



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 1 December 2010 to 25 May 2011.

## **AGRICULTURE, FISHERIES AND ENVIRONMENT (SUB-COMMITTEE D)**

### CONTENTS

AGRICULTURE: PRODUCT QUALITY SCHEMES AND MARKETING STANDARDS (17672/10, 17677/10).....	2
ANIMAL CLONING FOR FOOD PRODUCTION (15277/10).....	5
A RESOURCE-EFFICIENT EUROPE (5869/11).....	8
CHINA: ALCOHOL, FOOD AND AGRICULTURAL PRODUCTS (11052/10).....	11
COMMON AGRICULTURAL POLICY: ESTABLISHING CERTAIN SUPPORT SCHEMES FOR FARMERS (14306/10).....	12
COMMON AGRICULTURAL POLICY: MEETING THE FOOD, NATURAL RESOURCES AND TERRITORIAL CHALLENGES OF THE FUTURE (16348/10).....	13
CONTRACTUAL RELATIONS IN THE MILK AND MILK PRODUCTS SECTOR (17582/10).....	14
COSMETICS: THE DEVELOPMENT, VALIDATION AND LEGAL ACCEPTANCE OF ALTERNATIVE METHODS TO ANIMAL TESTS (13818/10).....	16
DANGEROUS SUBSTANCES: CONTROL OF MAJOR HAZARDS (18257/10).....	18
EU BIODIVERSITY ACTION PLAN: ASSESSMENT OF IMPLEMENTATION (14863/10).....	20
EU EMISSIONS TRADING SCHEME (18249/10).....	22
EU EMISSIONS TRADING SCHEME: PHASE II.....	22
EUROPEAN AGRICULTURE FUND FOR RURAL DEVELOPMENT (14344/10).....	22
EUROPEAN COMMISSION REVIEW: LESS FAVOURED AREAS.....	23
EUROPEAN COURT OF AUDITORS SPECIAL REPORT NO 5/2010: IMPLEMENTATION OF THE LEADER APPROACH FOR RURAL DEVELOPMENT (16487/10).....	23
EUROPEAN FISHERIES FUND: THIRD ANNUAL REPORT ON IMPLEMENTATION (6224/11).....	26
EUROPEAN NETWORK OF REFERENCE CENTRES FOR THE PROTECTION AND WELFARE OF ANIMALS (15307/09).....	27
FARM ADVISORY SYSTEM (16611/10).....	28
FISHERIES: PARTNERSHIP AGREEMENT WITH MAURITANIA (6079/11).....	29
FISHERIES: PARTNERSHIP AGREEMENT WITH MOZAMBIQUE (5177/11).....	30
FISHERIES: WESTERN STOCK OF ATLANTIC HORSE MACKEREL (9003/09, 12548/09).....	31
FISHING: FISHING OPPORTUNITIES 2011 (9888/10).....	32

FISHING OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS (16068/10).....	34
FRUIT JUICE AND CERTAIN SIMILAR PRODUCTS: INTENDED FOR HUMAN CONSUMPTION (14046/10).....	36
GENETICALLY MODIFIED MAIZE: PLACING ON THE MARKET (6150/11, 6221/11, 6104/11) .....	38
GMOS: GENETICALLY MODIFIED CROPS.....	38
HEAVY METALS: A REVISED PROTOCOL (12487/10) .....	39
MANAGEMENT OF SPENT FUEL AND RADIOACTIVE WASTE (15770/10).....	40
POST COPENHAGEN: ACTING NOW TO REINVIGORATE GLOBAL ACTION ON CLIMATE CHANGE (7438/10).....	41
PROTECTION OF VULNERABLE MARINE ECOSYSTEMS FROM BOTTOM FISHING GEARS (16151/10).....	42
RESEARCH: AGRICULTURE, FOOD SECURITY AND CLIMATE CHANGE (9585/10) .....	43
RESIDUE LIMITS OF PHARMACOLOGICALLY ACTIVE SUBSTANCES IN FOODSTUFFS OF ANIMAL ORIGIN (8653/07).....	44
ROADMAP: MOVING TO A COMPETITIVE LOW CARBON ECONOMY IN 2050 (7505/11).....	45
SINGLE CMO REGULATION: ORGANISATION OF AGRICULTURAL MARKETS AND SPECIFIC PROVISIONS FOR CERTAIN AGRICULTURAL PRODUCTS (5084/11) .....	45
SPECIAL REPORT NO 6/2010: HAS THE REFORM OF THE SUGAR MARKET ACHIEVED ITS MAIN OBJECTIVES? (16315/10).....	47
SUGAR: GUARANTEED PRICES FOR CANE SUGAR (14122/08) .....	48
SIXTH MINISTERIAL CONFERENCE: PROTECTION OF FORESTS IN EUROPE (8779/11) .....	49
THEMATIC STRATEGY ON THE PREVENTION AND RECYCLING OF WASTE (5646/11).....	50
WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (17367/08).....	53

## AGRICULTURE: PRODUCT QUALITY SCHEMES AND MARKETING STANDARDS (17672/10, 17677/10)

### **Letter from the Chairman to Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment**

Your Explanatory Memorandum of 11 January 2011 on the above proposals was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 26 January 2011.

We, like you, agree with the Commission's analysis of subsidiarity and thus conclude that the proposals are consistent with the principle.

As a general point, the opportunity to add value to a product through quality labelling is an important aspect of agricultural innovation, a topic which is the subject of an inquiry by our Committee at the moment. In order to derive the full innovative benefits from the system, the proposed simplifications are welcome.

By contrast, we would agree with you that the proposed changes to the TSG system may be problematic, but we would find it helpful if you could say more in this regard. Could you explain, please, your own reservations about the suggestion that the "tradition" criterion be extended from 25 to 50 years; and could you say more about the impact that the proposed changes, including the restriction to processed goods, might have on existing UK TSGs, notably whether any UK products would continue to enjoy the TSG designation?

Your analysis is at an early stage. In addition to the explanation requested above, we would welcome further insight into your analysis within 20 working days. We will hold the proposals under scrutiny.

*26 January 2011*

## Letter from Jim Paice MP to the Chairman

Thank you for your letter of 26 January 2011 in response to my Explanatory Memorandum on the above proposals. I note from your letter that the Committee welcomed the proposed simplifications of the various EU quality schemes and was content that the proposals are consistent with the principles of subsidiarity. Your letter also asked for some additional information regarding the proposed changes to the TSG system and why we are opposed to them.

There are two proposed changes to the current TSG scheme which we are opposed to: restricting eligibility under the scheme to processed agricultural products and extending the definition of “traditional” from 25 to 50 years. I will address each of these in turn and in doing so explain how these proposed changes will have an impact on both existing UK TSGs and those products which are seeking registration under that EU quality designation.

