of travel.

As I am sure you are aware, the UK fully recognises the benefits of Maritime Spatial Planning (MSP) and Integrated Coastal Management (ICM) and the essential relationship between the two processes. The UK has been actively preparing and implementing policy in these areas for a number of years and the European Commission has long recognised that the UK is at the forefront of implementing policy on both. We understand however that not all Member States are at such an advanced stage and the Commission has been frustrated with the slow progress across the EU as a whole.

In anticipation of EU action the UK developed and agreed a position which was based on our preference for non-binding options on MSP and ICM. However we recognised the need to engage constructively within the context of Directive negotiations to shape any proposals in line with UK legislation and to minimise any impacts and burdens on existing UK processes.

As set out in the Explanatory Memorandum of March 2013, the initial proposal from the Commission was far too detailed and prescriptive for a framework directive. A few Member States such as Spain and Denmark strongly supported the initial position including the inclusion of mandatory ICM Strategies. As drafted this could have added an additional layer of management, increased complexity and added burdens to all bodies involved in delivery of UK processes and undermined the work already taken forward across the UK. Therefore, we pushed to hollow out the proposal to ensure a high level framework was agreed, which had the flexibility to allow Member States to determine how they delivered the detail.

You asked about our change in negotiating stance in pushing for the ICM elements to be removed. We highlighted in our Explanatory Memorandum that the provisions on MSP, but in particular ICM, went beyond what is required for effective implementation. This led to the UK's opposition to the inclusion of the ICM elements. We have had support from other Member States in particular those who have similar concerns over the detail and level of prescription and therefore the proportionality of the proposal. In order to address these concerns and ensure a high level framework that does not impact on the UK systems we, and a core group of Member States, have successfully negotiated changes to the draft text. These changes would allow Member States to choose how they implement ICM but it would remain an integral part of the Directive. We consider that current compromise text, subject to the UK's latest amendments, would provide the necessary safeguards. In particular this would mean that the UK would not have to change processes which are already well established and which may have resulted in unnecessary burdens to stakeholders. We have also been briefing MEPs to explain our concerns and approach to remove prescription and ensure a high level framework.

Based on the mood of the discussions to date we believe that the compromise solution offered by the Presidency, outlined above, will be the preferred option. If so, this will provide a framework for establishing both MSP and ICM, but with flexibility for how the latter is delivered.

In terms of next steps we understand that the Presidency plan to take the latest proposal to COREPER 2 and the General Affairs Council for a decision in November. We believe we have managed to secure the best deal for the UK as a whole. If we are not able to agree this approach at COREPER 2 we risk losing this compromise with a high possibility of a worse proposal for the UK under the Greek Presidency and when the Council comes to negotiate the mandate for the trilogues next year.

As the Presidency is likely to submit this option to COREPER 2 at the beginning of November, I hope this update provides enough information for the Committee's clearance to enable us to continue to influence these discussions.

My officials would be happy to provide more information on the detailed discussions if that would be helpful.

*23 October 2013*

### **Letter from the Chairman to George Eustice MP**

Your letter of 23 October 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 October 2013.

We note that the compromise achieved in negotiations is in line with your original position, which we supported. It would have been helpful if, in your previous correspondence or through informal contact with officials, the Government had explained the evolving positions which led the Government at one stage to seek the deletion of integrated coastal management from the Directive. This, we now appreciate, was a negotiating tactic rather than a fundamental change of position.

While it seems clear that the Council is coalescing around a position with which you, and we, are content, the position of the European Parliament remains unclear. In that context, we will retain the proposal under scrutiny but, in line with Article 5(b) of the scrutiny reserve resolution, the Government need not withhold agreement in COREPER 2 and the subsequent General Affairs Council pending completion of scrutiny.

We look forward to information from you in due course on the outcome of those negotiations between Member States, in addition to information on the progress of the dossier in the European Parliament.

*30 October 2013*

### **MULTI-ANNUAL PLAN FOR THE STOCK OF HERRING (17494/11), MULTI ANNUAL PLAN FOR THE WESTERN STOCK OF ATLANTIC HORSE MACKEREL (9003/09)**

#### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

I have recently written to update the Committees on the latest situation with the cod plan (follow up to EM 13745/12) but I thought it would be helpful to provide a wider update on the overall impasse on agreeing management plans, with a round-up summary on where we are now. This specific proposal is related to an alignment of the West of Scotland herring plan legislation with the provisions of the Lisbon Treaty.

To recap, since the agreement of the Lisbon Treaty in 2009, there has been disagreement between the Council and the Parliament around what decisions relating to fishing opportunities should be co-decided or remain the prerogative of the Council, with the argument focused on whether to apply Article 43(2) or 43(3) of the Treaty for the Functioning of the EU (TFEU) as the appropriate legal base – this general disagreement I refer to here as the impasse, which affects both the agreement of new plans, and the alignment of existing plans in accordance with the Treaty.

As I have reported, at December Council 2012 the Council took the initiative to amend certain aspects (related to fishing opportunities) of the flawed Cod Recovery Plan following legal advice that it was able to do so. As a result the Parliament and Commission launched a European Court case against the Council's action. We do not expect a judgment for this Court case before late 2014. Until this legal action is resolved we expect no further consideration of the Commission's proposal (EM 13745-12) to amend the existing cod plan.

In the wider context of agreeing multiannual plans, some believe that the outcome of the European Court case should provide clarity on the inter-institutional roles in agreeing management plans, and enable a breakthrough on the impasse.

This does not mean, however, that progress to resolve the impasse can be assumed to be stymied until completion of the European Court case. There are fresh developments on multi-annual plans in the context of Common Fisheries Policy (CFP) reform. To reflect the strength of feeling on the ongoing impasse, a statement from the Council was attached to the CFP reform agreement that was reached recently, as follows:

#### **DRAFT COUNCIL STATEMENT ON MULTI-ANNUAL PLANS**

The Council is committed to working with the European Parliament and the Commission to address inter-institutional issues and agree a way forward that respects the legal position of both the Parliament and the Council to facilitate the development and introduction of multi-annual plans on a priority basis under the terms of the Common Fisheries Policy.

The Council further proposes that an inter-institutional taskforce be established to help find the most appropriate way forward.

The agreement with the above Council statement appended has yet to be formally adopted as the Council's Common Position. This is expected in the Autumn, at which point the European Parliament will need to vote in plenary to accept the deal. However, all the indications are that the European Parliament and the Commission are keen to get on with the task force mentioned in the draft statement and find a way forward.

I hope this update on the overall situation is helpful. While this long running impasse has been frustrating and detrimental to establishing principles of long term management and good governance, I believe the foundations for progress have been established within the reform framework, and I look forward to constructive developments.

*28 August 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 28 August 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for your update on this Proposal and the long-running impasse. We understand that until the legal action is resolved, you expect no further consideration of the Commission's proposal (EM 13745/12) to amend the existing cod plan. We too hope that this case might help provide clarity on the inter-institutional roles in the agreement of management plans. We would emphasise that, in the meantime, it is crucial to press on with measures to manage this stock effectively.

We note from your letter that there are fresh developments within the context of reform to the Common Fisheries Policy, including the Draft Council Statement. The Committee appreciates that this statement is still to be voted on in plenary (expected in the autumn), but that indications are positive.

We look forward to a further update on this Proposal in due course.

*12 September 2013*

### **NANOMATERIALS (UN-NUMBERED)**

#### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 10 January 2013. I am writing to update you on developments regarding the above EM, which addresses the regulatory aspects of nanomaterials.

The European Commission consulted over the summer on how nanomaterials should be identified and addressed in the EU chemicals regulation (Registration, Evaluation, Authorisation and restriction of Chemicals (REACH)). The timetable for agreeing what changes may be needed to address nanomaterials properly in REACH has continued to drift, with the Commission's impact assessment only expected to be presented internally in early 2014. We would expect a formal text proposal for changes to the REACH Annexes to follow shortly afterward. The UK Government supports the need to ensure clarity on how the regulation applies to nanomaterials and to ensure that testing methods are appropriate. However, we currently believe that requirements should be no more or less stringent for nanomaterials than for other chemicals.

The European Commission has engaged consultants to undertake an impact assessment on options to ensure transparency and regulatory oversight, including an option of a pan-European nano-register. Member States and other stakeholders will be consulted in Spring 2014, in advance of any regulatory proposals in early 2015. In the meantime, France has introduced a mandatory national registration scheme for nanomaterials. Belgium and Denmark have similar schemes in progress. We oppose this proliferation of mandatory national schemes as they are likely to disrupt the internal market and impose significant burdens on industry. In the UK, the Environment Agency on behalf of Defra has undertaken a successful voluntary intelligence gathering exercise that required minimal resource and has successfully identified national manufacturers of nanomaterials. This will help us to improve communication of regulation and to manage risk, should new issues of concern come to light.

In order to progress the evidence base, we continue to work both through the UK Research Councils and with international partners in the Organisation for Economic Cooperation and Development (OECD) and EU Framework Programme (FP7) funded projects. Of particular note is the EU FP7 project, NanoREG, which seeks to provide scientific answers to regulatory questions, through the evaluation of data and test methods. The outputs will inform future regulation of nanomaterials including through provision of a toolbox of appropriate instruments for risk assessment.

20 November 2013

## NON-COMMERCIAL MOVEMENT OF PET ANIMALS (7326/12)

### **Letter from Lord de Mauley, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Further to your letter of 6 December, I am writing to provide an update on the above proposal.

The basis for a first-reading agreement between the European Parliament (EP) the Council of the European Union and the European Commission has been reached after a series of trilogue negotiations. From a UK perspective, we are content with how the new Regulation has emerged from the negotiating process.

The two areas of concern that were flagged in my letter dated 23 November have been satisfactorily addressed. First, the European Parliament had been pushing for an EU-wide database of pet movements. The UK was robust in its view is that such a database would bring little, if any, disease control benefit at a disproportionate cost – a view shared by the EP Rapporteur, the Commission and most other Member States. We are pleased to report that this amendment was rejected during the trilogue negotiation, and does not feature in the final draft Regulation. Rather, the Commission will issue a non-binding declaration stating that they will re-examine the feasibility of such a database in future. The UK was content to accept this as a compromise gesture to the European Parliament, given that it makes no firm commitments.

The second area of concern was an EP amendment requiring the practice of microchipping pets to be restricted to veterinarians. This amendment was rejected in the first reading vote in the European Parliament. The draft Regulation now requires that microchips should be implanted by a “suitably qualified person”. Importantly, the Commission has now confirmed that “suitably qualified” will be interpreted as trained to a required level of competence, rather than trained and formally examined. This is very welcome reassurance: much of the compulsory microchipping of dogs arising out of our new national legislation will be carried out by charities or Local Authorities. Only a small percentage of these animals will ever travel overseas with their owners. It would therefore have been unhelpful to have different (and more expensive) microchipping procedures for pets being prepared for overseas travel.

Other welcome changes that also appear in the text of the new Regulation are:

- A derogation to exempt certain intra-Community movements of pets from the vaccination requirement (which would allow UK to exempt pets moving from the Republic of Ireland);
- A derogation to allow Member States to authorise movements of noncompliant pets into their territory (this supports the UK’s current rabies licensing arrangements);
- A new compliance checking provision whereby Member States must carry out in a non-discriminatory way documentary and identity checks on pets coming from other Member States. The UK is unique in already carrying out compliance checks on every pet entering the UK (other than from the Republic of Ireland). The new Regulation will, for the first time, introduce an explicit legal basis for such intra-community checks.

A further welcome change to the current regime is a new minimum age of 12 weeks for administration of the rabies vaccine to pets. Currently, the pet movement legislation requires that pets have a valid rabies vaccination. However, different brands of vaccines are effective at different ages and even a single brand of vaccine can be licensed for use at different ages in different Member States. This makes it difficult to establish whether or not a pet entering the UK has been vaccinated at the appropriate age. A 12 week minimum vaccination age will greatly simplify this situation, and allow for more effective compliance checks at the point of entry into the UK. Further changes introduced in



order to reduce the number of commercial movements being disguised as non-commercial movements include a tightening of the requirements for exceeding the maximum number of pets that may travel with one person in the context of a non-commercial movement and a clarification of the definition of “accompanied”.

There is one provision that the UK favoured that does not feature in the final text of the new Regulation; namely for the derogation from the rabies vaccine requirement for non-commercial (pet) movements between two rabies-free Member States to read across into the Balai Directive on commercial movements (92/65/EEC). This would mean that commercial consignments of pets would also be exempt from vaccination in these circumstances. The UK pressed reasonably hard for this on the grounds that the rabies risk posed by the movement of pets between two rabies-free Member States is negligible, whether that movement is non-commercial or commercial in nature. There is also a risk that a disparity between the two regimes may incentivise unscrupulous traders disguise commercial consignments as pet movements. However, the Commission was unwilling to accept our arguments on the grounds that having different commercial requirements for pet animals sourced from different countries would not be consistent with single market objectives.

We anticipate that the final version of the Regulation will be voted on at the plenary session of the European Parliament on 23 May, after which it will go as an ‘A’ point to the next available Council meeting. It will then be published in the Official Journal, and will come into force 20 days later. There will be an 18-month implementation period during which we will update our GB-wide implementing order.

As indicated when an initial assessment was sent to you in April 2012, the impacts of the Regulation are likely to be minimal. A revised assessment will be sent to you in the coming weeks which will reflect the changes to the proposal that emerged during negotiations.

*14 May 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 14 May 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us on the progress of this Proposal.

Please consider this strand of correspondence as now closed.

*22 May 2013*

#### **NUCLEAR DECOMMISSIONING: ASSISTANCE PROGRAMMES FOR BULGARIA, LITHUANIA AND SLOVAKIA (17752/11)**

#### **Letter from the Chairman to Baroness Verma of Leicester, Parliamentary Under-Secretary of State, Department of Energy & Climate Change**

Your letter of 25 April 2013 on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us regarding the above EU nuclear safety and decommissioning dossiers. We are now content to mark the strand of correspondence in relation to EM 14400/12 (“stress tests”) as closed. As regards 17752/11 (the decommissioning Proposal), we would be keen to be kept informed on any progress this dossier makes under either the Irish or Lithuanian presidencies.

We are now also content to release EM 14450/11 (safety standards) from scrutiny, and look forward to an update on its progress in due course.

*22 May 2013*

## NUCLEAR SAFETY OF NUCLEAR INSTALLATIONS (15030/13)

### **Letter from the Chairman to Baroness Verma of Leicester**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

We understand from your EM that the Government still need to consider the proposed changes to the Directive in more detail before coming to a final policy position. We would be grateful for an update on this and your final position in due course.

Whilst we acknowledge that the UK already has measures in place based on lessons learned from the 2011 Fukushima accident, would you consider all Member States with nuclear installations to have similar provisions? If not, would a Proposal such as this not assist – particularly within those Member States which do not necessarily have the same robust standards as in the UK? The Committee is of the view that perhaps a more appropriate course of action would be to align national, EU and international safety regulations, and we would be grateful to know of your view on this.

Regarding your concerns about an apparent lack of evidence, a “politically driven” desire by the Commission to extend its competences, and ensuring proportionate measures are included in the Proposal, have any other Member States expressed similar views? We would be grateful to know whether there is a general consensus yet amongst Member States regarding this Proposal, and how the Commission has responded.

In terms of working with the Commission and other Member States more generally, we would be grateful if you could please keep the Committee updated with negotiations and the progress of this Proposal.

We shall retain the Proposal under scrutiny, and look forward to your initial response within 10 working days.

*28 November 2013*

## PLANT REPRODUCTIVE MATERIAL LAW (9527/13)

### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

As with other dossiers that form part of the animal and plant health package, you highlight concerns in relation to proposed delegated and implementing acts. We would again be grateful to know whether the Commission has produced any further details on their use (and if not, when might they be likely to), whether any other Member States support the UK in their concerns, and whether these views have been communicated to the Commission.

With regards to this dossier specifically, we express some concern in relation to your observation that there is a potential gap in the traceability of forestry reproductive material, as there is no requirement to notify intra-community movements. As you may recall, we have taken a degree of interest in forestry and in the dangers of pests and diseases affecting forests, and so this would appear to be a worrying gap in the legislation. We would be grateful for further information in regard to this particular concern when more information becomes available.

Your EM also questions whether it is possible to harmonise requirements for sustainable VCU (value for cultivation and use). As you note, the extent to which a seed provides sustainable added VCU will be very dependent on where it is to be used (landscape and climate), how it is to be used, and presumably, on what has previously been used. This is another area in which we would express concern, and would appreciate more information when it becomes available.

We will retain the proposal under scrutiny and look forward to a response within 10 working days.