### RESTRICTING ELIGIBILITY TO PROCESSED AGRICULTURAL PRODUCTS

The European Commission in its proposal have argued that in proposing to restrict eligibility in this way it is making the scheme more attractive to potential applicants. We take the opposite view. To illustrate why I would point out that both of the UK’s registered TSGs, Traditional Farmfresh Turkey and Traditionally Farmed Gloucestershire Old Spots Pork, would not have been eligible for protection under the proposed new rules. In addition, there are a number of other UK products as listed below, which currently have TSG applications at various stages of the scrutiny process. Some of these too would be affected by the proposed restriction.

- Cask Conditioned Ale
- British Free Range Goose
- Wiltshire Cured Bacon
- Traditional Bramley Apple Pie Filling
- Traditional Pasture Reared Beef
- Watercress

Of these six pending TSG applications, at least three and possibly four (including the Wiltshire Cured Bacon) would be ineligible with only Traditional Bramley Apple Pie Filling and Cask Conditioned Ale meeting the proposed criteria.

The Commission’s proposal would also have the effect of removing from the register of protected names those names which are already registered but would not meet the new criteria. This provision would take effect on 31 December 2017. As you can imagine the producers who would be affected by this are extremely concerned by this prospect especially given the considerable efforts they went to in order to get their product names registered in the first place.

### EXTENDING DEFINITION OF ‘TRADITIONAL’ FROM 25 TO 50 YEARS

In our view the proposed change to the definition of “traditional” is unnecessary, as it too runs counter to the Commission’s stated desire to make the TSG scheme more meaningful and attractive. The proposed period of 50 years would exclude products whose old methods of production have been recently revived by producers, as a result of growing interest in preserving a distinctive culinary tradition. Although none of the UK products listed above fall into this category we are aware that there is interest amongst regional and local food producers in reviving traditional recipes as a response to increased consumer interest in our food heritage. If this definition was changed we believe it would restrict the scope for those producers to differentiate such products on the market by taking advantage of the TSG scheme.

It is also worth noting that the current definition of 25 years was only drawn up in 2006 after much discussion across the EU and taking account of existing definitions of “traditional”. We are not aware of any good reason why a change in the definition is necessary now.

I hope that this helps explain our strong opposition to these two proposed changes to the current TSG scheme. I am also able to inform you that discussions on this issue and the proposal as a whole began at expert level in Brussels on 9-10 February. I am pleased to report that our strong opposition to both changes was shared by the overwhelming majority of other Member States and gives us strong cause for believing that the Commission will withdraw them.

4 March 2011

## **Letter from the Chairman to Jim Paice MP**

Your reply of 4 March to my letter of 26 January 2011 on the above proposals was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 16 March 2011.

We were grateful for the information which you provided, in relation to the TSG system, about your reservations over the suggested extension of the "tradition" criterion from 25 to 50 years, and about the impact that the proposed changes, including the restriction to processed goods, might have on existing UK TSGs.

There is clearly still some way to go in EU-level consideration of the proposals, and we shall therefore continue to keep the proposals under scrutiny.

*17 March 2011*

## **Letter from Jim Paice MP to the Chairman**

I am writing in response to your letter of 17 March 2011 to update you on the negotiations relating to these two legislative proposals concerning various EU quality schemes.

### **BACKGROUND**

The Commission published its package of quality policy proposals on 10 December 2010. The Package, as a whole, is designed to put in place a coherent agricultural product quality policy aimed at assisting farmers to better communicate the qualities, characteristics and attributes of agricultural products, and at ensuring appropriate consumer information. Agricultural product quality policy forms part of the Common Agricultural Policy. The Package includes two proposed Regulations of the European Parliament and Council covering EU quality schemes and EU marketing standards.

The main points of the quality scheme proposal are to strengthen and simplify the existing Protected Designation of Origin (PDO), Protected Geographical Indication (PGI) and Traditional Speciality Guaranteed (TSG) schemes for agricultural products and foodstuffs (e.g. Stilton Cheese, Welsh Lamb, Scotch Beef), through clarification and shortening of timescales within the application procedure. Wines and spirits will continue to be dealt with under separate legislation.

The main aim of the marketing standards proposal is to provide a more coherent approach to marketing standards, which have until now evolved on a piecemeal basis in the various sectors. The proposed Regulation introduces some provisions of a horizontal nature. These include power to the Commission to implement compulsory labelling of place of farming and/or origin, as well as a general marketing standard ("sound, fair and of marketable quality") for products for which specific marketing standards do not apply.

### **UPDATE ON THE QUALITY SCHEME PROPOSAL**

The Commission proposal was discussed in expert Council working group meetings on 9-10 February, and following on from that the Presidency prepared a compromise text which was the focus of further working group discussions on 1-2 March. A further working group meeting took place on 13 April and another is planned for late May. In addition, the specific issues relating to direct/local sales and products of mountain farming were also discussed at Agriculture Council last month. Progress on this dossier has been reasonably quick with a large degree of consensus amongst Member States. The European Parliament's Agriculture Committee had a first exchange of views and a workshop on the Commission proposal on 15 March. Following on from that the Rapporteur to the Committee has proposed a number of amendments which we have briefed UK MEPs on. The Committee will adopt its position on 20 June.

To date our main concern (as you are aware from previous correspondence) has been to oppose two of the proposed amendments in the Commission proposal to the TSG Scheme including extending the definition of "traditional" from 25 to 50 years and restricting eligibility to processed agricultural products. Eligibility currently extends to primary agricultural products. In addition, it is proposed that names already registered but which would not meet the new criteria will eventually be removed from the register of protected names. Both the UK's registered TSGs, Traditional Farmfresh Turkey and Traditionally Farmed Gloucestershire Old Spot Pork, would be affected by these changes as would a number of current UK applications (e.g. Watercress).

The vast majority of Member States share our concerns on these points and in its compromise text the Presidency has deleted both of the Commission's proposed provisions.

Other issues include:

- Moving the proposed provision on optional quality terms from this proposal to the marketing standard proposal - UK in favour
- Possible inclusion of provisions for local farming/direct sales label and product of mountain farming label – UK opposed in absence of Impact Assessment by Commission
- A push from some Member States to give producer groups the power to control supply of protected food name products on the market – UK strongly opposed

#### UPDATE ON THE MARKETING STANDARDS PROPOSAL

Detailed discussions of the Commission proposal began in expert Council Working Group meetings on 4 and 9 March with further meetings on 11-12 April. Progress on this proposal has been slow in comparison to that on the quality schemes proposal. At both meetings there have been many questions about the exact purpose of the proposal, its scope and whether it is successful in its aim of providing greater coherence to existing marketing standards. The European Parliament's Agriculture Committee had a first exchange of views and a workshop on the Commission proposal on 15 March. Following on from that the Rapporteur to the Committee has proposed a number of amendments which we have briefed UK MEPs on. The Committee will adopt its position on 20 June.