*20 June 2013*

### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter of 20 June.

We recently learned that the Commission intends to work with Member States to prepare some of the requirements to be contained in delegated and implementing acts in parallel to negotiations on the proposed Regulation. This is a welcome clarification from the Commission as we will be able to influence these requirements, and have a better understanding of impacts before finalising the proposed Regulation.

Even though progress is expected on some of these delegated and implementing acts during negotiations, any remaining requirements to be specified in such acts will be settled during the three year transition period following adoption of the Regulation. A full understanding of the impacts of the Regulation will therefore only be possible once all the requirements have been settled.

During negotiations, our overall approach on the proposed use of delegated and implementing acts is in line with the UK's approach with other EU proposals based on co-decision and post-Lisbon, including other elements of agri-food chain package. We will be negotiating to determine the appropriate split of powers on a case by case basis.

We are aware from informal discussions that the majority of other Member States share the UK's concerns about the use of delegated and implementing acts. The UK has been proactive in raising these concerns with the Commission, who acknowledge that they will have to work closely with the Member States and the European Parliament on this.

In relation to your concern about the intra-community traceability of forestry reproductive material, we want to make sure during negotiations that the provisions and procedures from the current legislation are also covered in the new Regulation to ensure that material can be traced back to source. It is essential that this sector uses material which is fit for purpose given the long time-frame invested in the growing cycle (normally a minimum of 40 to 50 years for conifers and 100 to 200 years for broadleaved trees). The current system of traceability allows foresters to determine whether the material being marketed is fit for purpose and the notification of intra-community movements allows officials to monitor the quality of material which is imported for use in the UK. Alongside this ability to trace any species marketed for forestry use, we can also access additional information on source from the plant passporting system under the EU plant health regulation (current and proposed).

The proposal to develop and harmonise requirements for sustainable value for cultivation and use (VCU) is likely to be challenging given that it will depend, as you say, on where and how the variety is to be used. As drafted, further details on, and requirements for this new concept are proposed to be developed through delegated acts. The timing of this additional work is uncertain, although is unlikely to start until after the main Regulation has been finalised.

*30 June 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 30 June 2013 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 July 2013.

Thank you for your helpful and informative response. We are also grateful to your officials who briefed our Committee on Wednesday 26 June on this Proposal, in conjunction with three other related dossiers under the Commission's Animal and Plant Health package.

Our overarching concern across the entire package is to ensure that the strategic aim of simplification and delivering a safe environment does not become lost during the negotiation of detail. This is particularly important against the backdrop of negotiations on the trade and investment partnership with the USA.

In your letter you comment on the use of delegated and implementing acts, noting that the majority of other Member States share similar concerns with the UK. A clear danger is that simplification of the framework legislation will simply lead to the displacement of detail in a myriad of new, tertiary legislation. An abundance of such legislation must obviously be avoided. We look forward to you keeping us updated on that aspect of the Regulation.

The Committee welcomes your comments regarding the intra-community traceability of forestry reproductive material and sustainable VCU (value for cultivation and use).

We look forward to an update on the negotiations in the autumn. In the meantime, we will retain the Proposal under scrutiny and look forward to a response in due course.

*11 July 2013*

**Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

I am pleased to enclose a copy of my written statement to Parliament outlining the discussion at the Energy Council in Luxembourg on 7 June.

*12 June 2013*

**POWERS TO BE CONFERRED ON THE COMMISSION (8842/12)**

**Letter from George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman**

I am writing to inform you that the above proposal was adopted by the Council of Ministers and the European Parliament on 9 October 2013. A copy of the final text is attached [not printed] though this has yet to be published in the Official Journal. This proposal formed part of the Commission's ongoing Lisbon alignment exercise and reviewed the powers to be conferred on the Commission to amend five related directives on coffee, chocolate, certain specified sugars, jams and preserved milk

You may recall that you provided scrutiny clearance on a revised proposal back in November 2012. The text which was adopted last month remains unchanged from the position you cleared. The Regulation as adopted sees a substantial reduction to the scope of the original proposal to the powers conferred on the Commission to amend the annexes of these directives using delegated powers. For example product definitions and product names were considered to be essential elements of these Directives, and will continue to be subject to the full Ordinary Legislative Procedure. In addition any delegated powers will not be for an indeterminate period but for a fixed period of five years, with extension as necessary. The table below highlights what was agreed in terms of delegated powers.

Directive	Impact
1999/4 – Coffee	Removes proposed Commission powers to amend Annex
2000/36 – Cocoa and Chocolate	Removes proposed Commission powers to amend definitions; allows technical updates only of composition percentages and type of sugar.
2001/111 – Sugars	Removes proposed Commission powers to amend definitions; allows technical updates only of laboratory methods to measure quality.
2001/113 – Jams	Removes proposed Commission powers to amend definitions; allows technical updates only of additional ingredients and treatment or raw materials.
2001/114 – Milk	Removes proposed Commission powers to amend Annexes

No changes are required to any UK legislation as this exercise only related to what powers should be delegated to the Commission following the Lisbon Treaty.

I trust that the Committee agrees the new Regulation represents a satisfactory outcome for the UK as it ensures adaptation of these important compositional Directives and can, for the most part, only be carried out through the Ordinary Legislative Procedure. This will ensure that Member States and the European Parliament are fully consulted before any changes can be made.

*13 November 2013*

### **Letter from the Chairman to George Eustice MP**

Your letter of 13 November on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

Thank you for your informative reply, informing the Committee of the formal adoption of this Proposal.

Please consider this strand of correspondence as now closed.

*28 November 2013*

### **PREVENTION AND MANAGEMENT OF THE INTRODUCTION AND SPREAD OF INVASIVE ALIEN SPECIES (13457/13)**

#### **Letter from the Chairman to George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

We agree that action is desirable. It is clearly important to have a framework that adds value to the efforts of Member States.

You state that the key objective of the legislation is reduction of administrative burdens and costs. We would disagree. In fact, the key objective is to tackle a growing threat to our biodiversity from a range of alien species. This is an urgent matter, and we would urge you not to lose sight of that urgency and ultimate objective of the legislation by becoming too focused on administrative concerns. The cost of failing to take action sufficiently quickly could, ultimately, be higher.

We welcome your intention to clarify a range of issues, including the rationale behind the limit of 50 species of Union interest and the process for taking decisions on the species that will be listed as those of Union interest. You do not, however, make reference to the provision that Member States are able to identify IAS of Member State interest. While respect for the shared competence of Member States in this area is important and is, we assume, the rationale for this provision, it nevertheless seems to potentially confuse the issue further, raising the question of the point at which species cease to be of purely Member State interest and become of Union interest.

It is also not entirely clear which of the provisions of the draft Regulation apply only to those IAS of Union interest and which apply more widely, such as the provision of action plans on IAS pathways. Your view on the distinction between these categories of IAS would be helpful, including whether you see potential for improvements to the drafting of the text in this regard.

There is clearly some way to go in negotiating this Regulation, and so we will retain the Proposal under scrutiny. We would welcome a response to the above point within 10 working days, in addition to any information that you may have on the emerging position of other Member States and any clarification received from the Commission on the issues that you have raised.

*10 October 2013*

#### **Letter from Lord de Mauley, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 10 October to George Eustice MP, requesting further information on the above proposal. I am replying as the Minister with responsibility for this policy area.

You raise a number of pertinent questions about the scope of various aspects of the proposed EU Regulations, including the rationale behind the limit of 50 species and which provisions apply solely to those as species, of "Union concern" and which more widely, for example the provision of pathway action plans. At present I have the same questions and my officials are exploring these and others concerning the issues highlighted in EM 13457/13. Once we are clear what is intended, I will write to you to confirm this and our view on that.

To date, there has only been one substantive working party meeting with the Commission and other Member States, but initial responses to questions raised by the UK and other Member States indicate:

- Consistent doubts amongst many Member States about the rationale for, and merits of, a species cap of 50;
- A reluctance on the part of the European Commission to treat species that are native to a Member State, but nevertheless alien and invasive to another Member State, with the same degree of caution as species that are entirely alien to all Member States, on the basis of concerns about single market implications;
- A similar reluctance to adopt a regional or flexible approach to the measures that individual Member States should adopt in light of their individual national situations, because of concerns that this would be potentially very complicated;
- Agreement that the intention of the proposed Regulations is not to conflict with existing national measures, and a recognition that this could be made clearer in the text; and
- That the intention is not to impose the requirements of the Ballast Water Convention on Member States that had yet to sign up to that, but rather to encourage such Member States to consider it in their approach, and that the text needs to be made clearer on this aspect.

Negotiations on these, and other matters yet to be discussed, will continue over the coming months, and the next meetings are due to take place on 11 and 12 November. My officials will participate in those meetings and continue to seek clarification of why various measures have been included, mindful of the points made in EM 13457/13 and that scrutiny clearance by either House has yet to be given. I intend to update both Committees after those meetings.

Finally, I can reassure you that the Government's primary objective is not the reduction of administrative burdens and costs, but rather to address the growing threat that invasive non-native species pose to both our biodiversity and our economic well-being. However, within that we will work to ensure that measures which are deemed necessary are proportionate and cost effective and do not unnecessarily introduce or impose additional administrative burdens or costs. For example, where the proposals call for border checks to be undertaken, we would expect these to build upon existing mechanisms such as those applied under the animal and plant health regimes rather than creating a new set of control mechanisms.

*23 October 2013*

## PROGRAMME FOR THE ENVIRONMENT AND CLIMATE (18627/11)

### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

Further to the above explanatory memorandum and our subsequent correspondence, I am writing to update you on the LIFE dossier which we believe is now close to agreement. The following summary sets out the progress on the key issues which we consider provides an acceptable framework that I hope allows you to give scrutiny clearance.

#### TIMETABLE

Two further trilogues were held last month (13 and 26 June). These discussed evolving versions of a 'compromise package' covering the outstanding issues of geographical balance, national allocations, capacity building projects, co-financing rates, ring-fencing for nature and biodiversity, the share of budgetary resources for action grants, delegated/implementing acts and multiannual work programmes (MAWP).

#### PROGRESS ON THE UK POSITION

With the negotiations now largely concluded, I have assessed that the outcome is broadly a positive one for the UK, with most of our objectives met and some exceeded. The one key area where we have not met our objectives is the financial framework which was dealt with outside LIFE as part of the MFF negotiations.

Overall the UK Government welcomed the Commission's original proposal to continue the LIFE programme into 2014-20 and its support for EU environmental priority areas which will reflect those in the 7th Environment Action Programme such as biodiversity, waste, water, air and climate change. However there were a number of areas where we have actively sought to influence the text of the regulation which are outlined below.

By way of background I attach [not printed] a copy of the compromise text which confirms the position agreed at the trilogue on 26 June.

#### MULTI-ANNUAL WORK PROGRAMME AND INTER-INSTITUTIONAL MATTERS (DELEGATED AND IMPLEMENTING ACTS)

We welcomed the intention to use multi-annual work programmes to guide the priorities of the LIFE programme but needed to ensure that they were developed in consultation with Member States. The draft regulation now requires the two consecutive multiannual work programmes to be set out in implementing acts and referred to the LIFE Committee under the examination procedure.

We continued to resist the introduction of further delegated acts and succeeded in restricting them to amendments to the regulation annex dealing with thematic priorities and the identification of further performance indicators or relatively minor operational decisions, so that we are largely content with the balance between delegated and implementing acts.

#### INTEGRATED PROJECTS (IPs)

We broadly welcomed the proposal to introduce integrated projects into this LIFE programme, recognising the potential to enable a more strategic approach to the coordination of different EU and other funding mechanisms in the pursuit of environmental and climate objectives. We were concerned though that as a new and untried concept there would need to be sufficient safeguards in the regulation to protect the funding of traditional projects. We are satisfied that continuing support for these is now firmly embedded and a maximum share of the overall budget for IPs is set at 30% of project expenditure: arrangements have been made for unspent funds to be recycled to support traditional projects if there are insufficient quality projects that mobilise other EU funds. Whilst we remain concerned about the potential complexity of these projects, we welcome the intention to provide financial assistance for the preparation of projects and the Commission's indication that it will adopt an enabling approach to help build acceptable proposals.

#### TERRITORIAL SCOPE – PARTICULARLY OVERSEAS COUNTRIES AND TERRITORIES (OCTs)

We welcomed the enlargement of the territorial scope of the programme and saw this as an opportunity to clarify the eligibility of UK OCTs which was not included in the Commission's original proposal. We were successful, along with the French and Dutch, in securing specific reference to OCTs in recital 7(a) which acknowledges their eligibility as set out in Council Decision 2001/822/EC (the Overseas Association Decision) as amended. Furthermore, OCTs are now included in the main text with article 6 setting out the circumstances under which OCTs would be eligible for LIFE funding. Whilst this has established an important principle which has helped highlight the legitimacy of our OCTs, we recognise that the conditionality requirements will limit opportunities in practice. However we consider this to be a successful outcome given that the majority of Member States were opposed to their inclusion. In addition by pressing hard for greater recognition of the importance and vulnerability of the environment in OCTs, this has resulted in various exchanges of correspondence at EU Directorate General level on a commitment to provide complementary support through development funding. This has been confirmed through a recent Commission declaration on the use of the new Global Public Goods and Challenge fund of the Development Cooperation Instrument.

#### NATIONAL ALLOCATIONS AND GEOGRAPHIC BALANCE

We supported the continuation of indicative national allocations throughout the new LIFE programme, along with the majority of other Member States. However, Parliament and the Commission were strongly opposed to this and wanted projects to be awarded purely on quality. Our view is that the quality of projects could be assured alongside the use of national allocations by setting a sufficiently high quality level to ensure all projects funded were good projects. To enable a compromise to be reached though, Council negotiated for indicative national allocations to be retained for the sub-programme for the environment for the first four year multiannual work programme (2014-2017). This position together with the continuity of priorities for the 4 year period will enable us and applicants to plan further ahead and spend longer developing quality bids compared

with the current short annual application window that intensifies the administrative burden. It will also allow us to continue work already underway to improve the number and quality of bids, using the indicative national allocation as a tool to help promote the potential of the fund.

Geographic balance through Integrated Projects will be achieved through an indicative allocation of a minimum of three projects per Member State.

#### BUDGET

The initial Commission text proposed an increase in the LIFE budget to cover the introduction of the Climate Action sub-theme and Integrated Projects. Our position was to resist any increases above 'real term' rises based on the current LIFE+ budget. However, the LIFE budget was settled as part of the agreement on the MFF. Whilst final figures have yet to be confirmed, the Commission's interpretation is that the total budget will be in the order of 3.1 billion Euros, which represents a substantial increase over current levels.

#### OTHER AREAS OF COMPROMISE

In addition to the issues identified at the start of negotiations, compromises were also required with regard to the co-financing rates and ring-fencing of funds for nature and biodiversity projects. This has resulted in a slight increase in the base co-financing rate for standard projects from the current 50% to 60% and an increased ring-fence share of the funds for nature and biodiversity projects from 50% to 55%. Although we were content with current rates, this outcome represents a modest increase in levels of support that NGOs and others are likely to find helpful.

#### NEXT STEPS

It is expected that subject to agreement at Coreper on July 17th, the European Parliament will vote on the dossier at its plenary session in October. If the vote is positive the Council will formally approve the agreement. On this basis I hope you will agree that as described above we have achieved an acceptable outcome for the wider UK interests and you can now give this dossier scrutiny clearance.

*16 July 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 16 July 2013 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 24 July 2013.

Thank you for your helpful and informative update on this dossier.

We would agree with you that this is a good outcome, particularly as regards the helpful compromises on the key issues.

We note your comments regarding Integrated Projects and the relatively conservative approach taken by the Government. We would hope, however, that the Government will work positively to encourage uptake in the UK.

We are content to release the Proposal from scrutiny. Please consider this strand of correspondence as closed.

*25 July 2013*

#### PROTECTION OF ANIMALS DURING TRANSPORT (16798/11)

#### **Letter from David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter dated 10 January, in which you asked for information on what action the UK intended to take to re-invigorate the EU Commission's work programme in relation to welfare in transport together with an update on progress in due course.

I am pleased to be able to inform you that following sustained pressure from the UK, supported by a significant number of other Member States, the European Commission eventually tabled a satisfactory



proposal earlier this year. This proposal was subject to a favourable majority vote at the meeting of the Standing Committee of the Food Chain and Animal Health (SCoCAH) on 5 March. It will come into force for the reporting year of 2014, which should provide sufficient time for it to be implemented successfully in the UK. The full title of the Implementing Decision is as follows:

Commission Implementing Decision 2013/188/EU of 18 April 2013 on annual reports on non-discriminatory inspections carried out pursuant to Council Regulation (EC) No 1/2005 on the protection of animals during transport and related operations and amending Directives 64/432/EEC and 93/119/EC and Regulation (EC) No 1255/97

As regards to work on better enforcement via satellite tracking systems, Member States remain deeply divided on what represents the best way forward. It is unlikely therefore, that work on this particular Commission dossier will be progressed in the foreseeable future. I will of course let you know should this situation change in any way.

*20 May 2013*

#### **Letter from the Chairman to David Heath MP**

Your letter of 20 May 2013 on the above Report was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 5 June 2013.

We are grateful for your response informing the Committee of what action the UK intended to take to reinvigorate the Commission's work programme in relation to welfare in transport, as well as an update on progress made.

Although we are pleased to note that a satisfactory proposal was tabled and received a favourable majority vote in March, it is disappointing that more progress has not been made as regards satellite tracking systems. We would be grateful to know why some Member States object to satellite tracking systems. Furthermore, we are concerned that your letter did not answer our query regarding what the Government are doing to try and reinvigorate the process?

We would also appreciate any information you have as regards the number of infringements of Regulation 1/2005 identified across the EU. Each Member States must report such information to the Commission, but we are unsure as to whether the Commission has collated them.

We look forward to your response within 10 working days.

*5 June 2013*

#### **Letter from the Chairman to David Heath MP**

Thank you for your letter dated 5 June expressing disappointment that more progress has not been made with regard to setting the standards for satellite tracking systems.

This is not the first time the Commission has attempted to complete work in this area. It was acknowledged, in 2004 when the Council Regulation was first negotiated, that more work would be needed in the future to agree the technical standards that should apply to any satellite tracking systems. Although the Commission subsequently tabled a proposal, which would have seen a highly specified, centralised 'real time' satellite tracking and monitoring system, this idea was rejected by a significant number of Member States (including the UK) because of its complexity; its lack of compatibility with existing satellite tracking systems used by the haulage industry (mainly for road and cargo management purposes); and because of the significant financial burdens it would have placed on the livestock and haulage industries.

In tabling its second set of proposals in this area in early 2012, the Commission opted to scale down its earlier ambitious proposal by setting the most basic of technical parameters by which any commercially available on-board satellite tracking system should operate in the context of the carriage of live animals, without there being any form of centralised management of data or monitoring of individual journeys in real time. We were broadly supportive of this latest proposal, simply noting some areas where there was a need for further clarification. However, many other Member States were not able to agree to this latest approach. Some continued to argue for a centralised EU database operating in real time. Others, for an even simpler approach to that being proposed by the Commission.

With such a wide divergence of Member State views, the Commission decided to abandon further work in this area. Having tried twice (with polar opposite approaches to the subject) and failed, it is now very unlikely that the Commission will try to table a fresh proposal in the foreseeable future.

There are therefore no grounds on which the Government can try to reinvigorate the process at the present time, although we will continue to play a full role, should the Commission change its position.

With regards to your request for information on the number of infringement annual reports submitted by Member States under Article 27 of Council Regulation (EC) 1/2005, this can be found at [http://ec.europa.eu/food/animal/welfare/transport/inspections\\_reports\\_reg\\_1\\_2005\\_en.htm](http://ec.europa.eu/food/animal/welfare/transport/inspections_reports_reg_1_2005_en.htm)

The EU Commission does not currently collate these reports because Member States submit different inspection data (i.e. from a range of different sources) in a variety of different formats, making comparison nearly impossible. It was largely because of this difficulty in comparing inspection performance across different Member States that the Commission proposal on a new annual reporting template, which was the subject of my last letter, was put forward for agreement.

*17 June 2013*

#### **Letter from the Chairman to David Heath MP**

Your letter of 17 June 2013 on the above Report was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 26 June 2013.

We are grateful for your response explaining to the Committee the reasons why a number of Member States have objected to satellite tracking systems. We note that, whilst the UK rejected the Commission's initial proposal for technical and financial reasons, it was more supportive of the second set tabled in 2012, although many other Member States are still unable to agree on the latest approach.

Given the Commission's previous attempts and failures, we understand that it is unlikely to table a fresh proposal in the foreseeable future, and that the Government therefore view there to be no grounds on which they could realistically try to reinvigorate the process. We are pleased to note, however, that the Government will continue to play a full role should the Commission change its position.

As regards infringements of Regulation 1/2005, we hope that the new reporting template will facilitate comparison across the EU and we trust that you will maintain pressure on the Commission to monitor the practical application of the new template.

We are now content to mark this strand of correspondence as closed.

*27 June 2013*

### **PROTECTION OF JUVENILES OF MARINE ORGANISMS (11915/12)**

#### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 13 February. As promised I am writing to confirm the adoption of this proposal.

Upon adoption in plenary session on 6 February, the European Parliament Fisheries Committee (PECH) rapporteur confirmed that the purpose of previously deferring the vote was to focus attention on the impasse between Parliament and the Council of Ministers on the issue of long-term management plans. While voting the dossier through as a gesture of goodwill, however, there were indications that the PECH committee would be prepared to block the adoption of further reports if they considered progress on resolving the impasse to be unsatisfactory. While I am pleased that these important technical measures are now reinstated, the possibility of the PECH committee blocking further dossiers in this way serves to underline the importance of agreeing a political solution to the impasse.

Following the EP plenary vote, the technical measures dossier was voted on at the Agriculture and Fisheries Council on 25 February. The legislation was then signed during the European Parliament plenary on 13 March and published in the Official Journal on 20 March, and came into effect three days later. It retrospectively applies from 1 January this year. I attach [not printed] a summary table of the key elements of this legislation.

It will also be helpful if I highlight the Commission's next steps in relation to the overall package of technical measures, as the reformed Common Fisheries Policy (CFP) takes shape and we consider

practical steps towards implementation. Firstly we understand that the Commission plans to bring forward a proposal to make amendments across the current range of EU technical conservation legislation. This is essentially a 'quick fix' to address the elements which would compromise the operation of the landings obligations as they apply under the reformed CFP timetable. We therefore expect the proposal to make adjustments across the range of technical conservation legislation, as well as making some necessary adjustments to the Control Regulation.

Secondly, the Commission have indicated that they will begin the long-awaited fundamental overhaul of the entire technical conservation measures legislative framework in the light of the reformed CFP, with a co-decision proposal to be brought forward during 2014. The Commission has requested scientific advice to inform their preparation of this proposal, with retrospective and prospective thoughts on the operation of the technical measures regime being gathered from fishing administrations across Member States. We understand that they intend to issue an impact assessment and public pre-consultation towards the end of this year or early next year, ahead of the proposal later next year.

*27 June 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 27 June 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 10 July 2013.

We are grateful to you for updating us on the progress of this Proposal, particularly regarding its adoption and the useful summary table of the key elements of the legislation.

The Committee is also appreciative of the information you provide as regards the Commission's next steps in relation to the overall package of technical measures.

Please consider this strand of correspondence as closed.

*11 July 2013*

#### **PROTECTION OF SOIL (13388/06, 13401/06)**

##### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 25 April regarding the proposed EU Soil Framework Directive in which you requested details on the current state of play in relation to the UK Government's approach to soil protection. The draft EU Soil Framework Directive proposes legislation to protect land from contamination and separately to protect soil from specific degradation processes such as erosion compaction and loss of soil organic matters. Both these aspects are covered below.

##### **CONTAMINATED LAND**

In the UK, land contamination is dealt with primarily through the planning system when land is developed or redeveloped as outlined in the National Planning Policy Framework. However, Defra has policy responsibility for specific legislation to address the risks from land contamination to human health and the environment which comprises Part 2A of the Environmental Protection Act 1990 and its associated Statutory Guidance. The Part 2A regime is used to deal with the remaining 10% of land (approximately) where the risks from contamination are not being addressed through development as there is no change of use. Under Part 2A, Local Authorities are the primary regulator and it is their responsibility to seek out and investigate contaminated land in their areas and where it is found, to ensure that it is cleaned up to a reasonable standard. In the case of Special Sites the Environment Agency is the primary regulator. Those sites that qualify as Special Sites are listed in Schedule 2 of the Contaminated Land (England) Regulations 2006 but as an example include land where contamination is impacting on groundwater.

##### **SOIL DEGRADATION**

The UK has a number of domestic policies in place that protect soils. These include the Soil Protection Review and supporting guidance, which forms part of cross compliance requirements under the Common Agricultural Policy, and Environmental Stewardship.

The Soil Protection Review (SPR) helps farmers to tackle soil degradation threats on their land by managing risks that may lead to compaction, erosion and loss of soil organic matter through the implementation of land use measures. It also includes options on post-harvest management of land, a requirement to record activity on waterlogged soils to prevent compaction and a reminder of restrictions around crop residue burning. The SPR is supported by detailed guidance that gives farmers advice on managing different types of soil and the requirements under cross compliance.

Environmental Stewardship comprises voluntary schemes that farmers and land owners can join. These schemes allow farmers to choose land management options that enable them to protect the rural landscape whilst managing their land effectively. One specific aim of Environmental Stewardship is to protect soil through the reduction of erosion and run off. There are four elements the Stewardship. These include an entry level scheme available to all, a scheme for organic farmers, a scheme targeted at hill farmers in Severely Disadvantaged Areas and a higher level scheme, which is aimed at areas where more complex management is required and is tailored to local circumstances.

Finally, Defra and the Environment Agency have produced guidance to promote good practice in soil management, which includes 'Protecting our Water, Soil and Air: A Code of Good Agricultural Practice for Farmers, Growers and Land Managers' available to view on [www.gov.uk](http://www.gov.uk) and 'Think Soils' which can be accessed via the EA's website.

More generally, in June 2011 the Natural Environment White Paper outlined our vision for England's soils that by 2030 all of England's soils will be managed sustainably and degradation threats tackled successfully, in order to improve the quality of soil and to safeguard its ability to provide essential ecosystem services such as flood mitigation, carbon storage and nutrient cycling. To support our understanding of how soils can be managed sustainably and to understand how soil degradation can affect the soils ability to support these functions, the Government is undertaking a significant research programme. We are also working with the Research Council to ensure fundamental research takes place that shapes and influences policy.

*10 May 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 10 May 2013 on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us regarding the progress of these dossiers. We would appreciate an update on any further progress, including developments in relation to the blocking minority, in due course.

In the meantime, we will continue to hold these items under scrutiny.

*22 May 2013*

#### **Letter from Richard Benyon MP to the Chairman**

Thank you for your letter dated 22 May 2013 following my last update to you of 10 May on the proposed EU Soil Framework Directive.

The dossier is not on the agenda of the current Lithuanian Presidency and we do not expect it to be on the agenda for the forthcoming Greek Presidency (January – June 2014), partly because of the European Parliament elections, which are due to be held in the spring of 2014.

The blocking minority on the dossier remained united during the recent negotiations on the 7th Environmental Action Programme (EAP). The majority of Member States in the blocking minority supported a minute statement expressing concern about the soil elements within the 7th EAP and making clear that their opposition to the proposals for an EU Soil Framework Directive remained. However, the Commission remains committed to the need for EU legislation on soil protection and the current Commissioner, Potocnik, may push for progress on this area during his last year in office (work programme to be published October 2013) ahead of the Commissioner elections at the end of 2014.

In the meantime, the focus of attention is on the German federal elections due to be held in September 2013, although it may be some time before the views of any new German coalition government on this dossier are known.

We will continue to keep you informed.

*12 August 2013*

### **Letter from the Chairman to Richard Benyon MP**

Your letter of 12 August 2013 on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

We are grateful to you for updating us regarding the progress of these dossiers. We understand that these dossiers are not on the agenda of the current Lithuanian Presidency and are not expected to be on the agenda of the forthcoming Greek Presidency.

We note that the blocking minority continue to oppose an EU Soil Framework Directive, and that Commissioner Potocnik may push for progress on this area during his last year in office.

You mentioned in your letter of 10 May 2013 that you are undertaking a significant research programme to support understanding of how soils can be managed sustainably and of how degradation can affect the ability of soils to support essential ecosystem services. Could you, please, provide us with more information on this programme?

We will continue to hold these items under scrutiny and look forward to your response by 1 October 2013.

*12 September 2013*

### **Letter from Richard Benyon MP to the Chairman**

Thank you for your letter of 12 September following my letter of 12 August asking for further details on Defra's programme of research that will support our commitment set out in the Natural Environment White Paper. This commitment is to explore how we can support efforts to tackle climate change through the sustainable management of soils, and on the effect of soil degradation on essential ecosystem services.

The programme to date consists of five research projects that address a range of areas where our evidence base can be improved. These include characterisation of soil degradation, greenhouse gas emission monitoring from lowland peat, loss of soil depth and the effect of organic matter on soil structure. The total value of these projects is currently £3.3m sterling, 3,864,300 Euro. In addition to this, we are working with the Natural Environment Research Council (NERC) and the Biotechnology and Biological Sciences Research Council (BBSRC) to shape their new research programmes and identify further research requirements.

Further detail on the five projects which have been, or are in the process of being commissioned can be found in the attached Annex [not printed].

*24 September 2013*

### **Letter from the Chairman to George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs**

Your predecessor's letter of 24 September 2013 on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

We are grateful to you for the helpful information regarding Defra's programme of research, including the further details of the five projects which have been, or are in the process of being commissioned.

We will continue to retain these documents under scrutiny and would welcome updates of any progress in due course.

*10 October 2013*

### **Letter from Lord de Mauley, Parliamentary Under-Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 10 October to George Eustice requesting an update on developments with the proposed EU Soil Framework Directive. I am replying as the Minister responsible for this area of policy.

You may be aware that the Commission published its Communication on Regulatory Fitness and Performance (REFIT) on 2 October. The Soil Framework Directive was included in the accompanying

Annex as “Areas where the Commission will propose or is considering to repeal laws, withdraw pending proposals or where initiatives will not be taken forward”<sup>3</sup>. The relevant statement is below:

*“Withdrawal of a proposal for a Soil Framework Directive: The Commission notes that the proposal has been pending for 8 years during which time no effective action has resulted. It will therefore examine carefully whether the objective of the proposal, to which the Commission remains committed, is best served by maintaining the proposal or by withdrawing it, thus opening the way for an alternative initiative in the next mandate. This will be judged on the feasibility of reaching adoption before the European Parliament elections.”*

We are pleased to confirm that all Member States in the blocking minority on the proposed Soil Framework Directive remain aligned and agree that the Commission should be lobbied to withdraw the current proposal. In addition, following the recent meeting in October, the EU Contaminated Land Common Forum tabled a position statement welcoming the Commission’s willingness to review the need for a Soil Framework Directive<sup>4</sup>.

We understand that the decision on whether or not to withdraw the proposal may depend on the outcome of the German federal government coalition negotiations following elections there in September. If the position of the new German government on the proposal for a Soil Framework Directive changes, there will not be enough votes to maintain the blocking minority. This may trigger the Directive being tabled for negotiation by one of the forthcoming Presidencies and agreement being reached on the current proposals.

Member States holding the forthcoming EU Presidencies in 2014 are Greece in January and Italy in July. Both countries are in favour of the proposal for an EU Soil Framework Directive and may seek to progress negotiations during their terms if Germany signals a change in position and the blocking minority cannot be maintained. However, we will continue to lobby Greece and Italy to keep the proposal off their agendas in the light of other priorities and the forthcoming European Parliament elections in May. The current Environment Commissioner, Janez Potocnik, however remains committed to pushing through his mandate before it ends in November 2014.

If the Commission does decide to withdraw the current proposal for an EU Soil Framework Directive, our priority will be to ensure early engagement with the Commission on any alternative initiative.

You may also be aware that the Report of the Prime Minister’s Business Taskforce on EU Regulation, published on 15 October, recommended withdrawal of the proposed Soil Framework Directive on the basis of the potential additional costs for businesses and threats to growth and employment.

*11 November 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 11 November on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

Thank you for your helpful and informative reply as regards the current status of these dossiers.

We look forward to an update in due course, and will continue to retain these documents under scrutiny in the meantime.

*28 November 2013*

#### **PROTECTIVE MEASURES AGAINST PESTS OF PLANTS (9574/13)**

##### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

As with other dossiers that form part of the animal and plant health package, you highlight concerns in relation to proposed delegated and implementing acts. We would again be grateful to know whether

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<sup>3</sup> [http://ec.europa.eu/smart-regulation/docs/20131002-refit-annex\\_en.pdf](http://ec.europa.eu/smart-regulation/docs/20131002-refit-annex_en.pdf)

<sup>4</sup> [http://www.commonforum.eu/eusoilstrat\\_CFStatements.asp](http://www.commonforum.eu/eusoilstrat_CFStatements.asp)

the Commission has produced any further details on their use (and if not, when might they be likely to), whether any other Member States support the UK in their concerns, and whether these views have been communicated to the Commission.