We have raised concerns about compulsory labelling of place of farming and/or origin being dealt with in this proposal as we believe that any such place of farming labelling provision must be compatible with the ongoing work on the draft Food Information Regulation, and might be more usefully addressed as part of that work.

We have also questioned whether the proposed provision of a general marketing standard (defined as "sound, fair and of marketable quality") for those products not already covered by marketing standards would actually serve the purpose of improving the economic conditions for the production and marketing of the products in question, as well as their quality. We have queried what additional benefits such a general marketing standard would deliver and, if indeed there is a benefit, the extent to which that benefit would outweigh the increase in financial costs and administrative burden for both Member States and producers.

On both these issues we are considering supporting an alternative proposal which is being drawn up by a sub group of Member States.

I will continue to keep you updated on the progress of both proposals.

*16 May 2011*

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

##### **Letter from the Chairman to Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 1 December 2010.

The subject is clearly one of high public and political interest, given the revelations over the summer that meat and milk from the offspring of cloned cows had entered the food chain in the UK and the subsequent advice last week from the ACNFP. We would be grateful for clarification from you on the timetable for consideration of the ACNFP advice by the FSA and Ministers, and also information on whether the long-term public health impact has been considered.

You acknowledge that there are implications for animal welfare arising from the technology, but state that existing EU legislation is sufficient to deal with them. We would appreciate clarity from you on exactly how you consider that current EU legislation offers sufficient welfare protection to cloned animals. Furthermore, as animal welfare and ethical concerns were not considered by the ACNFP, we would be interested to know if the Government will be seeking separate advice on these aspects as this important debate continues.

On the issue of a possible temporary ban on the use of animal cloning for food production, you are reluctant and you wish to leave the door open to allow UK industry to take advantage of the cloning technology. We would be interested in your view on whether the requirement under the Novel Foods Regulation to seek authorisation amounts in practice to a ban on the technology in any case.

As a Committee, we are particularly interested in the subject as we are currently conducting an inquiry into Innovation in EU Agriculture, and this is clearly an example of innovation in the livestock sector, with an accompanying regulatory framework.

Pending further information from you on the points raised above, we will retain the Report under scrutiny. I would be grateful for a reply within ten working days.

2 December 2010

### **Letter from Jim Paice MP to the Chairman**

Thank you for your letter of 2 December 2010 in which you asked for further information about food safety, animal welfare and the effects of the Novel Foods Regulation. I am extremely sorry that you have not had an earlier response. I will address each of the issues you raised in turn. I am also writing to update you on discussions in Brussels on cloning that have taken place in the context of the proposal to update the EU Novel Foods Regulation.

#### **FOOD SAFETY**

The Food Standards Agency (FSA) Board considered the advice provided by its Advisory Committee on Novel Foods and Processes (ACNFP) when it met on 7 December 2010. The ACNFP had noted at its meeting on 25 November 2010 that the evidence showed no difference in composition between meat and milk of conventional animals, clones or their progeny and that meat or milk from clones or their progeny was therefore unlikely to present any food safety risk.

The FSA Board concluded that the marketing of products from cloned animals should be subject to authorisation as novel foods but that, based on current evidence, there were no food safety grounds for regulating food from the descendants of cloned cattle and pigs. These conclusions were based on independent scientific advice, stating that there was no evidence that milk and meat from cloned cattle and pigs or their descendants posed any additional risk to meat and milk from traditionally-bred animals. Therefore there is no reason to think that the long term effect on public health of food from cloned cattle and pigs or their descendants would be different from the effect on public health of food from traditionally-bred cattle and pigs.

#### **WELFARE**

The welfare of farmed animals is regulated in the UK through a combination of European and national legislation. Donor animals, surrogate dams, and cloned livestock and their descendants are all subject to exactly the same welfare requirements as other farm animals. All farmed livestock in England is protected by the Animal Welfare Act 2006 and the Welfare of Farmed Animals (England) Regulations 2007 (WOFAR). The latter include provisions on farm staffing, inspection, record keeping, freedom of movement, accommodation and feeding, and implement the EU Framework Directive 1998/58/EC, which states:

*'20. Natural or artificial breeding or breeding procedures which cause or are likely to cause suffering or injury to any of the animals concerned must not be practised.*

*This provision shall not preclude the use of certain procedures likely to cause minimal or momentary suffering or injury, or which might necessitate interventions which would not cause lasting injury, where these are allowed by national provisions.*

*21. No animal shall be kept for farming purposes unless it can reasonably be expected, on the basis of its genotype or phenotype, that it can be kept without detrimental effect on its health or welfare.'*

The Animal Welfare Act 2006 contains a duty of care and makes it an offence either to cause any captive animal unnecessary suffering or to fail to provide for the welfare needs of the animal. There are also species-specific welfare codes of recommendations for livestock published on the Defra website, which include further recommendations relating to breeding procedures. Although stock-keepers are not legally required to comply with all provisions in these codes, they must be familiar with their provisions, and non-compliance with a code can be used as evidence in welfare prosecutions.

The European Food Safety Authority's (EFSA's) consideration of cloning has flagged up some welfare concerns for clones themselves, but EFSA acknowledged that improvements in the efficiency of the process had been reported from France and Japan, likely to be as a result of increased knowledge. EFSA recognised that the majority of losses in cattle clones were observed in the first 60 days following transfer of the embryo to the recipient and were generally without adverse welfare implications.

In terms of welfare, animal breeding technologies such as artificial insemination, embryo transfer and cloning have the potential to affect large numbers of animals negatively, in a relatively short period of time compared with natural selection. However, such breeding programmes and the use of breeding technologies also have the ability to improve animal welfare. Genomics technologies can be used to identify genetic markers for specific naturally occurring traits, such as robustness, disease resistance and reduced aggression, so that the most suitable animals can be selected for breeding to improve welfare as well as the production and sustainability of the industry. This technology will become increasingly powerful as the genomes of livestock species become more fully understood in terms of both structure and function.

Current legislation, welfare codes and the breeding industry's positive attitude towards animal welfare provide a sound basis for the future. There is no gap in current law in relation to the welfare of cloned animals. As they are genetically identical to existing animals, there is no reason why they should require protection additional to that offered to any other animal.