This is clearly a very important piece of legislation, and is central to our concern about the control of pests and diseases that can affect forestry. We agree with you that adherence to well defined criteria to identify priority pests is more appropriate than restricting such pests to 10% of current listed pests.

We would stress our view that controls on imports are essential. You express concern that the proposed measures may be too precautionary in nature and so we would be grateful to you if you could please outline your concerns in greater detail, explaining what a more proportionate and efficient, yet robust, system would look like.

We will retain the proposal under scrutiny and look forward to a response within 10 working days.

20 June 2013

### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter dated 20 June.

We recently learned that the Commission intends to work with Member States to prepare some of the requirements to be contained in delegated and implementing acts in parallel to negotiations on the proposed Regulation. This is a welcome clarification from the Commission as we will be able to influence these requirements before finalising the proposed Regulation. Some of these requirements will be key to understanding its scope and impacts.

Even though progress is expected on some of these tertiary acts during negotiations, those will be settled during the three year transition period following adoption of the Regulation. In relation to the proposed use of delegated and implementing acts, in line with the UK's approach with other EU proposals based on co-decision and post-Lisbon, we will be negotiating to determine the appropriate split of powers on a case by case basis.

We are aware from informal discussions that the majority of other Member States share the UK's concerns about the use of tertiary acts. The UK has been proactive in raising these concerns with the Commission, who acknowledge that they will have to work closely with the Member States and the European Parliament on this.

I am not of the view that the proposal controls on imports are too precautionary in nature. Rather, I consider that these precautionary measures address an important gap in the current EU regime (which I discuss further below). Nonetheless, within the constraint that measures must be robust, we will work to ensure they are proportionate and efficient, to create the minimum delay to imports necessary while ensuring future biosecurity for our trees and other plants.

The need for prioritisation to identify key threats and concentrate action to mitigate them is something we are working very hard on nationally in taking forward the recommendations made by the Tree Health and Plant Biosecurity Task Force, whose report was published in May. We have already signalled to the Commission the importance we attach in ensuring that EU action is also properly focussed according to risk.

The need to ensure proper protection to threats from imports is, as you would expect, a top priority for us. We, along with most other Member States, have made it very clear to the Commission that we expect the current gap in the EU regime, which allows new trades to commence without prior assessment of the potential risks, to be closed. Article 47 of the Commission's proposal goes some way towards meeting this concern in that it introduces a power to adopt temporary measures in relation to new trades for high risk material (plants for planting) from third countries to allow assessment of risk. Measures could include sampling and testing, a period of quarantine to allow for any problems to be identified, or prohibition. However, in seeking to allay concerns in exporting countries, the proposal imposes a time limit for the measures to apply: a maximum of two years plus a possibility of an extension of two further years. It is not clear how this would work in practice and in particular what would be the position once this period has expired. As drafted in the proposal we are concerned that after the four year period is completed trade may simply be allowed to proceed with no assessment, leaving the EU open to further risks. We asked the Commission to clarify this position a number of times with no result other than willingness to explore approaches.

To this aim, the UK hosted an international workshop earlier this year to identify possible approaches and will be working with other Member States to take this forward. Clarification or removal of the time limitation would be one obvious step forward.

There will also need to be clarification of the type of imported material within scope in terms that can be clearly communicated to importers and exporting countries and a mechanism for triggering assessment. The assessment process deployed will also need to be tailored to ensure that while it picks up trades in plant materials, which represent a real threat it does not unduly delay those which do not.

The procedure will need to include an initial assessment that will rapidly identify those trades needing a full assessment in line with the formal Pest Risk Assessment process developed under the International Plant Protection Convention and early decisions on those trades which can safely be permitted.

*26 June 2013*

#### **Letter from the Chairman to Lord de Mauley**

Your letter of 26 June 2013 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 July 2013.

Thank you for your helpful and informative response. We are also grateful to your officials who briefed our Committee on Wednesday 26 June on this Proposal, in conjunction with three other related dossiers under the Commission's Animal and Plant Health package.

Our overarching concern across the entire package is to ensure that the strategic aim of simplification and delivering a safe environment does not become lost during the negotiation of detail. This is particularly important against the backdrop of negotiations on the trade and investment partnership with the USA.

In your letter you comment on the use of delegated and implementing acts, noting that the majority of other Member States share similar concerns with the UK. A clear danger is that simplification of the framework legislation will simply lead to the displacement of detail in a myriad of new, tertiary legislation. An abundance of such legislation must obviously be avoided. We look forward to you keeping us updated on that aspect of the Regulation.

We note your helpful and wide-ranging comments as regards import controls, including your acknowledgement that the Government will work to ensure they are proportionate and efficient. While we accept your comments at this stage, and we are confident that all parties to the negotiations would share your objective, it will nevertheless be important for you to establish more precisely what you would accept in this regard. This remains unclear from your letter.

We look forward to an update on the negotiations in the autumn, including on the issue pertaining to 10% priority pests list. In the meantime, we will retain the Proposal under scrutiny and look forward to a response in due course.

*11 July 2013*

#### **QUALITY OF PETROL AND DIESEL FUELS AND RENEWABLE SOURCES OF ENERGY (15189/12)**

##### **Letter from the Chairman to Norman Baker MP, Parliamentary Under-Secretary of State, Department for Transport**

Your letter of 7 May 2013 on the above Directive was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee on 22 May 2013.

We note that there has been some progress in discussions, although positions on key issues are relatively polarised and that conclusion of negotiations are unlikely until early 2014. We take particular note of the divergent approach to counting under the two Directives, which has significance for the development of renewable energy for power under the Renewable Energy Directive. Resolution of that matter is urgent in the light of the need for investor clarity in that sector and in the light of the discussions that are now taking place on the energy and climate change framework post-2020, including a potential new renewable target through to 2030.



We will hold the proposal under scrutiny and look forward to information from you in due course as positions develop further.

22 May 2013

### **Letter from the Chairman to Norman Baker MP**

Your letter dated 8 February 2013 on the above Directive was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 3 July 2013.

Thank you for your informative update on the current state of play as regards this particular Directive. Please accept our apologies for the delay in our response to your letter.

We note that after receiving a 'no opinion' result on 23 February 2012, the Commission must now forward the proposal to the Environment Council for consideration. We also understand, having spoken to your officials, that the impact assessment is now not likely to be completed until August, and that a revised proposal is still expected from the Commission.

On the basis that a revised proposal is expected, we are content to release this item from scrutiny. We would be grateful if you could keep us updated with any further developments. We look forward to your response in due course.

4 July 2013

### **Letter from Baroness Kramer, Minister of State, Department for Transport to the Chairman**

Thank you for your letter of 22 May 2013. I am writing to update you on the latest developments in the negotiations to amend the Renewable Energy Directive (RED) and Fuel Quality Directive (FQD) to address the indirect impacts of biofuels, and to update you on the UK's negotiating position ahead of a possible political agreement at the Energy Council on 12 December.

Norman Baker's previous letter in May outlined our negotiating position, which was based on a handful of key objectives, including:

- effective mitigation of indirect land use change (ILUC) risks;
- minimising costs and regulatory burden associated with the proposal;
- and that the proposal should not lead to food price increases or undermine wider environmental goals.

After a series of working groups, we appear close to a potential political agreement.. The proposal offers substantial cost savings relative to the current RED and FQD. While the measures to mitigate ILUC and food price risk do not go as far as we would have like, the majority of Member States are opposed to doing anything further and so the package on the table represents the best possible outcome on these measures.

#### **NEGOTIATING CONTEXT**

##### **EUROPEAN COMMISSION**

The Commission originally brought forward its proposal in October 2012. It contained two main elements:

- Mitigating the risk of ILUC by introducing a 5% cap on the contribution of biofuels from food crops to RED targets and introducing the reporting of indirect emissions alongside direct ones through the use of 'ILUC factors'.
- Increasing the contribution made by advanced biofuels (from the most sustainable feedstocks) by counting them multiple times towards the transport sub-target.

While we supported some elements of the proposal, such as multiple counting for advanced biofuels and the introduction of ILUC factors, we were concerned about the potential cost of the Commission's proposal. Our analysis shows that the Commission's proposal would increase RED compliance costs for the UK from £1.34bn to £1.72bn (per year in 2020).

In particular, having multiple counting for the transport sub-target and not the wider RED target would create distortions that would increase the cost of compliance. Multiple counting is discussed further below.

#### EUROPEAN PARLIAMENT (EP)

Following several months of discussions and negotiations in seven different committees, the European Parliament's September plenary agreed:

- support for a 6% cap in the RED on food and energy crops;
- a 2.5% advanced biofuel sub target (with multiple counting only for the least developed feedstocks, such as algae and bacteria);
- increased multiple counting of renewable electricity in transport ILUC factors being used for emissions accounting in the FQD from 2020, and the reporting of ILUC factors in the RED from 2017.

The EP did not agree a mandate to negotiate a first reading deal with the Council. This means a second reading will be required, increasing the possibility that there will be no final agreement between the EP and the Council in this European Parliamentary term.

#### THE COUNCIL OF MINISTERS

After a series of working groups, Member States appear to be drawing towards a potential political agreement. The Presidency has recently proposed a compromise including:

- a 7% cap in the Renewable Energy Directive (RED) on food crop derived biofuels;
- an optional advanced biofuel sub-target (with all listed feedstocks double counted but used cooking oil and tallow not counting towards the advanced sub-target); and
- the extension of multiple counting of advanced biofuels to the overall RED target.

When the proposal was last discussed, five Member States spoke out against the extension of multiple counting but seven supported the Presidency's proposal. Eight Member States pushed for a higher cap and to remove ILUC reporting. However, the Lithuanian Presidency indicated that it does not anticipate making any more significant changes ahead of the political agreement, implying that the 7% cap and the extension of multiple counting will remain.

The dossier is now on the agenda of the 12 December Energy Council, where the Presidency hopes to reach a political agreement. It is also expected to be discussed at the 13 December Environment Council.

#### UK POSITION

We were always aware that our objectives, as outlined in Norman Baker's letter to you in May, would be extremely challenging to achieve and might require revision in the future. This has proved to be the case, and the Government has therefore agreed a revised position that remains consistent with our key principles outlined above.

While I am firmly of the opinion that the including ILUC factors in emissions accounting in both the RED and the FQD is the most effective measure to address ILUC, a cap on crop-based biofuels has significantly more support. A cap would still meet our objectives by addressing the risk of ILUC and providing a lower cost of compliance than the current RED and FQD. In addition a cap is an effective tool for minimising food price impacts.

In order to be in a position to compromise with the other Member States and secure some ILUC mitigation our primary ILUC mitigation measure has therefore shifted from ILUC factors to a cap on crop-based biofuels. This, along with the extension of multiple counting to the wider RED and FQD targets, forms our joint top priority in negotiations.

We are continuing to press for a 5% cap. However, it has become clear in working group discussions that there is a blocking minority (or possible qualified majority) against going below a 7% cap on biofuels from food crops. There is also a significant number of member states pushing for a higher cap

of 8% (or no cap at all). This means that the likely alternative to a 7% cap is no agreement. A 7% cap represents a substantial improvement on the baseline in terms of cost and GHG savings, especially if the effect of extending multiple counting is taken into account. Below is an assessment of the Presidency's proposed compromise and a comparison with the baseline of the current RED and FQD.

#### OUR ASSESSMENT OF THE PRESIDENCY'S PROPOSED COMPROMISE

We have compared the Presidency proposed compromise to the current regime. In doing this we worked on the assumption that the existing transport RED and FQD targets will be met in 2020 in the most cost-effective way. Our analysis suggests that the Presidency's proposed compromise would deliver increased GHG savings (with ILUC impacts included in calculations) at similar or lower cost than the current regime (depending on how much transport energy will be delivered in 2020).

#### GREENHOUSE GAS IMPACTS

The Presidency's compromise would see an improvement in GHG savings relative to the current situation. GHG savings are estimated to increase from 0.10 tonnes of CO<sub>2</sub> saved per MWh<sup>5</sup> produced to between 0.11-0.12 tonnes of CO<sub>2</sub> saved per MWh depending on the amount of advanced biofuel delivered. While the cap is significantly higher than the 5% we hoped to achieve, the extension of multiple counting would enable the UK to meet the 10% transport sub-target without necessarily reaching the cap for crop biofuels.

#### COSTS

The suggested compromise would produce a reduction in costs relative to the situation where we meet the current targets. This represents a significant cost saving relative to the Commission's proposal, previous Presidency suggestions and the position of the Parliament. While the Presidency's suggested compromise does not see the extension of multiple counting of all fuels to the overall target, even the current level of extension brings real benefits.

#### BENEFIT OF EXTENSION OF MULTIPLE COUNTING

Under the current regime the contribution of certain advanced feedstocks is counted twice when considering their contribution to the 10% transport sub-target, but only once when considering their contribution to the overall RED target. This means that as little as 5% of transport energy would need to be renewable to meet the transport target (if we used exclusively double-counted feedstocks). However, as the double counting is not extended to the overall RED target it creates a distortion.

For example, 5TWh of biofuels from advanced feedstocks would contribute 10TWh towards the transport sub-target but only 5TWh towards the overall target. This means that other sectors such as heat and power have to deliver greater quantities of renewable energy to close the gap, adding extra costs.

The Presidency has proposed extending multiple counting to the overall RED target. This eliminates the need to deliver more renewable energy from other sectors. While the Presidency proposal does not see the extension of multiple counting of all fuels to the overall target, even the current level of extension brings real benefits. Our analysis shows that it would bring a saving of £170.8m per annum to the UK compared to not extending multiple counting.

I hope that this further information is useful. Although there will be some further discussions ahead of the Energy Council, it looks likely that the Presidency will be in a position to achieve a political agreement that the UK would wish to support, and that in due course negotiations will begin with the European Parliament to try to reach a second reading deal. I will of course continue to keep your Committee informed of developments.

As this letter concerns the UK's negotiating position on a live dossier, I would be grateful if you do not circulate it beyond the European Scrutiny Committee.

*21 November 2013*

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<sup>5</sup> Megawatt-hour (this is equivalent to 1,000 kWh, which is the standard unit of electricity)

## RECOVERY OF THE STOCK OF EUROPEAN EEL (12989/12)

### **Letter from George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman**

You wrote to Richard Benyon MP on 25 April requesting to be kept updated on developments on this dossier. I am writing to update you following the European Parliament's first reading of the proposal on the 11 September.

This proposed Regulation was originally presented as a simple amendment to update the current Eel Regulation (1100/2007) to reflect the requirements of the Lisbon Treaty. Subsequent to a number of debates in Fisheries Committee meetings the European Parliament (EP) voted to adopt the Regulation with 16 amendments to the Commission's proposal. Details of the amendments are included in the Information Note attached at Annex A [not printed].

Amendments that were adopted include those aimed at improving the quality and consistency of reporting to the Commission by Member States (for example amendments 11 and 15) which we will continue to give close scrutiny. Amendments proposed by the rapporteur and other MEPs that would have introduced an immediate cessation of fishing for eel and other potentially problematic measures did not make it to this first reading.

In your letter of 25 April you mentioned that recent stock assessments indicate a need for urgent further action, potentially including more substantial amendments to the Regulation. One amendment (16) adopted by the Parliament would formalise a timescale (end March 2014) for the Commission to present a new legislative proposal to the Parliament and to the Council aimed at achieving the recovery of the European eel stock. However, the decision as to whether and when to present a new legislative proposal ultimately lies with the Commission. A new proposal from the Commission has been anticipated for some time and is expected in 2014. It remains to be seen whether this overtakes further development of the current proposal.

We continue to liaise closely with colleagues in Northern Ireland and other devolved administrations, as well as with UK MEPs and key contacts in the Commission to ensure we remain abreast of and can effectively influence developments in this area. We will, of course, keep you informed as things progress.

*21 October 2013*

### **Letter from the Chairman to George Eustice MP**

Your letter of 21 October 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 October 2013.

Thank you for your informative reply, including the Information Note regarding details of the amendments.

We would be grateful for information regarding the discussions held in Council, and look forward to your response within 10 working days.

In the meantime we will continue to retain the Proposal under scrutiny.

*30 October 2013*

### **Letter from George Eustice MP to the Chairman**

Thank you for your letter of 30 October.

You asked for information regarding discussions of this dossier held in Council. Whilst the proposal was presented in Working Group discussions around a year ago, the Council is not currently discussing the proposal nor formulating responses to the amendments suggested by the European Parliament.