The Farm Animal Welfare Council intends to issue an opinion on breeding technologies in 2011 in a follow up to its 2004 report on the welfare implications of breeding and breeding technologies in commercial agriculture. This will also cover ethical issues. More recent advice specifically on cloning was passed to Ministers in 2007. These reports are both published on the Council's website at the following link:

[www.fawc.org.uk/pdf/breedingreport.pdf](http://www.fawc.org.uk/pdf/breedingreport.pdf)

#### EFFECTS OF THE NOVEL FOODS REGULATION

The Novel Foods Regulation is not equivalent to a ban on cloning. The Regulation does not affect the production of cloned animals or the rearing of these animals or their descendants, provided that their meat and milk does not enter the food chain without authorisation. An application would result in authorisation if the meat and milk were shown to meet the relevant criteria, namely that a novel food should not present a danger to the consumer, mislead the consumer, or be nutritionally disadvantageous compared with the existing foods that it is intended to replace.

To date, the FSA has interpreted the Regulation as applying to the marketing of food obtained from cloned animals or their descendants. The ACNFP, which would consider any application that was made, has now considered a hypothetical application relating to food from clones and their descendants. Following this, the FSA is minded to adopt the position that food obtained from the descendants of clones of cattle and pigs does not require authorisation. The FSA is now considering the results of its consultation with interested parties and expects to make an announcement shortly.

The Commission's proposals as outlined in its report on cloning would change the current position, in that the Commission is proposing a total ban for five years on cloning, the use of clones and the marketing of food from clones. The Commission report does not recommend any legal measures in relation to food from the immediate offspring or further descendants of clones.

#### INNOVATION

The contribution made by individual animals to improving the value of livestock can be considerable. As with natural cloning or twinning, artificially assisted cloning increases access to desirable traits across a generation. Although the technology is in its relative infancy compared with other well used methods such as artificial insemination or embryo transfer, it is a useful additional tool to the breeder, helping to disseminate genetic improvement in desirable traits, including those that can have an impact on welfare. In addition, for long-term competitiveness and reduction of climate change impacts, it is important that UK producers have access to technology that is available to their competitors in the EU and in third countries. We need to keep an open mind on new technologies; a point made recently in the Foresight report on Global Food and Farming Futures.

#### PROGRESS WITH EU DISCUSSIONS

As explained in Anne Milton's letters of 10 February and 1 April 2011 updating you on progress on the proposal for an updated EU Novel Foods Regulation (Explanatory Memorandum 5431/08), animal cloning was one of the key issues in negotiations between the Council and the European Parliament as they sought to reach agreement on new legislation on novel foods. Direct negotiations between the Council and the European Parliament took place between 1 February and 29 March under formal conciliation procedures. These negotiations concluded on 29 March when the Council and Parliament failed to reach agreement on the cloning of farm animals.

The European Parliament had initially argued strongly for a ban on cloning, food from clones and food from any animal with a clone in its ancestry. The UK Government view was that a ban on clones and on food from clones or their descendants would be disproportionate in terms of either food safety or animal welfare, as set out in my Explanatory Memorandum of 18 November 2010 and as agreed in the Commons Scrutiny debate on 31 January 2011. The Council wanted a ban on cloning and on food from clones but recognised that restrictions on the descendants of clones could not be justified in terms of food safety or animal welfare and that there would be consequences for enforcement and potential effects on international trade.

On labelling, the European Parliament pressed for mandatory labelling of all food from all descendants of clones. The UK Government view is that this is impractical, unenforceable and likely to lead to trade disputes with potential to increase both consumer prices for meat and dairy products and business costs. The Council wanted the feasibility, practicality and impact of any mandatory labelling of food to be examined before it was agreed and several Member States were not prepared to agree to labelling beyond fresh meat from the immediate offspring of cloned cattle.

The Commission is now reflecting on the next steps for both the novel foods regulation and the follow up to its report of October 2010 which is the subject of this memorandum. It is probable that the Commission will bring forward two separate proposals, one on cloning for food production and the other a revised proposal on novel foods.

Meanwhile, current EU legislation on novel foods will continue to apply. This legislation works well and this outcome is preferable to legislation that could be impractical and give rise to damaging trade disputes.

*05 April 2011*

#### **Letter from the Chairman to Jim Paice MP**

Your letter of 5 April 2011, replying to my letter of 2 December 2010 about this Report, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 6 April.

In the Report, on which you provided an Explanatory Memorandum, the Commission had proposed a temporary suspension on the use of animal cloning for the reproduction of food-producing animals, and the setting-up of a traceability system. I raised a number of related issues in my letter of 2 December 2010 on which I sought additional information from you. It is helpful to receive the information that you have now provided, though I had asked to receive this in December. It may be stating the obvious, but it is very regrettable that your reply has reached us only four months later.

In your letter, you report on the process by which a proposed amendment of the Novel Foods Regulation went into conciliation between the European Council and European Parliament, and you say that animal cloning was one of the key issues in the negotiations. You explain that, because the conciliation process failed to reach agreement by the end of March, current EU legislation on novel foods will continue to apply; and also that the Commission may now bring forward two separate proposals, one on cloning for food production, and the other a revised proposal on novel foods. We look to you to keep us informed about developments.

A considerable section of your letter deals with the issue of animal welfare. We note your advice that the Farm Animal Welfare Council (FAWC) intends to issue an opinion on breeding technologies later this year. Given that this opinion is still to be received, it seems premature to conclude, as you do, that current legislation, welfare codes and the attitudes in the breeding industry provide a sound basis for the future. We would ask you to write to us again once you have seen and considered the FAWC opinion, and to comment on whether the opinion is compatible with your conclusion that current law is adequate.

We will continue to keep the Report under scrutiny.

*06 April 2011*

#### **A RESOURCE-EFFICIENT EUROPE (5869/11)**

#### **Letter from the Chairman to Lord Henley, 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 and Environment Sub-Committee at its meeting on 9 March 2011.

We note that the Environment Council adopted Conclusions in December 2010 on “sustainable materials management and sustainable production and consumption: key contribution to a resource-efficient Europe”. Those Conclusions invited the Commission to propose quantifiable and measurable targets for resource efficiency (paragraph 16(a)). Given your opposition to such targets in your EM, we would be interested to know what line you took on that matter in negotiation of the Council Conclusions. We would also welcome a clearer rationale for your opposition.

More broadly, it is evidently the case that a move towards a resource-efficient Europe will require policy coherence not only at the EU level, but also at the national level. We would therefore be interested to know how you intend to take forward this agenda nationally.

Finally, one of the Commission’s medium-term action points is to ensure that resource-efficiency is taken into account in the forthcoming multi-annual budget negotiations, and in reform of the common agricultural and fisheries policies. How do you believe the future EU budget can most effectively take resource efficiency into account, and how will you help to ensure that the future agricultural and fisheries policies are similarly mindful of this priority?

We were interested to note that you are preparing a paper outlining the Government’s approach in greater detail and we would welcome sight of the paper when it emerges.