Since the proposal was published successive Council presidencies have prioritised work on Common Fisheries Policy reform and other higher profile dossiers. We do not expect the current Lithuanian presidency to progress work on this dossier. Should the Greek presidency decide to take work forward in 2014, the UK will reiterate its view that this legislation should do no more than align the current legislation with the Lisbon treaty.

I will of course keep you informed of any significant developments.

8 November 2013

#### **Letter from the Chairman to George Eustice MP**

Your letter of 8 November on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

Thank you for your reply as regards the current status of this dossier. As we have previously expressed, we are concerned about the overall sustainability of the stock of European eel and look forward to the new Proposal from the Commission to that effect in the course of 2014.

We look forward to further updates in due course, and will continue to retain this Proposal under scrutiny in the meantime.

28 November 2013

#### **REMOVAL OF FINS OF SHARKS ON BOARD VESSELS (17486/11)**

##### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter dated 25 April 2013, which sought an update on the progress towards adoption of the above proposal.

You will recall that the intention of this amendment is to remove a derogation that currently allows Member States to issue special fishing permits for the removal of shark fins at sea. In my letter, dated 15 April 2012, I reported that the final step had been delayed for procedural reasons. A number of linguistic changes had been made by Lawyer-Linguists in finalising the text and although these did not change the fundamental principles agreed by the European Parliament, it was considered that the adjustments warranted the text being revisited by the institutions to ensure it accurately reflected the agreement.

I am now delighted to inform you that the text was adopted by the Council on 6 June following a first reading agreement with the European Parliament. This followed the adoption of a corrigendum to the European Parliament's first reading agreement in May. The regulation will come into force once it has been formally signed and published in the Official Journal, which should be by the end of June 2013.

The UK was at the very forefront of the push to get EU shark finning legislation tightened, and I am particularly pleased by the way in which we worked closely with the Shark Trust towards this shared goal. This amendment is an important step forward in improving the conservation and management of sharks. All sharks caught in EU waters, and anywhere globally by EU vessels, will now have to be landed with their fins still naturally attached with no exceptions, bringing EU vessels in line with practices already adopted by UK fishermen. Furthermore, the EU will now be able to champion this approach in international forums such as the International Commission for the Conservation of Atlantic Tunas (ICCAT) and Indian Ocean Tuna Commission (IOTC). This will make a significant difference as the EU has previously had to abstain from supporting the approach when tabled.

It is worth noting that although Spain and Portugal made a final statement lamenting the adoption of the amended EU regulation, they also called for continued strong representation by the EU in forums like ICCAT to end the practice of shark finning globally.

12 June 2013

##### **Letter from the Chairman to Richard Benyon MP**

Your letter of 12 June 2013 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 19 June 2013.

We are grateful to you for confirming with us that the text was adopted by the Council on 6 June following a first reading agreement with the European Parliament, of which we were very pleased to hear.

Moving forward it will now be critical to ensure that this Regulation is enforced successfully. We would therefore urge you to work with the Commission to ensure that it is monitoring compliance information from Member States in a rigorous manner.

We are now content to mark this strand of correspondence as closed.

20 June 2013

## RENEWABLE ENERGY PROGRESS REPORT (8098/13)

### **Letter from the Chairman to the Rt. Hon. Edward Davey MP, Secretary of State, Department of Energy and Climate Change**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 May 2013.

We would query your assessment that there are no subsidiarity concerns on the simple basis that the document is not a proposal for legislation, without having any regard to the content of the document. When assessing any document from the Commission, we expect the Government to assess whether policy initiatives suggested might, if they were to come to fruition, breach the principle of subsidiarity. While that is not the position in this instance, we impress upon you the importance of assessing all Commission documents for potential breaches of subsidiarity, rather than purely legislative proposals.

Whilst we note that the UK has introduced measures to try and alleviate administrative barriers – the fast-track planning regime – your EM does not comment on how successful this has been. In particular, the Commission's working paper assess that the UK needs to improve in this area, and so we would be grateful for more information regarding the plans you intend to take (or indeed, have taken) to resolve this issues. We would be interested to know whether the fast-track planning regime itself has been successful.

Although your EM comments on biofuel sustainability, we note that no mention is given to the Government's position on renewable energy support schemes and the Commission's intention to prepare guidance on best practice in this area. We would be grateful for clarity as regards the Government's position on these support schemes, including whether the UK contributed to the Commission's consultation on the suggested guidance.

We are content to release the Report from scrutiny and look forward to your response within 10 working days.

16 May 2013

### **Letter from the Rt. Hon. Edward Davey MP to the Chairman**

Thank you for your letter dated 16 May in which you released the above proposal from scrutiny and sought further information on subsidiarity concerns, success of the fast-track planning regime and renewable energy support schemes.

You raised concerns in your letter about the assessment of subsidiarity matters in response to this progress report. I agree that issues of subsidiarity should be considered at an early stage of policy initiatives. The European Commission was required to produce the progress report in accordance with the Renewable Energy Directive (2009/28/EC) and we consider it appropriate for the Commission to monitor progress. We also welcome the Commission making recommendations and exploring policies to support Member States in the achievement of requirements set out by the directive. It is possible that some of the policy ideas contained in the progress report potentially raise issues of subsidiarity, depending on the direction they take, but only if they are developed to a greater level of detail. For example, the expected guidance on support schemes could raise issues depending on its content, but this will be assessed once the documents have been released.

Your letter also seeks clarity on the position of the Government regarding renewable support schemes, and our contribution to the Commission's consultation on this subject.

The Coalition remains committed to supporting the deployment of renewable energy. The Renewables Obligation is our main mechanism for supporting large-scale renewables, although subject to passage of the Energy Bill, from 2014, as part of Electricity Market Reform, we intend to introduce the Contract for Difference (CfD) mechanism. We also have the Feed in Tariff scheme to support small scale generation. The UK continues to be proactive by working with the Commission on the forthcoming support scheme guidance, in order to try and ensure what is published will be consistent with our domestic renewable energy policy.

In my Explanatory Memorandum I set out measures taken to try to minimise administrative burdens, such as the fast-track planning regime. You asked for further information on these.

The nationally significant infrastructure planning regime under the Planning Act 2008 is designed to provide a streamlined, faster and more certain planning system for large scale infrastructure projects. It provides statutory time limits for the determination of applications, so that the time taken from the early examination stage of a project by the Planning Inspectorate to a decision on that project by the Secretary of State will be a maximum of 12 months. Although it is probably premature to judge the long term impact of the Planning Act on renewables deployment (only four renewable energy projects have been determined so far), the benefits of the Planning Act regime are already clear. All decisions on applications for renewable energy projects made under the new system have been issued within the 12 months period, giving future applicants increased confidence in application timescales. This May, I gave permission for Galloper offshore wind farm under this regime within the statutory time limit.

The Government has also been working to improve the Planning Act regime further by extending the "one stop shop" for consents, setting up a consents service unit to expedite other consents needed, and limiting the extent to which special parliamentary procedure applies to nationally significant infrastructure projects. A review of the regime is planned for 2014 and will provide an opportunity to assess fully the benefits of the regime in the development of renewable energy projects.

*31 May 2013*

#### **Letter from the Chairman to the Rt. Hon. Edward Davey MP**

Your letter of 31 May on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

Thank you for your helpful and informative reply.

We appreciate your understanding of our concerns in relation to points raised about subsidiarity in the Explanatory Memorandum (EM), and are grateful for your subsequent explanation. Whilst we agree with the comments you make, the point we would like to stress is that this awareness should be reflected in the assessment being made in the EM. That is, although there may be no immediate subsidiarity concerns, we would expect the Government to at least highlight what potential there is for concerns in the future, should something more detailed or legislative come forth.

We are also grateful to you for the information provided as regards our questions about the Government's position on renewable energy support schemes, including whether the UK has contributed to the Commission's consultation on the suggested guidance.

We are similarly appreciative of your response to our query about alleviating administrative barriers and the fast-track planning regime. We understand that it may be premature to judge the long-term impact of the Planning Act on renewables deployment, and that a review of the regime is expected for 2014.

We are now content to mark this strand of correspondence as closed.

*14 June 2013*

#### **SAFETY OF OFFSHORE OIL AND GAS PROSPECTION, EXPLORATION AND PRODUCTION (16175/11)**

#### **Letter from the Rt. Hon. Michael Fallon MP, Minister of State for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

Thank you for your letter dated 25 April 2013 on the above proposal. You asked to be kept updated on the progress of this proposal. I am happy to inform you that the proposal, now in the form of a Directive, passed both European Parliament and Council at first reading and will enter into force 20 days after publication in the Official Journal.

The European Offshore Authorities group has now met and discussed accident reporting and how to share the lessons learnt and avoid them happening again. They also discussed how to set up a common reporting format so that data can be shared across the EU and they looked at current best practice in measuring safety performance by the companies operating in Europe and their regulator. I

am hopeful that this forum will prove useful, particularly in its function of sharing best practice through all member states.

I hope you find this information helpful.

*12 June 2013*

#### **Letter from the Chairman to the Rt. Hon. Michael Fallon MP**

Your letter of 12 June 2013 in response to our letter of 25 April 2013 to your predecessor on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 26 June 2013.

We are grateful for your letter confirming that the proposal, now in the form of a Directive, passed both the European Parliament and Council at first reading.

We are similarly appreciative for the information provided regarding the European Offshore Authorities group and its meeting to discuss accident reporting, how to share lessons learnt (and how to avoid them happening again) and how to set up a common reporting format.

We are now content to mark this strand of correspondence as closed.

*27 June 2013*

#### **SHIP RECYCLING (8151/12, 8173/12)**

##### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

Last year, we submitted an Explanatory Memorandum on the proposal of the European Commission for a Regulation on ship recycling. We are now writing to update you on progress with this proposal.

Earlier this year, the European Parliament considered the proposal and proposed 120 amendments. A vote on the amendments took place on 18 April and as a result 115 amendments were adopted. These amendments were subsequently discussed by Council and then in trilogue discussions between the European Parliament, the Commission and the Presidency. A meeting of the Council of Permanent Representatives (COREPER) on 26th June agreed a revised compromise text that will now go forward to the European Parliament and the Council for adoption through a formal vote.

The key changes made to the original proposal are:

##### **REQUIREMENTS FOR NON-EU SHIPS VISITING EU PORTS TO HOLD A VALID INVENTORY OF HAZARDOUS MATERIALS**

In principle, this is acceptable. This requirement will apply to all ships once the Hong Kong Convention comes into force and will help with the eventual recycling of such ships. We do not consider it will effect trade or impose a significant burden but will help keep a level playing field between ships flagged in EU and in non-EU countries. We do not expect our Port State Control officers will have any difficulty in checking whether a non-EU ship has a valid inventory of hazardous materials and certificate.

More generally, the requirements for inventories of hazardous waste and for reporting in the original proposal have been brought more closely into line with the Hong Kong Convention in line with our earlier requests.

##### **PROVISIONS TO RULE OUT FACILITIES USING THE "BEACHING" METHOD.**

The European Parliament has taken a very strong line to prevent ships being recycled on beaches. We considered the Commission's proposal already included sufficient safeguards to ensure current unsafe beaching practices could not continue. We were concerned that a specific prohibition on beaching ships would not allow scope for certain recycling states to upgrade to meet an acceptable standard. This could delay the coming into force of the Hong Kong Convention. However, the compromise reached is that there must be 'built facilities'. This will, prevent unsafe beaching methods, but allow some scope for facilities to upgrade to an acceptable standard.



#### A REQUIREMENT FOR CRIMINAL (AS WELL AS CIVIL) PENALTIES AND ACCESS FOR JUSTICE;

The Commission's proposal included very specific penalties which we felt infringed subsidiarity. The European Parliament supported this approach. The Government's view, and that of most Member States, is that Member States are best placed to design regimes to ensure the rules are adhered to. The compromise text now simply makes a standard non-specific provision where Member States are required to adopt effective, dissuasive and proportionate remedies.

The amendments adopted by the Parliament went further and included a specific requirement to use criminal penalties. Some of the activities in this Regulation are currently within the Environmental Crime Directive by virtue of being subject to the Waste Shipments Regulation. We have argued that it is not possible to include criminal sanctions in this proposal under an environmental legal base. The compromise text requires the Commission to assess, by the end of 2014, which infringements of the Regulation should be brought within the scope of Directive 2008/99/EC on the protection of the Environment through criminal law to achieve equivalence of the provisions related to infringements between this Regulation and Regulation 2006/1013/EC on shipments of waste. They could do this anyway so this is acceptable.

The Commission proposal included "boiler plate" requirements on Member States on 'access to justice'. Parliament supported these. However we regard access to justice as a Member State responsibility as the way it is done at national level strikes balances which reflect societal norms. Under the compromise text, access to justice is applied only to Commission decisions relating to the EU list of approved facilities. There is a recital which refers to the obligation of Member States to give effect to the Aarhus Convention when applying their national rules.

#### THE DEVELOPMENT OF A FINANCIAL INSTRUMENT TO ENSURE ENVIRONMENTALLY SOUND RECYCLING OF SHIPS;

The European Parliament has looked for a way to address market conditions, which provide shipowners with a financial incentive to use facilities with low standards that offer a better price for the ship. The proposals put forward appeared complicated and burdensome to deliver and it was unclear that it would achieve the objective of encouraging ships to be recycled at facilities on the EU list. Ultimately none of the proposals gained support within the Parliament, and they are not being considered as part of the negotiation.

Instead, the European Parliament is proposing that, after the Regulation has come into force, the Commission will come forward with a legislative proposal for a financial instrument if appropriate. We are sceptical that a means can be found to put an effective mechanism in place at EU level, but the idea of the Commission considering the issue further, and coming forward with a proposal subject to impact assessment, is much more acceptable than the schemes originally proposed by the European Parliament.

#### APPLICATION OF THE REGULATIONS

The Parliament sought a conditional exclusion from the Waste Shipment Regulation where ships not complying could fall back into that regime. We argued for a clear distinction between the two regimes. It is evident that the Waste Shipment Regulation is not well suited to regulating ships and, as a consequence, all EU ships should be regulated by this proposal. This has found favour.

The Parliament also wanted earlier application of the Regulation. The compromise text reduces the risk of a situation arising where there is insufficient capacity on the European list to meet the demand from EU flagged vessels. It would see the Regulation being applied if ship recycling capacity on the European list meets an agreed tonnage threshold (but no sooner than within two years following entry into force), or after five years following entry into force – whichever is sooner. We consider this is a reasonable compromise between applying the Regulation in a timely fashion and reducing the risk of there being insufficient capacity on the list to meet demand.

The European list of approved facilities must be published no more than three years after the Regulation comes into force. This may be before the Regulations are fully applied. Prior to full application, a new transitional provision will allow Member States the option to authorise the recycling of ships in facilities on the list instead of applying the Waste Shipment Regulation until the new Regulation is fully in force.

## UPDATE ON OUR ORIGINAL CONCERNS

While welcoming the initiative of the Commission in bringing forward this Regulation, we were concerned that the original proposal was insufficiently aligned to the Hong Kong Convention and consequently ran the risk of being disproportionate for our ship owners.

Our main concerns centred around a proposal for a contract between the ship owner and the facility, which we considered unworkable since ships are normally sold initially to a cash buyer before being sold on to the facility. The UK shipping industry also considered such a requirement would give them an unacceptable amount of liability, because it would effectively mean that they would be responsible for ensuring that facilities met requirements. The requirement for the contract has been dropped.

The original proposal included a number of delegated acts which we considered were inappropriate. Most of these have now been amended so that they are implementing acts and are more narrowly constrained to keep them in line with the Hong Kong Convention. We consider the two that remain are appropriate as they relate to amendment of annexes that clearly fall within article 290.

We had concerns over a Council Decision on Member State ratification of the Hong Kong Convention, which would have placed a legal obligation on Member States to ratify the Hong Kong Convention. This has been delayed pending the conclusion of discussions on the Regulation. We remain of the view that this Decision needs to be modified to ensure that, at most, it 'authorises' ratification of the Convention in respect of areas within the external competence of the EU, rather than 'requires' it.

*2 July 2013*

### **Letter from the Chairman to Lord de Mauley**

Your letter of 2 July 2013 on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 17 July 2013.

We are grateful to you for your very helpful letter regarding progress on this Proposal, including the key changes that have been made to the original Proposal.

We note that agreement has now been reached among the institutions. Please mark this strand of correspondence as closed.