We will hold the Communication under scrutiny and look forward to your response within the usual ten working days.

*10 March 2011*

### **Letter from Lord Henley to the Chairman**

Thank you for your letter requesting additional information on the UK’s position in regards to the European Commission’s Communication “A resource-efficient Europe”.

Following the publication of the European Commission Communication: A resource-efficient Europe, the UK cautioned against a presumption for resource efficiency targets, given the potential perverse impacts and the large differences between Member States.

The UK is not entirely opposed to targets and we have some experience in supporting and meeting environmental targets. For instance, the UK fully supports the 2010 Landfill Directive target which aims to prevent or reduce as far as possible negative effects on the environment from the landfilling of waste. As this Government strives to be the greenest government ever it will be important that this trend continues as we look to meet future targets.

The UK believes that provision of information on the case for action on resource efficiency, coherent standards, labelling, and corporate reporting will drive behaviour change. Where a straightforward problem or measure exists, targets can be the appropriate tool to deliver change. However, with regards to resource efficiency and given the wide scope of the issue, the UK feels it would be inappropriate and possibly damaging to rush to impose targets across the EU on resource efficiency. Such targets may well have negative unintended consequences and drive unexpected behaviours. The imposition of targets across the EU could be rendered meaningless given the wider range of economic circumstances between Member States.

Although the UK is not against targets, our position at the Environment Council in December 2010 only reflected the potential complexity of using targets for resource efficiency.

The UK Government is not prescribing for the Devolved Administrations any specific approach to targets. Priorities and objectives should be set in a bottom-up way if possible and the Devolved Administrations may have a different approach to performance and transparency. Scotland for example suggested setting ‘aspirational target(s)’ that would encourage Member State action to reduce energy consumption.

The UK considers resource efficiency as critical to greening the economy and creating new opportunities for green economic growth. Over the last few years we have focussed on helping businesses improve their resource efficiency through provision of advice, support and information including best-practice, for example through the resource delivery body the Waste and Resources Action Programme (WRAP). A range of research has been undertaken to support a clear and compelling case for business action on resource efficiency. The UK also sees resource efficiency as important for addressing resource security and reducing resource risks.

As mentioned in the Explanatory Memorandum on the Communication, the Commission wants to integrate resource efficiency across dossiers such as the Common Agricultural Policy (CAP) and Common Fisheries Policy (CFP) reforms.

The agriculture sector is already feeling the effects of climate change and the pressures on natural resources. Agricultural adaptation actions will help improve resource efficiency. This can be achieved by growing appropriate crops, taking advantage of potentially increased yields, precision farming, increased water efficiency and storage and minimising environmental damage.

Given the rising importance of food security and the threats to agricultural production stemming from climate change, the UK agrees that resource efficiency is key to delivering a competitive and self-supporting agricultural industry. A proportion of the budget under CAP already supports measures to adapt to climate change within the Rural Development Pillar, and adaptation should be one of the objectives of the reformed CAP. Other EU budgets have to contribute also to climate change adaptation, such as spending on research and development, in order to ensure a solid foundation on which competitiveness, resource efficiency and economic growth can be built.

The current CFP has failed to deliver healthy stocks, and a profitable fishing industry. The EU Commission identified 5 key failings: fleet overcapacity; unclear policy objectives; short-term decision-making; insufficient responsibility given to the industry; and poor compliance.

The consequence of these failures is sub-optimal resource efficiency, as highlighted by the discarding of edible fish due to ineffective management rules, and economic returns from fishing that are much lower than they might be under a well managed, sustainable management system.

The UK is seeking radical reform of the CFP in order to overcome these serious failings, and to optimise our use of this natural resource. We are pressing for a simplified, decentralised CFP, allowing those closest to fisheries to agree the management measures that are most effective/appropriate, reducing the unnecessary waste of discards, and giving fishermen a clearer stake in the long term health of fish stocks with clearer entitlements to fish, and the freedom to plan their activities efficiently and sustainably.

We are working with other Member States, stakeholders and EU institutions to build support for radical reform ahead of negotiations later this year.

Finally, and as you mentioned in your letter, the UK is currently preparing a paper for the European Commission setting out our interests and the main areas for action (e.g. research needs, behaviours, indicators, etc) to influence the forthcoming Roadmap to a Resource Efficient Europe. I will be happy to share this document with you when it emerges.

*20 March 2011*

### **Letter from the Chairman to Lord Henley**

Your letter of 22 March, replying to my letter of 10 March 2011 about this Communication, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 March 2011. I sought further information from you on the Government's attitudes towards targets for resource efficiency, on how you expected to achieve policy coherence, and on the application to the CAP and the CFP of the priority of improving resource efficiency.

It was helpful to receive your reply, though it does give the impression that the Government is pursuing ad hoc responses rather than implementing a fully considered strategy. You say, for example, that the UK is not entirely opposed to targets; that the UK fully supports the 2010 Landfill Directive target; and that the Government look to meet future targets (at least in the context of landfill policy) in its efforts to be "the greenest government ever". Conversely, as regards resource efficiency, you say that the UK feels it would be inappropriate to impose targets across the EU on resource efficiency, and that such targets may have negative unintended consequences and drive unexpected behaviours. Different areas of policy need to be considered in their own right of course, but it is not obvious to us that the differences as between landfill policy and resource efficiency are so great as to justify a pro-target stance in the first case and opposition to targets in the second.

We welcome your comments in relation to the CAP and the CFP; we have made similar points in our own statements on these policies. It will be important that the concerns we share are reflected in specific proposals, and subsequent negotiations, on reform of both the CAP and CFP in the next few months.

We are keen to see the paper that you mention, which the UK will provide to the European Commission setting out the main areas for action to influence the forthcoming "Roadmap to a Resource Efficient Europe". For the moment, we shall continue to keep the Communication under scrutiny.

*31 March 2011*

### **Letter from Lord Henley to the Chairman**

Thank you for your letter of 31 March regarding EM 5869/11, in response to mine of 20 March.

You responded to my comments from the letter of 20 March and requested to see a copy of the Government paper for the European Commission, setting out the UK's interests and the main areas for action (e.g. research needs, behaviours, indicators, etc) to influence the forthcoming Roadmap to a Resource Efficient Europe. We submitted this paper to Commissioner Potočnik on 5 April and I enclose a copy with this letter [not printed].

*16 April 2011*

### **Letter from the Chairman to Lord Henley**

Your letter of 16 April, replying to my letter of 31 March 2011 about this Communication, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 4 May 2011.