*18 July 2013*

## SHIPMENTS OF WASTE (12633/13)

### **Letter from the Chairman to Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

We regard this as a very significant issue. We understand that, at a global level, transboundary shipment of certain waste is governed by the UN Basel Convention. Could you please inform us of what, if any, efforts the UK is making in contributing to the Convention's implementation and what other international fora are in place to govern this issue?

We would be grateful if you could please provide us with any statistics regarding the illegal shipments of waste into the UK, both from within and outside of the EU, including the country of origin.

Your EM states that the exact wording of the definition of 're-use' will require improving during the negotiation process. We would be grateful if you could please provide more detail on what you perceive to be the current problem with the proposed wording, and what you would prefer to be included.

You also raise a concern regarding the use of delegated acts and the existence of two proposals making amendments to the same instrument in parallel. Although the EM notes that Government will propose amendments with this in mind, you do not offer any detail as to what these amendments would incorporate, and so we would be grateful for clarity on that matter.

In general, the Government have highlighted a number of areas within the main elements of the Proposal that they are concerned with, but have not described any engagement you have had with the

Commission, MEPs or Member States. We would be interested to know what representations the Government have made, to whom, and with what consequence.

Regarding financial implications, the Government note that this would have no implications for the EU budget, but that costs for legitimate operators would be minimal, and that annual inspection plans would have resource implications for UK competent authorities. The EM does not give any analysis of this or offer the Governments' view. We would be grateful for further details in this regard.

The EM notes that a "checklist" for this Proposal on its impact is to be carried out by the Government in due course. The Committee would be grateful to know when this checklist is expected to be completed, and for a summary of the findings of this assessment in due course.

As regards subsidiarity, you acknowledge that whilst you view the enforcement of controls to be a Member State issue, it is a difficult and complicated matter that relies on competent authorities of different Member States working together. Your EM notes that the Government will scrutinise the proposals carefully to ensure prescription is justified, and we would appreciate being kept informed of what the Government concludes.

We would also be interested to know the views and opinions of other Member States and the devolved administrations. In particular, is there a consensus amongst the Member States, especially in relation to issues of subsidiarity your EM raises?

We shall retain this Proposal under scrutiny and look forward to your response by 1 October.

*12 September 2013*

#### **Letter from Lord de Mauley to the Chairman**

Thank you for your letter of 12 September requesting clarification of a number of the issues covered by my Explanatory Memorandum (EM). I am writing now to offer further information and to advise that the Secretary of State will be attending the Environment Council on 14 October where this Regulation will be discussed. If you are able to clear scrutiny on the proposal before that meeting, this will enable him to engage fully in that debate. I am sorry that the timetable for this is short, but the Commission has only just notified us that the proposal is to be discussed at this meeting.

We also consider compliance with the Waste Shipments Regulation to be a significant issue. As you say, the transboundary shipment of certain waste is covered by the Basel Convention. This is essentially the international fora that governs this issue. The Convention's focus is on hazardous waste and we have been actively engaged in the Convention's work, contributing to discussions to improve the effectiveness of the Convention and to the development of guidelines to encourage the environmentally sound management of a number of waste streams. The Organisation for Economic Cooperation and Development also sets out procedures for the transboundary movement of waste. These set out different controls for hazardous and non-hazardous waste. The requirements of the Convention and of the OECD decision are transposed within the EU by the Waste Shipments Regulation.

You asked for statistics on waste exports, specifically the illegal import of waste into the UK both from within and outside the EU. You will appreciate that illegal shipments are, by their very nature, difficult to quantify. Generally, our competent authorities are detecting more illegal exports than imports. Where waste is exported from outside the EU, but transits other EU countries, it is likely to be detected before it gets to the UK. One exception, though, is the land border between the Republic of Ireland and Northern Ireland. We have approached our competent authorities with a view to providing you with more detailed data and will write to you again in due course to provide this.

You asked for more detail about our concerns over the definition of reuse. In fact our concerns are rather wider and are related more generally to the provisions that allow competent authorities to request more evidence from exporters to prove whether a material is a waste or a product intended for re-use.

We agree that one of the difficulties facing competent authorities is whether or not something being exported is a waste and so subject to the controls in the Waste Shipments Regulation. However, we do not think that the proposal drafted by the European Commission will achieve that because it will not work for all waste streams. For example, the proposal is that, where the competent authority suspects that something is waste, the person in charge of a shipment must prove that the substance or object is fully functional. However, the fact that an item is not fully functional does not necessarily make it a waste and indeed there will be material streams such as steel scrap and textiles for which a functionality test is simply irrelevant.

As negotiations progress, our intention will be to seek changes that will result in a broader provision to clarify that competent authorities may seek further information where needed to ascertain whether or not a substance or object is a waste. We will seek to ensure that provisions are drafted so that they do not require specific types of evidence such as proof of functionality, but allow competent authorities to request such evidence where it is appropriate.

In terms of what we are proposing in response to the Commission's proposals to use delegated acts following changes in scrutiny procedures brought about by the Lisbon Treaty, we are suggesting that all the existing pre-Lisbon Treaty provisions in the Waste Shipments Regulation be addressed by this instrument rather than being considered in a separate horizontal alignment proposal. Dealing with all the amendments in a single instrument will be much clearer and legally certain as the Regulation will only be subject to a single legislative amendment. This will also allow proper consideration of the individual powers.

In its proposal, the Commission omits Article 59 of the Waste Shipments (additional measures that they may adopt related to the implementation of this Regulation). By virtue of Article 13 of EU Regulation 182/2011 these measures would now be made by implementing acts. However, the Commission is proposing that the power in Article 59(1)(f) for the adoption of measures relating to technical and organisational requirements for the practical implementation of electronic data interchange for the submission of certain documents and information is moved to Article 26(5) and carried out by delegated acts. We believe that implementing acts are appropriate for the exercise of this power and will therefore propose that Article 59 is retained in its current form, but with an amendment to make it clear that the measures listed in Article 59(1) are now made by implementing act. The proposed Article 26(5) could therefore be deleted.

In terms of engagement with the Commission, MEPs or Member States, the Commission issued a consultation in 2011 to which we responded setting out concerns that a legislative proposal might limit the flexibility of our competent authorities to target enforcement in the most effective way for our particular circumstances. We outlined our concerns with some of the options the Commission was considering at that time, such as a Regulation specifying the appropriate frequency of inspection, and while we have concerns with the current proposal, the Commission has dropped some of its more extreme ideas following the consultation. During the negotiations we will be seeking out like-minded Member States to generate support for our preferred approach and we will be considering lobbying MEPs in due course depending on how the dossier progresses.

The EM focussed on the impacts set out in the Commission's impact assessment. We are now carrying out a more detailed analysis, but this is not yet complete. We will also provide more information on this in due course. While we do not expect to find that the proposal has large resource implications, we will seek in the course of our negotiations to ensure that the legislation eventually adopted does not unduly increase the burden on legitimate businesses and competent authorities.

In terms of the "checklist" for the impacts of this proposal, we expect to complete this in the next month or so and will then send you a summary of our findings.

As stated in the EM, we are scrutinising the proposals carefully to see that they are in accordance with the principle of subsidiarity and do not include unnecessary prescription. With this in mind, we will be negotiating for provisions that require competent authorities to carry out a focussed and risk based approach to inspections and to report retrospectively on their actions rather than prepare detailed plans in advance. The exact way in which Member States enforce would therefore be left to each Member State to determine, but the requirement to report the outcome should encourage an improvement in standards.

Initial discussions with other Member States suggest that many share our concerns over the proposal and the level of prescription it contains. The export of waste is not a devolved matter although enforcement is carried out by separate competent authorities in each part of the UK. We have been communicating with the Devolved Administrations, who share our concerns and we will continue to keep them in the loop.

Due to the imminent council meeting, I have broadly addressed the queries raised and will endeavour to provide a fuller update once we have more information regarding the impacts and statistics.

*24 September 2013*

## **Letter from the Chairman to Lord de Mauley**

Your letter of 24 September 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

Thank you for your helpful and informative response. We appreciate that your letter broadly addressed our initial queries, and so we look forward to a further details (regarding impacts and statistics) in due course.

Negotiations are still clearly at a relatively early stage. We would therefore welcome an update in due course, including information on the October Council meeting.

In the meantime we shall retain the Proposal under scrutiny.

*10 October 2013*

## **STOCKHOLM CONVENTION ON PERSISTENT ORGANIC POLLUTANTS (7428/13, 7429/13)**

### **Letter from Lord de Mauley, Parliamentary Under- Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

I am writing, as promised in Explanatory Memorandum (EM) dated 8 April 2013, to provide supplementary guidance on the assessment of impacts arising from the proposed listing of Hexabromocyclododecane (HBCDD) in Annex A [not printed] of the Stockholm Convention on Persistent Organic Pollutants.

#### **BACKGROUND**

The EM outlines the rationale for the UK's support for EU Council Decisions. These Decisions set out EU support for inter alia the listing of Hexabromocyclododecane (HBCDD) within Annex A [not printed] of the Stockholm Convention on Persistent Organic Pollutants. The listing will eventually result in an international ban on manufacturing, placing on the market and use of HBCDD.

The EM was submitted without a full impact assessment, due to uncertainty at the time over the full economic impact of the measure. This letter provides further information.

#### **ASSESSMENT OF THE FINANCIAL IMPACT OF LISTING HBCDD UNDER ANNEX A OF THE STOCKHOLM CONVENTION**

The chemical HBCDD has separately been identified as a Substance of Very High Concern (SVHC) under the EU Chemicals Regulation (REACH, Regulation No 1907/2006). This means that, regardless of the global action proposed under the Stockholm Convention, the placing on the market and use of HBCDD will be prohibited after 21 August 2015 unless authorised for a specific use.

The disposal of construction material to landfill is the major source of HBCDD releases to the environment. When viable alternatives to HBCDD in construction insulation material become available and the proposed time-limited exemption allowing its use in buildings is discontinued under the Stockholm Convention i.e. in 2018, there will be costs associated with the safe disposal of legacy HBCDD-containing waste.

#### **AN IMPACT ASSESSMENT CARRIED OUT FOR DEFRA IN 2010 MADE THE FOLLOWING OBSERVATIONS.**

The main costs of safe disposal of HBCDD wastes are associated with the separation of HBCDD-containing waste from other construction waste. These costs are calculated by multiplying the amount of construction waste by the charge per tonne. It is estimated that there will be between 4 and 22 million tonnes of waste per year from 2018 which could require separation and destruction by incineration, at a cost of up to between £1-6 billion (€1.2 - 7.1 billion) per year. Recent discussions with the construction sector indicated that no separation of HBCDD waste currently takes place, although with the ability to recycle/re-use being proposed alongside the exemption for continued use of HBCDD in construction, any costs would be deferred by using demolition waste as construction aggregate until 2018. It should also be borne in mind that HBCDD has only been used in building insulation materials since the late 1980s and therefore, owing to the 60+ year average lifespan of buildings, it is unlikely to arise in significant quantities in demolition waste for some decades.

Any additional costs for separation and incineration would be partially offset by a reduction of material and its associated costs of going to landfill.

The proposed time-limited derogation allowing continued use of HBCDD in buildings will allow time for the development of an economical and effective replacement fire retardant. Additionally, any negative impact on manufacturers of building insulation material that use HBCDD is likely to be short term and could be offset by an increase in employment for those manufacturers of alternative materials. Some direct and indirect jobs are also likely to be created by the mandatory additional management and destruction of HBCDD-containing waste.

A total ban on HBCDD manufacturing and use in the UK would immediately eliminate emissions from these sources. Over time, products not containing HBCDD would progressively replace and dominate the material going to waste or recycling. This scenario would eventually reduce annual HBCDD emissions by 730 tonnes per year at an annual cost of between £1.4 and £6.9 billion (€1.7-8.2 billion).

A ban, with the proposed exemption allowing use of HBCDD in buildings until 2018, would reduce emissions by around 630 tonnes per year at an annual cost of £1.4-6.6 billion (€1.7 – 7.8 billion). The annual costs are based on the estimated amount of construction waste generated in the UK and will cumulatively increase the total burden of the costs for as long as exemptions are in place, as exempted material entering the waste cycle will need to be safely disposed.

The above scenarios demonstrate that an exemption for buildings with recycling would also allow time for the industry to develop and manufacture new products thereby potentially avoiding a negative impact on jobs and businesses in the longer term.

#### ASSESSMENT OF BENEFITS ARISING FROM THE LISTING OF HBCDD

The flame retardant HBCDD is persistent in the environment, bioaccumulative in living organisms and highly toxic to aquatic organisms. Human exposure is evidenced by the presence of HBCDD in breast milk, adipose tissue, and blood, and it biomagnifies in the food chain. HBCDD also presents human health concerns based on animal test results, which indicate potential reproductive, developmental, and neurological effects.

Exposure of HBCDD in adolescents is considered to be of high concern. Studies cited by the European Chemicals Agency (ECHA) and US Environmental Protection Agency have indicated the likelihood that children exposed to HBCDD can experience changes to thyroid function, which may lead to abnormal development, particularly in the nervous system.

This chemical has also been found to be very toxic to aquatic organisms and may cause long-term adverse effects in the aquatic environment. Studies have also shown that HBCDD is capable of producing adverse effects in a variety of organisms including algae, fish, invertebrates and soil-dwelling organisms at environmentally relevant concentrations.

It is difficult to monetise the benefits of eliminating HBCDD. However, a model adopted for calculating the cost savings for reducing chemicals through the EU chemicals regulation (REACH) suggests that the potential cost savings of reducing human exposure to chemicals by 4% are in the region of £126 - £531 million (€149 – 628 million) over 15 years or £8.4 – £34.9 million (€9.9 – 41.3 million) per year, a proportion of which can be attributed to HBCDD.

*11 June 2013*

#### STRATEGIC GUIDELINES FOR THE SUSTAINABLE DEVELOPMENT OF EU AQUACULTURE (8986/13)

##### **Letter from the Chairman to Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 June 2013.

Unfortunately, we found your EM to be inadequate in a number of respects.

There was a technical inaccuracy on pages 6 and 7 of the EM, which includes scrutiny history pertaining to the EU's Fisheries Partnership Agreement with Mauritania. Plainly, that has no relevance to this document. The effect of such lack of attention to detail is that the EM fails to provide helpful

history to Parliament on previous scrutiny of Commission documents in this area. It seems to us that a more robust system of proof-reading is required in your Department.

More generally, the EM was thin on detail. It has a strong focus on the relationship between the guidelines, national action plans and the EMFF. We would emphasise that the development of aquaculture goes beyond financial support under the EMFF and relates to issues such as reduction of the administrative burden, consumer labelling, consumer information and environmental requirements. All of these issues have some relationship to EU legislation. It was far from clear from the EM that you recognise the complexity of the sector and we would therefore welcome confirmation that this was simply an oversight.

Worryingly, paragraph 2 of the EM implied that a national action plan (covering areas beyond the EMFF) would only be required if support was sought for aquaculture under the EMFF. We consider Article 43(2) of the General Approach on the new CFP Regulation to be very clear that "Member States shall establish a multiannual national strategic plan for the development of aquaculture activities on their territory by 31 December 2013". It would be helpful if you could explain the apparent inconsistency between your EM and the General Approach and if you could confirm that the Government and Devolved Administrations are working on preparing such a plan by the end of 2013.

We appreciate that the Government wish to ensure that there is as little EU intervention as possible in the UK aquaculture industry. The aim of the strategic guidelines and the national action plans, however, is to ensure that information is available throughout the EU in order that best practice can be shared, an aim to which paragraph 6 of the EM refers. This may be of positive benefit to the UK's industry and to its marine environment.

The Commission makes various suggestions as to activities that it and the new Aquaculture Advisory Council (AAC) could undertake. You do not offer comment on the Commission's suggestions. We would therefore welcome a view on each suggestion and a view on whether additional actions by Member States, the Commission or the AAC might be helpful.

We will retain the Communication under scrutiny and look forward to a response within ten working days.

5 June 2013

#### **Letter from Richard Benyon MP to the Chairman**

Thank you for your letter dated 5 June 2013 in which you raise further questions in relation to the Commission's Strategic Guidelines for aquaculture development (EM 8986/13).

Firstly I apologise for the mistake in the scrutiny history made by my officials which I have been assured was a one off, unlikely to be repeated.

I agree with the Committee's assertion that this is a complex sector. In the UK the aquaculture industry comprises large multi-national operations, such as salmon farming through to smaller, artisanal businesses as is often the case with oyster production. Such diversity in size and species means the issues impacting the sector are often challenging and wide ranging. This complexity is only amplified when considered at EU level.

The Committee is right to highlight issues covered by the Guidance as areas of importance to the industry and its development. In England, Defra has recently supported the industry in developing a consultation and workshop that considered barriers to growth in English aquaculture and looked to identify actions to mitigate these and encourage growth. Many of the issues identified by the Commission were raised as part of this process.