We were interested to read the paper which the UK Government provided to the Commission on 5 April, setting out the UK's interests and the main areas for action to influence the forthcoming "Roadmap to a Resource Efficient Europe". The paper ranges widely across important economic and social issues; given this scope, and the need to derive more specific proposals from broad statements of principle, we shall continue to keep the Communication under scrutiny until the Roadmap itself comes forward.

*05 May 2011*

## **CHINA: ALCOHOL, FOOD AND AGRICULTURAL PRODUCTS (11052/10)**

### **Letter from Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment, to the Chairman**

I am writing to inform you that at the Foreign Affairs Council meeting on 10 September 2010, the Council agreed to the Recommendation from the Commission to the Council authorising the Commission to open negotiations with China with a view to an agreement on the protection of geographical indications (GIs) for wines, spirits, agricultural products and foodstuffs. This is the subject of Limité document 11052/10.

I have attached a copy of the Limité document in question [not printed], under the usual rules on confidentiality barring discussion of the document with others either inside or outside Parliament. As that document makes clear the overall objective will be to secure an agreement with China that will provide for the mutual recognition of both parties GIs. The opening of negotiations with China on this issue marks the next stage in the process and follows on from the EU-China summit which took place in November 2009. At that meeting leaders welcomed the launch of negotiations on an EU-China geographical indications bilateral cooperation agreement, as part of their joint commitment to step up cooperation on intellectual property rights.

The UK supports the opening of negotiations which is in line with overall UK policy to encourage free trade whilst protecting our GIs for food and drink products. Although we have fewer GIs than some Member States a number of our protected food name products are of great economic significance. These include Welsh Lamb, Scotch Beef, Scottish Farmed Salmon and Stilton Cheese. European Commission research from 2008 showed that the UK ranked 4th within the EU in the economic value of its GIs. This figure did not include Scotch Whisky which is our most important GI in economic terms and which, since November 2010, has enjoyed protection in China.

Consumption of wine in China increased by over 100% between 2005 and 2009 and is expected to grow by a further 77% by 2014, to a figure approaching 130m cases (1.5 billion bottles). China is currently the sixth largest export destination for EU wine and is growing at a rate of 30% p/a. The quality of China's domestic wine production is average, so EU wine imports tend to meet the demands of China's growing wealthy elite who see classic EU wines like Champagne, Bordeaux etc as a status symbol. However producers in the UK are also exploring the potential the Chinese market offers for the export of our own high quality sparkling wines. Given the current level of trade, and future market potential offered by China, moves by the Commission to secure a mandate from the Council to enter into discussions with China on mutual protection of valuable EU wine names is considered an important development.

*4 February 2011*

**COMMON AGRICULTURAL POLICY: ESTABLISHING CERTAIN SUPPORT SCHEMES  
FOR FARMERS (14306/10)**

**Letter from Jim Paice MP, Minister of State for Agriculture and Food, Department for  
Environment, to the Chairman**

Thank you for your letter of 11 November concerning the proposed alignment of the direct payment schemes regulations with the amended comitology provisions of the Lisbon Treaty. You asked for information on: i) the criteria we are using to determine whether an element is non-essential; ii) each difference of opinion on the proposed procedure with the Commission; and iii) our views on the application of delegated acts to three articles in the proposed regulations that the Polish Senate brought to your attention.

On your first point, delegated acts can supplement or amend certain non-essential elements of the legislative act. There is no definition of non-essential elements in the Treaty and therefore an assessment needs to be made on a case by case basis in the context of each proposal for a delegation. This assessment should consider whether any proposed delegation affects essential elements which are fundamental to the aim or objective of the act and which should properly only be amended by the legislator on the basis of the Treaty rather than be delegated to the Commission. An example of an essential element would be the determination of the scope of the legislative act.

On your second point, as required for the application of Article 290 of the Lisbon Treaty concerning delegated acts, the Commission has set out in the proposed regulations the objectives, content, scope and duration of the delegation of power. These are due to be discussed at Council working groups on 7, 8 and 9 December. During these discussions my officials will be highlighting any areas where the UK has a difference of opinion on procedure. As with the proposed amendments to the rural development regulation (EM 14344/10), one such area concerns the lack of a time limit to the Commission's power to make delegated acts - we propose that this should be limited to seven years to align it with the equivalent time limit we are seeking in the rural development regulation and which has already been agreed for the Timber regulation. This would require an amendment of the proposed new Article 141b(1). We will also be commenting that the time period for the Council and European Parliament to object to a delegated act (as covered by the proposed new Article 141b(3)) should be two months, extendable by a further two months. In addition, we will be requesting that the recital of the proposal should state that the Commission will consult experts from Member States when drafting delegated acts, thereby reflecting a commitment to consult given in a draft Common Understanding. These points have already been agreed for two other proposed regulations (Pets and Timber), and we consider that there should be consistency on these points across regulations.

Concerning the proposed application of delegated or implementing acts we consider that the proposed Article 27(a)(1)(e), allowing the Commission to set rules on further measures to be taken by Member States on the implementation of the Integrated Administration and Control System, should be more tightly defined. We consider that the proposed Article 27(a)(4) and (5), concerning the rules on reductions of farmers' payments for breaches of eligibility and cross compliance rules, supplements essential elements of the basic EU instrument and should therefore be dealt with via implementing acts rather than delegated acts. Similarly, we consider that Article 67a, concerning rules on farmers' access to payment following decoupling of certain sectors, covers an essential act and therefore it is inappropriate that this is subject to the delegated act procedure.

In addition, concerning the application of delegated acts to the three articles highlighted by the Polish Senate:

New Article 12(5) – This gives the Commission powers, via delegated acts, to adopt provisions relating to the scope of the Farm Advisory System and the eligibility criteria for farmers. We consider this to be an essential element of the act and therefore agree with the Polish Senate that it is inappropriate that this be subject to the delegated act procedure.

New Article 45(a)(1)(a) – This gives the Commission powers, via delegated acts, to set rules on farmers' eligibility to claim under the Single Payment Scheme, including in cases such as inheritance. We consider that this should be redrafted to limit the Commission's powers to the examples given, rather than an open-ended power to set rules on farmers' eligibility to claim under the scheme.

New Article 45(a),3(a) – We believe this is simply intended to allow the Commission, via delegated acts, to confirm that for the purposes of this Regulation the definitions in Member States' national legislation for 'inheritance' and 'anticipated inheritance' should be used (as is the case currently). However, we agree with the Polish Senate that some redrafting is required to ensure the wording accurately reflects this intention.

I hope you find this further information useful and I am happy to provide any further clarification.

2 December 2010

### **Letter from the Chairman to Jim Paice MP**

Your reply of 2 December 2010 to my letter of 11 November about this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 December 2010.

We have noted your comments about your approach to assessing whether a proposed delegation affects only non-essential elements of a legislative act.