Given this and wider work undertaken across the UK Administrations, Government and industry are well placed to both understand these complex issues and identify priority areas for consideration under Multi-Annual National Plans (MANPs).

Turning to the statutory nature of the Plans, I accept the Committee's view that MANPs can go further in scope than providing a framework for financial support under the European Maritime and Fisheries Fund (EMFF), and the UK will consider this element of MANPS as the UK plan is developed.

Whilst the final text on CFP Reform is yet to be agreed, I accept that there is an expectation that MANPs will be required. However, given the broad nature of the Commission guidance and rules on content for MANPs, the work to develop and deliver a MNAP will depend to a degree on how comprehensive Member States choose to make it.

Having said this, I can confirm that the UK will be developing a MANP in consultation with industry. We are aiming to produce a first draft in September so that it can be cross-referenced in the ongoing EMFF Operational Programme discussions between the UK and the Commission.

Whilst information sharing is an important component of the MANPs, it is the Commission's priority to see growth in EU aquaculture production. As a leading European producer across a range of aquaculture products, including salmon, trout and mussels, the UK is already well placed to take advantage of growing markets for aquatic produce.

The UK is also well positioned to provide industry best practice and information to European colleagues. There are already mechanisms for doing this to which UK contributes but I believe that knowledge sharing should also be a key component of the proposed Aquaculture Advisory Council. On this, the UK has already raised a number of questions with the Commission, seeking clarity on how the Advisory Council will be funded and further information on how it will bring wider benefits to industry when representing such a diverse sector.

On the Commission's suggested activities for MANPs, the UK considers what is proposed in the Guidance to be a reasonable and appropriate list of activities which, coupled with the flexibility that comes from the non-binding nature of the Guidance, provide a very useful framework to support the development of MANPs. We have not identified any actions above those put forward by the Commission and we do not believe every action to be applicable to the development of aquaculture in the UK, or indeed across every Member State.

The UK is supportive of the Commission's suggestions for the development of aquaculture and the Strategic Guidance provides Member States with good framework from which to deliver growth in aquaculture.

Given the complex nature of the industry in the UK, including the different needs of the various sectors the UK will now work closely with industry, building on the work we have already undertaken to identify priorities and drawing on the Commission non-binding Guidance where objectives converge. This work will provide us with a thorough assessment of the Commission's suggested actions and identify which are most relevant to the UK industry.

*18 June 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 18 June on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 June 2013.

We note your apology for the mistake in the scrutiny history but would emphasise that the weakness of the EM extended beyond that element. We are confident that you personally understand the importance which EMs play in parliamentary scrutiny. The Government have, of course, made public at the highest levels their view that national parliamentary scrutiny of EU issues is an important matter. It must be understood that the ultimate result of a poor EM is the need for us to press for additional information, clarity and accuracy.

The additional information provided in your letter on this Communication was helpful and reassures us that you intend to take a positive approach to this process, an approach which was far from evident in your original EM.

*27 June 2013*

#### **"STRESS TESTS" OF NUCLEAR POWER PLANTS (I4400/12)**

#### **Letter from the Chairman to Baroness Verma of Leicester, Parliamentary Under Secretary of State, Department of Energy & Climate Change**

Your letter of 25 April 2013 on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 22 May 2013.

We are grateful to you for updating us regarding the above EU nuclear safety and decommissioning dossiers. We are now content to mark the strand of correspondence in relation to EM I4400/12 ("stress tests") as closed. As regards I7752/11 (the decommissioning Proposal), we would be keen to



be kept informed on any progress this dossier makes under either the Irish or Lithuanian presidencies.

We are now also content to release EM 14450/11 (safety standards) from scrutiny, and look forward to an update on its progress in due course.

22 May 2013

## SUGAR IMPORTS INTO THE EUROPEAN UNION FROM LDC AND ACP COUNTRIES (11034/13)

### **Letter from the Chairman to David Heath MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meetings of 17 and 24 July 2013.

As you will be aware, we published a report on EU sugar policy in September 2012. Our findings included a recommendation that import tariffs on raw cane sugar should be eased as appropriate in response to the world market. In their response, the Government regretted that their efforts to include measures in the CAP reform designed to address the position of cane refineries once beet quotas have been abolished had been unsuccessful. Now that it has been decided that beet production quotas will end in 2017, how are the Government pursuing options to address the position of cane refineries? We understand that the Commission has attempted to reassure the cane refining industry that it will address the issue before 2017, but it would be helpful to hear from you what intelligence you have on the Commission's plans and how you are working with the Commission on the issue.

Another issue emphasised in our report related to the impact of the EU's sugar regime on the LDC and ACP countries. We would re-emphasise those conclusions and look for re-assurances on some points made in the response from the Government, as set out below.

First, we would welcome an update on any assurances received from the Commission that local offices will be adequately staffed to monitor the impact of Accompanying Measures as this programme winds down and to ensure the effective disbursement of remaining funding.

Second, it is anticipated that the needs of developing countries in terms of support to overcome the impact of changes to the EU regime will henceforth be met from the European Development Fund (EDF). The Government explained that DfID has been working to ensure that the new EDF will support interventions in sugar producing developing countries which have the most impact on poverty reduction, job creation and economic growth, as deemed appropriate in each case through the National Indicative Plans. We would wish to be re-assured that those negotiations have been successfully completed.

Finally, and as our report and Government response indicated, the world market is volatile. It will be crucial for the Government to press the Commission to monitor the market carefully and to be in a position to respond quickly to the specific needs of ACP and LDC countries should the need arise.

The Report has already been released from scrutiny. We look forward to your response by 30 August.

25 July 2013

### **Letter from David Heath MP to the Chairman**

Thank you for your letter dated 25 July raising a number of issues arising from the Committee's September 2012 report on EU sugar policy. I am responding as the duty Minister during the Parliamentary recess.

The agreement reached in June, as part of the CAP reform negotiations, to remove sugar beet quotas in 2017 is a very important first step towards bringing some form of normality to the EU sugar market. However, it is by no means the complete solution. The Government remains concerned that, in the run up to 2017, the existing dual distortions of beet quotas and a very high tariff barrier can be expected to continue to keep sugar market prices artificially high to the detriment of both EU consumers and the competitiveness of the EU food and drink industry. The Secretary of State has already raised this concern with Commissioner Ciolos and pressed for EU refiners to be provided

with additional supplies of raw cane sugar through the continuation, if not expansion, of the annual 'exceptional measures' that have applied over the past three years.

We also continue to believe that the unbalanced nature of the reform could have profound and unwelcome effects on the sugar market post 2017. Given the concentration of processing capacity in the EU, there is a real risk that there will be insufficient competition on the market to ensure that any price reduction following quota abolition is sustained. Indeed, in the event that the EU refining industry contracts, we could see a return to the current damaging price levels. The Secretary of State has, therefore, additionally pressed the Commissioner to ensure that we use the period leading up to 2017 to ensure that tariff barriers are significantly reduced, most realistically in the context of on-going trade negotiations with third countries. We await the Commissioner's response.

On the first of the three points you raise on the impact of the EU sugar regime on LDC and ACP countries, I can confirm that the Department for International Development (DFID) is engaging with EU representatives, in Brussels and at country level, to ensure the Accompanying Measures funding is disbursed effectively as the programme cycle approaches completion. On the second point, the process of negotiating funding allocations under the European Development Fund (EDF) II covering the period 2014 to 2020 is expected to be completed in the first quarter of 2014. DFID continues to work with the EU Commission to ensure that those sugar-producing countries that have not received adequate funding under the Accompanying Measures are able to access EDF funding that will have an impact on poverty and job creation. Finally, I can confirm that we continue to encourage the Commission to monitor market carefully and respond quickly as necessary to meet ACP and LDC needs.

*28 August 2013*

#### **Letter from the Chairman to David Heath MP**

Your letter of 28 August 2013 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for your informative response.

We would agree with you that while the agreement to remove sugar beet quotas in 2017 is an important first step, it is not a complete solution. We are pleased that the Government have continued to raise this concern with the Commission.

We are also grateful for your reassurances in relation to the three points raised in our previous letter, including: the monitoring of the impact of Accompanying Measures (AM) as this programme winds down; ensuring that countries that have not received adequate funding under the AM are able to access funding under the European Development Fund; and continuing to encourage the Commission to monitor the market carefully, responding carefully and quickly to meet ACP and LDC needs.

We would welcome confirmation from you that lessons learned from the disbursement and allocation of funding under the AM will be applied to the European Development Fund. It is clearly necessary to be cautious about allocating funding to those sugar-producing countries or regions that have been unable, for whatever reason, to spend money allocated under the AM.

We look forward to your response on the above issue by 1 October 2013.

*12 September 2013*

#### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

Thank you for your letter of 12 September to David Heath seeking additional clarification on a point arising from the above report. I am responding as the duty Minister during the Conference recess.

I can confirm that the Department for International Development (DFID), with the support of my Department, is examining the effectiveness of the Accompanying Measures (AM) programme as it comes to its completion. Informal discussions with UK stakeholders are helping to inform that process and DFID colleagues are also engaging with the European Commission, and at country level, to gather the lessons learned from the AM. This will help to ensure the Government is well placed to push for any further EU funding for sugar-producing countries to be effectively spent and have a positive impact on poverty and job creation. We are particularly keen to ensure these lessons are applied to the European Development Fund.

24 September 2013

**Letter from the Chairman to Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs**

Your predecessor's letter of 24 September 2013 from Richard Benyon MP on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

Thank you for your informative response as regards the Governments' commitment to examine the effectiveness of the Accompanying Measures programme, including informal discussions with UK stakeholders to help inform the process.

Please consider this strand of correspondence as closed.

10 October 2013

**SUSTAINABLE USE OF PHOSPHORUS (12242/13)**

**Letter from the Chairman to George Eustice MP, Parliamentary Under-Secretary of State for Natural Environment, Water and Rural Affairs, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

We would agree with you and with the Commission that the sustainable use of phosphorus is an important issue which deserves attention.

We note that one of the areas highlighted by the Commission is food waste. As you will be aware, we have launched an inquiry into food waste prevention. We would therefore be particularly interested in your response to the point made by the Commission that there may be unnecessary pieces of regulation that prevent the recycling of phosphorus from agriculture and by-products from food production.

In the Commission's paper, there is a strong focus on the role of agriculture in improving the sustainable use of phosphorus. We would welcome any information that you have on the proportion of phosphorus use linked to agriculture and non-agricultural activities respectively, and therefore on whether the balance in the Communication is appropriate.

On agriculture, we look forward to your response to the suggestion by the Commission that the European Innovation Partnership (EIP) on agricultural productivity and sustainability could assist with the development of approaches to improve the sustainable use of phosphorus. This may be one way of making progress rather than the potential regulatory approach of which you are wary.

We look forward to your responses to the above issues in due course and to receipt of a copy of your response to the Commission consultation. In the meantime, we shall retain the Communication under scrutiny.

10 October 2013

**SYSTEM FOR REGISTRATION OF CARRIERS OF RADIOACTIVE MATERIALS (13684/11, 14398/12)**

**Letter from Baroness Verma of Leicester, Parliamentary Under Secretary of State, Department of Energy & Climate Change, to the Chairman**

I am writing to update you on the current position with the above Commission proposal.

The proposal is for a Regulation requiring all carriers of radioactive material to register their intent to do so on a central Electronic System for Carrier Registration (ESCREg). The proposed Regulation will apply to national and international road, rail and inland waterways transport only as the Commission recognises that different arrangements, for other reasons, already exist for air and sea transport modes.

The rationale behind the proposal is that such a system will replace all existing systems employed by member states thereby reducing the burden to industry.

Government's view is that the Commission have yet to make a persuasive case to support their proposal and to date we do not consider that they have done so. The proposal if adopted would do nothing to improve safety; rather it would only duplicate arrangements already existing in the UK and incur additional costs to both Industry and Government. Officials have been working with ONR to persuade the commission to withdraw the proposal, while at the same time working on amendments that would help us if a majority of Member States agree that the proposal should go ahead and we have to implement.

When Ireland took over the Presidency in January, they were keen to understand the very different views across the community. The position among member states was divided between those that favoured no regulation at all, those that favoured the proposed administrative registration system and those that saw the necessity for safety criteria within the text. Some Member States also have reservations concerning the chosen legal basis.

Taking note of the situation, the Irish Presidency decided to set up an ad hoc working group with a mandate to explore possible solutions to resolve the remaining issues on the dossier, in a spirit of consensus. The working group will come back to the Presidency with 3 possible options:

- schedule other technical meetings, in order to have more in-depth discussions on the possible way out for this dossier ;
- come back to AQG if possible solutions are positively considered by experts;
- give up the dossier if it is considered that there is no real solution to solve the identified issues.

The UK is in favour of giving up the proposal; however we expect that many member states will not be.

We will provide further advice when we know which direction this proposal is taking.

*5 June 2013*

#### **Letter from the Chairman to Baroness Verma of Leicester**

Your letter dated 5 June 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 June 2013.

Thank you for your helpful and informative update on the current state of play as regards this particular proposal.

We note that the Commission is still to make a persuasive case to support the proposal, with such a Regulation only duplicating already existing arrangements in the UK and imposing additional costs to both industry and the Government. We understand you are working with the Office for Nuclear Regulation to persuade the Commission to withdraw the proposal, whilst simultaneously working on amendments that would help the UK should the proposal go ahead.

Could you please provide us with any information as regards the positions of other Member States in relation to this proposal?

We are grateful to you for your offer to keep us updated on the direction of the proposal once the working group has completed its deliberations.

Whilst we are content to release I3684/11 from scrutiny, we will retain the superseding document I4398/12 under scrutiny. We look forward to your response in due course.

*27 June 2013*

#### **Letter from Baroness Verma of Leicester to the Chairman**

Thank you for your letter of 27th June regarding our update on the progress of discussions on the Commission's proposed regulation on Establishing a Community System for Registration of Carriers of Radioactive Materials.

In response to your request for information regarding the positions of other Member States in relation to this proposal, we can advise the following.

At a recent working group views on the proposal were spread over several camps:-

- those vigorously against the proposal - which comprise the UK, and two other member states,
- those who are strongly pro – three member states,
- those who still have issues to be resolved – two member states,
- the remainder, in general, have not expressed a strong preference, as some still hold the proposal under scrutiny, although we expect many may support the proposal particularly if they already have an existing registration scheme.

We will provide further advice when we know which direction this proposal is taking.

*18 July 2013*

#### **Letter from the Chairman to Baroness Verma of Leicester**

Your letter dated 18 July 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 September 2013.

Thank you for your letter regarding the positions of other Member States in relation to the proposal.

We understand that there are a variety of different positions, with the UK vigorously opposed to the Proposal. Your argument applies to the UK, which you state in your letter of 5 June would result in the duplication of arrangements and incur additional costs. Would you not agree that an EU-wide regulation would be beneficial to those countries where such arrangements do not exist, with benefits deriving to the UK from a safer regime across the EU?

We shall continue to retain the Proposal under scrutiny and look forward to your initial response by 3 October. We look forward to an update on the direction of the Proposal in due course.

*12 September 2013*

#### **Letter from Baroness Verma of Leicester to the Chairman**

Thank you for your letter of 12th September in which you asked whether the Government agrees that an EU wide Regulation would ultimately benefit the UK as a result of a safer regime across the EU.

To answer this point I need to set out the existing regime covering the transport of radioactive materials and the measures in place to protect the public and environment from such materials during transportation.

The transport of radioactive materials is highly regulated, being derived internationally from the UN Recommendations on the Carriage of Dangerous Goods: Model Regulations. From these Model Regulations, agreements for the transport of dangerous goods (of which radioactive materials are one category) by road, rail and inland waterway have been established. These lay down uniform rules for the safe international transport of dangerous goods and have been adopted by the EU through the Directive 2008/68/EC of 24 September 2008 on the inland transportation of dangerous goods.

This Directive says that:

“these rules should also be extended to national transport in order to harmonise across the Community the conditions under which dangerous goods are transported and to ensure the proper functioning of the common transport market”.

It is through this Directive that the basis for the safe and secure transport of radioactive materials throughout the EU is established as the Directive is legally binding on Member States and placed duties on carriers.

Its purpose is to “protect persons and the environment from the effects of radiation in the carriage of radioactive materials by requiring:

- containment of radioactive contents,
- control of external radiation levels,
- prevention of criticality and
- prevention of damage caused by heat.”