You explained that there are differences of opinion between the Government and the Commission in terms of the procedures proposed. You also explained that the Government share some of the concern expressed by the Polish Senate in relation to three articles; in particular you agree with the Polish Senate that provisions relating to the scope of the Farm Advisory System bear on an essential element of the act and should not be subject to the delegated act procedure.

We are keen to be kept informed of how these issues are resolved. For the moment, and pending further information from you, we will retain the proposal under scrutiny.

9 December 2010

## **COMMON AGRICULTURAL POLICY: MEETING THE FOOD, NATURAL RESOURCES AND TERRITORIAL CHALLENGES OF THE FUTURE (16348/10)**

### **Letter from the Chairman to Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment**

Your EM (Explanatory Memorandum) on the above Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 15 December 2010.

As you note, the Commission's suggestions are high-level but, as such, are woefully lacking in detail. Notably, there is no clarity on future plans for how Pillar 2 will deliver all to which it aspires, including the promotion of innovation and tackling climate change. On Pillar 1, the Commission's suggestions under its second option would appear to amount to post hoc justification for continuing the status quo, rather than genuine reform with food security, innovation, environmental policy and climate change at its heart.

Your EM understandably lacks detail given the nature of the Commission's Communication and the level of analysis required. We look forward to receipt of detail on your position once your analysis has progressed. While your view that direct subsidies should be phased out over the period of the next financial perspective may attract some support, the necessary majorities in Council and the European Parliament may be trickier to command. You will therefore need a Plan B and it is in the nature of this that we would be particularly interested.

The Communication relates closely to several pieces of work undertaken by the Committee in the past and to its current inquiry into Innovation in EU Agriculture. On the basis of this work, we expect to submit a response to the Commission consultation by the end of January. In addition the Committee will be conducting its own scrutiny of the Communication on the EU Budget post-2013, which is clearly pertinent.

Pending further detail on your position, we will retain the Communication under scrutiny.

15 December 2010

### **Letter from Jim Paice MP to the Chairman**

I am pleased to enclose [not printed] the UK Government's response to the European Commission's Communication on 'The CAP towards 2020: Meeting the food, natural resources, and territorial challenges of the future'. The Secretary of State for Defra submitted this response to the Agriculture Commissioner, Dacian Ciolos, on 27 January.

The response advocates genuinely ambitious reform of the Common Agricultural Policy that will enable farmers to adapt to the challenges and opportunities of the future. This includes promoting greater competitiveness, efficient use of taxpayer resources and improved delivery of public goods. This Government's approach will be to work positively in the EU to encourage reforms that will benefit farmers, consumers, taxpayers and the environment.

I would be happy to discuss this with you further and will endeavour to keep your Committee informed as negotiations progress.

22 March 2011

### **Letter from the Chairman to Jim Paice MP**

Your letter of 22 March 2011, enclosing the UK Government's response of 27 January to this Communication, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 6 April.

I wrote to you on 15 December 2010 to say that we wished to retain the Communication under scrutiny, and I subsequently copied to you my letter of 26 January 2011 to Commissioner Ciolos with our own response to that document.

You referred to the Government's views on CAP reform when you gave evidence to our Agriculture Sub-Committee on 23 March of this year. There is clearly a good deal of common ground between us, not least in our shared wish to see the CAP strengthen the productivity of EU agriculture and, to that end, give better support to innovation. As emerged in the evidence session on 23 March, however, we are well aware that the UK has to persuade others of its views, and this points to the need for realism in relation to elements of the CAP, such as Pillar I, which seem certain to continue beyond 2013.

In the evidence session, you will recall that we spoke at some length about knowledge exchange, and Farm Advisory Systems. We welcomed your own positive comments on these issues, though these important concerns are not reflected in the Government's response to the Commission. It might be of interest to you that, at a recent meeting of Chairpersons of Agriculture Committees from national parliaments across Europe, the Director General of DG Agriculture spoke at some length about better integration of this matter into the CAP. It is our hope that the European Commission will take this forward in the context of the CAP reform, and indeed that you will see an opportunity to work with other Member States in support of the Commission's efforts.

In your letter, you undertake to keep us informed of progress in negotiations. We would welcome such updates; for the moment we will retain the Communication under scrutiny.

06 April 2011

## **CONTRACTUAL RELATIONS IN THE MILK AND MILK PRODUCTS SECTOR (17582/10)**

### **Letter from the Chairman to Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting of 16 February 2011.

Turning first to the consistency of the proposal with subsidiarity, we agree with your analysis on the basis that Member States retain sufficient discretion to act.

On a matter of procedure, however, you will be aware that this Proposal was subject to the procedure under the Lisbon Treaty whereby national parliaments may submit a Reasoned Opinion where they consider a proposal to have breached the principle of subsidiarity. The deadline for this is, with the exception of August, eight weeks after publication of the proposal in all official languages of the European Union. Deadlines are made available publicly on the interparliamentary exchange website ([www.ipex.eu](http://www.ipex.eu)). This proposal was adopted on 10 December 2010, your EM was dated 28 January and the deadline for a Reasoned Opinion was 7 February and has therefore passed. We would remind you that it is of utmost importance that, when such proposals are published, you submit an EM to us within the standard ten days. If this proves difficult, you are able to submit an initial EM covering only subsidiarity points, with a subsequent SEM covering more substantive policy issues.

The subject of a proposal is an interesting one, and it has certainly raised concerns in the UK. As you imply, the milk market is considerably more complex than the Member State market to which the 33% rule would apply, and so your idea of linking the threshold to the competition law concept of "a relevant market" would seem sensible. We would be grateful, however, if you could clarify for us your understanding of "a relevant market" and provide your view on how feasible it would be to make this change in the legislation.

We can otherwise offer our support for your stance. On the various proposals by the Commission to act through delegating and implementing powers, we would ask that you indicate any difference of views that you have with the Commission.

We shall retain the proposal under scrutiny and look forward to your response within 10 days.

16 February 2011

### **Letter from Jim Paice MP to the Chairman**

Thank you for your letter of 26 February 2011 about the above Explanatory Memorandum (EM) on the Commission's dairy proposals.

You raised the fact that the EM was dated seven weeks after the document had been published, meaning that the Committee did not have an opportunity to issue a Reasoned Opinion on the subsidiarity issues should it have thought it necessary. While you will appreciate that the Christmas period made things more difficult for us, I entirely understand your concerns given the importance of the scrutiny process. Therefore in future, if my officials foresee a delay, we will issue an initial EM detailing the subsidiarity issues, to be followed by a more substantive EM as you suggest.