These requirements are satisfied firstly by applying a graded approach to contents limits for packages and vehicles and to performance standards applied to package designs depending on the hazard of the radioactive contents. Secondly they are satisfied by imposing requirements on the design and operation of the packages and on the maintenance of packaging. Finally they are satisfied by requiring administrative controls including where appropriate, approval by competent authorities.

The Directive requires the carriage of radioactive materials to be covered by a radiation protection programme “which shall consist of systematic arrangements aimed at providing adequate consideration of radiation protection measures.”

It also requires that the carriage of radioactive materials be covered by a quality assurance programme recognised by the competent authority, in the case of the UK this is the Office for Nuclear Regulation.

It is these measures that are already in place that provide a robust EU wide safety regime for the transport of radioactive materials.

Specifically in the UK carriers of radioactive materials are identified via a registration system that targets holders of radioactive materials. Other EU Member States use systems that are appropriate to their needs including licencing and registration systems.

The proposed regulation would introduce another layer of regulation whose sole purpose would be to compel the UK and all other EU Member States to register carriers on an EU database in the same way. It would not result in any new or improved safety requirements beyond the existing obligations from current EU and International legislative regimes. For this reason we do not consider that the proposal is of any benefit to the UK.

I hope that this helps clarify why are against the proposed regulation.

I will write again with an update on the proposal as soon as we have anything to report.

*24 September 2013*

#### **Letter from the Chairman to Baroness Verma of Leicester**

Your letter of 24 September 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 October 2013.

Thank you for the helpful clarification of the Governments' position.

We shall continue to retain the Proposal under scrutiny and look forward to an update in due course.

*10 October 2013*

#### **THE 2014 INTERNATIONAL CLIMATE CHANGE AGREEMENT: SHAPING INTERNATIONAL CLIMATE POLICY BEYOND 2020 (8193/13)**

#### **Letter from the Chairman to the Rt. Hon. Edward Davey MP, Secretary of State, Department of Energy and Climate Change**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 May 2013.

We agree with your aspirations for the 2015 Agreement, particularly as regards the importance of monitoring, reporting, verification and accounting.

In our recent report on EU Energy Policy, we concluded that the desire to take a lead prior to the 2015 meeting in Paris would apply pressure on the EU to agree an ambitious post 2030 energy and climate change policy. You indicate that the EU needs urgently to consider how it can shape the international debate, but you will also know that the EU has only just published a Green Paper on its 2030 policy, on which we look forward in due course to hearing the UK Government policy. To what extent do you consider it possible for the EU to shape the international debate before it has identified its own post-2020 policy?

We will retain the Communication under scrutiny and we look forward to your response within 10 working days.

*16 May 2013*

### **Letter from the Rt. Hon. Edward Davey MP to the Chairman**

Thank you for your letter of 16 May, asking whether it is possible for the EU to shape the international debate on post-2020 climate change policy before it has identified its own post-2020 policy.

I strongly support EU action to tackle climate change and to help deliver the EU's goal of limiting global temperature rise to 2 degrees. I remain committed to an increase in the EU climate target for 2020 to 30% and therefore continue to push strongly for urgent structural reform of the EU Emissions Trading System (ETS) to ensure it continues to incentivise investment in low carbon.

Looking further on 2030, I believe the EU should adopt a unilateral EU target for 2030 of a 40% reduction on 1990 levels. In the context of an ambitious global climate agreement for the period beyond 2020, the EU's target should increase to up to a 50% reduction on 1990 levels.

I believe that the best way to deliver our low carbon goal is through a binding greenhouse gas (GHG) target and a strong EU Emissions Trading System, with flexibility for Member States to pursue a wide range of options to decarbonise in the least cost way. Whilst we strongly support renewables to 2020 and beyond, the uncertainties at this time are too large to set hard numbers in a binding EU Renewables target, which I do not believe would be cost effective or fit well with our electricity market reforms.

I have invited the Commission to present proposals by the end of the year to deliver the emission reductions in the 2050 low carbon roadmap. I will work closely with my EU partners to make the case for a 50% target. The May European Council agreed to discuss policy options for a 2030 framework for climate and energy policies in March 2014, after the Commission has made concrete proposals in this area.

The EU is a powerful voice in the international climate negotiations, and plays a strong role in shaping these negotiations – EU leadership was crucial to the successful outcomes of the negotiations which took place in Cancun (2010), Durban (2011) and Doha (2012). Moving forwards, EU leadership will be essential in securing the new legally-binding, global deal at the Conference of the Parties to the United Nations Framework Convention on Climate Change meeting in 2015, which France will host. Such a global deal will be an essential element towards keeping the world on track to meet the 2 degrees goal. This deal is within reach; a huge amount of work is already underway around the world to combat the worst effects of climate change, and we now need a greater sense of urgency to meet the 2015 deadline.

However, just because the EU and its Member States have been among the most ambitious Parties on climate change to date we should not take for granted that the world will sign up to the new global deal without expecting more of us. That is why I want an EU-wide binding emissions reductions target of 50% by 2030 in the context of an ambitious global climate deal: to demonstrate strong EU leadership and to act as a credible offer to encourage others to come to the table to negotiate seriously, in order to deliver the global deal that we so desperately need.

*31 May 2013*

### **Letter from the Chairman to the Rt. Hon. Edward Davey MP**

Your letter of 31 May on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 June 2013.

Thank you for your helpful reply. We agree with most of your comments, aside from those on renewable energy.

Our concern in our letter was to understand your own position that the EU needed urgently to consider how it could influence the international debate. We take from your letter that the EU will not be in a position to influence the debate until March 2014 at the earliest, when the European Council will return to the issue.

This does not strike us as reflecting an urgent approach to the issue. On the other hand, we welcome the pressure that you are applying on the European Commission and your commitment to work with other Member States to make the case for a 50% target.

We will release the Communication from scrutiny but look forward to information in due course on the outcome of your efforts to persuade other Member States to support a conditional 50% target.

*14 June 2013*

### **Letter from the Rt. Hon. Edward Davey MP to the Chairman**

Thank you for your letter dated 14 June requesting an update on my efforts to persuade other Member States to support a conditional 50% EU emissions reduction target for 2030. I apologise for the late reply.

Firstly I would like for the sake of clarity to set out the UK Government's position on the EU 2030 Climate and Energy Framework. The UK believes that the EU should adopt an ambitious emissions reduction target for 2030: the EU should agree a unilateral target of 40%, in line with the cost-effective trajectory set out in the European Commission's Low Carbon Roadmap to 2050, and make an offer to move to a target of up to 50% in the context of a comprehensive climate agreement. We oppose a binding renewable energy target which we believe would be unnecessary and not cost effective.

On 27 March the Commission published their Green Paper consulting on proposals for an EU 2030 Climate and Energy Framework. A total of 14 Member States, including the UK, have now responded to the consultation. A significant majority of these Member States are in favour of an EU emissions reduction target for 2030 however most favour a 40% target.

At the high ambition end, Denmark, France and Spain have suggested that the EU should agree a 40% target for 2030, but have not ruled out going further than 40% through the use of international credits – emissions reductions generated from projects in third countries.

Finland has also argued for high ambition directly suggesting support for a dual target approach - with the upper end linked to the wider international climate negotiations, also favoured by the UK.

However Poland has expressed a preference to delay agreeing an EU target until no earlier than in 2015, and the Czech Republic and Romania directly linked the ambition of the EU target with the agreement of a global climate deal. A number of other Member States, including Germany and Italy, are yet to agree a formal position.

I have worked extensively to influence other Member States to support an ambitious emissions reduction target and to oppose a renewables target. Over the summer, I set out the UK's approach at a business event in Brussels and visited both Slovakia and Romania for meetings with key Ministers. I have also recently discussed this issue with a number of my counterparts during meetings at the October Environment Council in Luxembourg.

I established a Green Growth Group of Ministers which now has expanded to 14 EU Member States, all of whom want to agree an ambitious climate and energy framework for the EU early next year. The group meets roughly every two or three months to share analysis and to make the case for high climate ambition.

I plan to step up this engagement over the coming months, including by hosting a Green Growth summit in Brussels on 28 October where I intend to emphasise the urgency and importance of agreeing a conditional 50% target.

*16 October 2013*

### **Letter from the Chairman to the Rt. Hon. Edward Davey MP**

Your letter of 16 October 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 October 2013.

Thank you for the helpful information you provided in your reply.

We are glad to hear of the efforts that you are making to work informally with other Member States and to inject a sense of urgency.

We look forward to further details from the Commission on the future policy framework at the turn of the year. In the meantime, though, we would welcome any information that you may be able to provide on the outcome of the Green Growth summit in Brussels on 28 October to which you referred.

We look forward to your response within 10 working days.

*30 October 2013*



## Letter from the Rt. Hon. Edward Davey MP to the Chairman

Thank you for your letter dated 30th October requesting information on the outcome of the European Green Growth Summit on 28th October 2013.

The European Green Growth Summit took place in the European Parliament in Brussels on 28th October and was co-hosted by the Green Growth Group of Ministers. The event involved a series of panel discussions focusing on different aspects of the EU's 2030 debate, including the link to a global climate deal, and was attended by around 200 participants including Commissioner Hedegaard, senior Commission officials from a number of DGs, a large and wide-ranging number of EU-wide business and investor leaders and representatives, as well as policy experts, senior economists, NGOs and national officials.

At the event, the Green Growth Group published a joint pamphlet, co-signed by Ministers from 13 Member States, entitled *Going for Green Growth: The case for ambitious and immediate EU low carbon action*, setting out an over-arching economic and strategic case for urgent European low carbon action. I attach a copy of this here for information and a link to the document on the DECC website:

<https://www.gov.uk/government/publications/going-for-green-growth-the-case-for-ambitious-and-immediate-eu-low-carbon-action>

As well as making a number of key policy statements and drawing on a wide range of recent and independent analysis from an international and expert sources, the joint pamphlet calls for three key actions in the short-term:

- Agree an ambitious post-2020 policy framework in line with the EU Low Carbon Roadmap and our 2 degree climate goal in order to give the private sector the certainty they need to invest now;
- Reform the structure of the EU Emissions Trading System to deliver emission reductions at least cost and further incentivise low carbon investments;
- Ensure the EU uses the opportunity offered by the Ban Ki-Moon Climate Summit in autumn 2014, by being in a position to put an ambitious EU emissions reduction offer on the table, in order to drive momentum and progress towards the world's first truly global climate deal.

In addition, as part of the Summit, my Department published a note showing our analysis into a range of different approaches for allocating the mitigation effort between countries to be on course for the below 2°C goal. The UK analysis models different global effort sharing approaches and explains what level of reductions this suggests the EU must make in 2030 noting that these do not necessarily represent the UK or EU's preferred approach.

- Crucially, this analysis indicates that in each of the scenarios modelled, a fair EU share of global emission reduction efforts for 2030 in the context of a global climate deal consistent with being on course for a below 2°C goal would need to be more than 50%. I attach a copy here for information and a link to the paper on the DECC website:
- <https://www.gov.uk/government/publications/analysis-of-eu-2030-greenhouse-gas-emission-reduction-target-options>

In my view, the event was a real success in terms of demonstrating a strong political and business support for stepping up EU action on cost-effective decarbonisation, deepening the debate around what an ambitious, credible and cost-effective 2030 package should involve, and underlining the clear link between early EU climate ambition on 2030 and the prospects for a global climate deal in 2015.

I will be looking to build on this momentum, working with my Ministerial colleagues, over the coming months ahead of the publication of the Commission's 2030 White Paper and thereafter.

*11 November 2013*

## Letter from the Chairman to the Rt. Hon. Edward Davey MP

Your letter of 11 November on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 November 2013.

We read with interest both the joint pamphlet and your analysis of different approaches for allocating climate change mitigation between countries in order to be on course for the goal of limiting global temperature increase to a maximum of 2°C.

The joint pamphlet resonates with us as it reflects many of the points that we made in our recent report, *No Country is an Energy Island: Securing Investment for the EU's Future*. We would therefore agree that its publication is welcome and is a sign of the success of the European Green Growth Summit in terms of demonstrating strong political support for stepping up EU action in this area. We particularly agree with the importance of underlining the clear link between early EU climate ambition on 2030 and the prospects for a global climate deal in 2015.

On the other hand, a substantial challenge remains. Consensus involving all 28 Member States will be required in order to adopt a clear position at the March 2014 European Council. Your efforts to build on the existing momentum will therefore be critical.

You may be aware that, along with some of your officials, we recently attended an event in the City of London which considered some of these issues. We will write to you shortly about that meeting, in advance of the publication of the Commission's White Paper in January.

We are now content to close this strand of correspondence.

28 November 2013

## WATER POLICY (6018/12, 6019/12)

### **Letter from Richard Benyon MP, Minister for Natural Environment and Fisheries, Department for Environment, Food and Rural Affairs, to the Chairman**

I am writing to update you on progress with negotiations on the above proposal.

The Commission proposal concerns the review of the list of priority substances in the field of water policy. Priority substances are those identified as presenting a significant risk to or via the aquatic environment. The main policy implications of the proposal are associated with the introduction of new priority substances for which environmental quality standards are set.

When the proposal was published in January 2012, the UK was initially alone amongst Member States in opposing the inclusion of three substances used as pharmaceuticals on the list of priority substances. The little information on costs available, suggested these would be high for this part of the proposal (European Commission's estimate to treat estradiol in wastewater was about 20 billion euros over 20 years for the UK) whilst evidence for the benefits was weak. Basing arguments on the available evidence, the UK gained a majority agreement in Council resisting inclusion of pharmaceuticals on the priority substances list. There were mixed views in the European Parliament which resulted in the ENVI committee voting in November to include the pharmaceuticals in the list of priority substances but to defer setting standards until the next review of the list.

When I last wrote, it was unclear whether a first reading agreement could be achieved. This situation persisted after the "final" trilogue but following encouragement of the Presidency by a number of Member States, including the UK, negotiations continued. Council have now written to the ENVI committee of the European Parliament accepting the compromise proposal. I expect the vote to come before the European Parliament in July and shortly afterwards to the Council of Ministers.

I am pleased to say that our key concern regarding inclusion of the pharmaceuticals on the priority substances list has been addressed. Those three (estradiol "E2", ethinylestradiol "EE2" and diclofenac) have been taken off the priority substances list and instead nominated for the watch list.

The watch list is a new mechanism, proposed to gain information on pollutants which owing to toxicity might be appropriate for prioritisation but for which there is a lack of information on their occurrence across Europe. It proved a controversial issue for some Member States, with the result that the list of proposed substances was reduced so that it now will initially comprise 10 substances rising to a maximum of 14. The first list will include E2, EE2 and diclofenac, leaving 7 further substances to be identified through a process yet to be developed. Monitoring should be carried out not less than once a year: the UK will be obliged to monitor at about 18 stations, which is a relatively minor addition to our overall monitoring requirements.

In your letter of 19 December 2012, you asked about the European Parliament's proposal to monitor the pharmaceuticals as priority substances but without environmental quality standards. I am pleased

to say that that suggestion has fallen away in the compromise proposal, with the pharmaceuticals being monitored under the watch list.

You were interested in the Commission's work on the effect of pharmaceuticals in the environment – whilst this did not directly affect the current proposal, the compromise proposal requires the Commission to develop a strategic approach to pollution of water by pharmaceuticals, with initial outputs expected two years from entry into force of the amended directive, and measures to address possible environmental impacts of pharmaceutical substances within four years of entry into force. I expect this to involve joint working between DGSANCO and DGENV.

There is the potential that evidence may be obtained through the watch list which would result in the pharmaceuticals being proposed for priority substances in the next review of the Environmental Quality Standards Directive (expected 2017). If that is the case, we would expect the evidence then to support prioritisation, but within the framework of the Commission's strategic approach and taking into account public health needs and cost effectiveness, as now set out in the compromise proposal.

There are some additions to the text to show how the Environmental Quality Standards Directive, as a daughter of the Water Framework Directive, relates to other source legislation (such as REACH, plant protection products, biocides, veterinary medicinal products and medicinal products for human use). There are also detailed amendments around implementation deadlines for new and revised environmental quality standards. These introduce a dependency upon the availability of analytical methods for introduction of revised standards in 2015, and apply standards for new priority substances from 2018.

*20 May 2013*

#### **Letter from the Chairman to Richard Benyon MP**

Your letter of 20 May 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 June 2013.

Thank you for your detailed and informative reply regarding the progress of negotiations on the above proposal.

We are particularly pleased to note that the Government's key concerns regarding inclusion of the pharmaceuticals on the priority substances list (estradiol "E2", ethinylestradiol "EE2" and diclofenac) have been addressed, and instead nominated for the watch list.

We are content to mark this strand of correspondence as closed.

*5 June 2013*