You asked about our understanding of "a relevant market". This will vary from case to case and may vary over time, depending on the nature of the good or service in question. The relevant market framework seeks to identify and define the competitive constraints acting on a supplier, or purchaser, of a given product or service. These constraints are the actual or potential competitors of the undertaking(s) involved, that are capable of constraining that undertaking's behaviour, and of preventing them from behaving independently of effective competitive pressure (for example by raising prices above the competitive level).

While defining a relevant market is not always straightforward, in practice it is a matter of interchangeability (substitution). A relevant market usually has a 'product' and a 'geographic' dimension. Where goods or services can be regarded as interchangeable (in the eyes of the consumer), because they are sufficiently close in nature and / or characteristics, they are within the same relevant market. Potential competitors who would offer the goods or services in question if prices increased (but who do not currently do so) would also typically be included within the relevant market.

As regards the geographic market, the aim is to identify the firms that impose a competitive constraint on the firm(s) under investigation. In this context, the cost of transporting products is an important factor to consider. In the case of procurement and supply of raw milk, the distance from the collection point to the processing site is also a key factor to take into consideration, as raw milk is perishable. More generally, a geographic market might be local, regional, national, European or global.

The Commission proposal would limit negotiations by Producer Organisations to 33% of Member State production (or 3.5% of EU production). Member State borders may not represent the extent of the relevant market, as you suggest. The relevant market for raw milk will vary across the EU. It may be sub-national, or multi-national.

In the case of the dairy sector, the inquiry by the Competition Commission (CC) into the proposed merger between Arla Foods amba and Express Dairies plc in 2003 examined the relevant market for fresh processed milk. It concluded that the relevant product market was fresh processed milk, not including UHT milk, sterilised milk and flavoured milk. Sales of organic milk, regional milk or specially filtered milk were considered as part of the relevant product market. The CC found that the geographic scope of the market to supply the large national retailers incorporated all of Great Britain, with a caveat that supply in Scotland may have some regional aspects. For supply to middle-ground customers, the CC found that there were a very large number of smaller, geographically overlapping markets. Doorstep customers represented a further separate market segment. Although the definition process for merger analysis (being forward-looking) may not be precisely the same as in antitrust cases, merger market definitions provide helpful illustrations.

You asked how feasible it would be to link the limits on negotiations to the relevant market in the legislation. In principle this would be feasible as existing competition law is based on the relevant market concept. Some other Member States have joined the UK in calling for the legislation to be based on the concept of the relevant market. However we are in a minority on this point, which would represent a fundamental alteration to the proposed legislation. As such, we cannot be certain of achieving it. What is most important is that national competition authorities should be able to take decisions about the scale and potential impact of negotiations in their own Member State.

We are currently considering the approach taken by the Commission in relation to the alignment of the proposal with the new rules on delegated acts and implementing measures. I shall write to you detailing any further differences of view with the Commission's proposal when this consideration is complete.

Our view currently differs from that of the Commission in a number of areas, which relate both to aspects of general application and specific measures:

#### GENERAL APPLICATION

- we would like the proposals to match the Common Understanding;
- we would like delegated acts to be clearly time limited – the Commission has proposed no time limit;
- we would like the period for objection by the European Parliament or Council to delegated acts to be 2 months and then extendable by a further 2 months, rather than the one month proposed for the latter; and
- we would like the proposal to include the standard recital committing the Commission to consult Member State experts when it operates through delegated acts.

#### SPECIFIC MEASURES

- the Commission should operate with proper reference to the national competition authorities of the Member States affected when deciding whether to permit negotiations by Producer Organisations that cover more than one Member State. The Commission has proposed that it alone would take such decisions; and
- we question why the Commission needs implementing powers to guarantee uniform application of the provisions relating to compulsory contracts given that the Commission has indicated that such contracts, if made compulsory, would be freely negotiated between the parties.

I hope this responds satisfactorily to the points in your letter.

*21 March 2011*

#### **Letter from the Chairman to Jim Paice MP**

Your letter of 21 March, replying to my letter of 26 February 2011 about this proposal, was considered by the Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 30 March 2011.

We welcome your undertaking to minimise any future problems that delays might cause to the scrutiny of relevant proposals, by providing an initial EM dealing with subsidiarity issues.

We read with interest the information which you gave us about your understanding of “a relevant market”, and how this concept might be linked to the legislation. We note, however, that there is still limited support for this approach among other Member States.

We were grateful as well for the information which you have provided about the difference of views that you have with the Commission in relation to the proposed use of delegating and implementing powers.

We shall retain the proposal under scrutiny, given that there is still some way to go in resolving issues currently under discussion, and we look forward to receiving an update from you at the appropriate time.

*31 March 2011*

#### **COSMETICS: THE DEVELOPMENT, VALIDATION AND LEGAL ACCEPTANCE OF ALTERNATIVE METHODS TO ANIMAL TESTS (13818/10)**

##### **Letter from Edward Davey MP, Parliamentary Under Secretary of State, Consumer and Postal Affairs, Department for Business, Innovation and Skills, to the Chairman**

I am writing further to my holding reply about the above report and your request for further information. I apologise for the delay in replying but the position has been changing rapidly and the European Commission has just issued a call for evidence in order to inform the current and forecast position in validating in vitro testing methodologies.

You asked about the commercial implications for the cosmetics sector if alternatives are not available by the 2013 deadline. The European Commission has just started gathering information to provide a comprehensive impact assessment on the implications of the coming into effect of the bans in 2013. We should await this analysis before assessing the commercial implications.

However the cosmetics industry believes there may be major implications particularly for innovation, and also for its ability to defend current ingredients should new concerns arise. They also believe, with justification, that abandoning an ingredient when such questions arise is not always the best option, as alternative substances may not have received comparable assessments.

You also asked why industry is not funding the full cost of development. In those areas where the cosmetics industry has developed some expertise (namely, skin and eye irritation and skin sensitisation) the industry has already developed alternatives to the use of animals and these alternatives have received or are close to receiving international acceptance from the OECD.

The cosmetics industry lacks expertise in developing alternatives to toxicological tests which require the use of experimental animals. In areas such as repeat-dose toxicity studies, and the other areas covered by the 2013 ban, the cosmetics industry therefore requires additional support.

The finance provided by the Commission is to co-fund independent research into alternative methods. It does not benefit any particular country including those where animal testing is still being carried out. Nor indeed solely the cosmetics industry. The benefits of this research, whilst related to the specific legal obligations faced by the cosmetics industry, will be applicable to all other sectors of industry and academia which currently rely on animal tests. These methods when developed within the EU will we hope be recognised globally following validation by the OECD. European Commission co-funding is therefore appropriate.

Regarding international negotiation, the UK and other Member States do not take part directly. The Commission has reported positively on their bilateral meetings with the United States Food & Drug Administration. They also have bilateral meetings with the authorities of China, ASEAN, Australia and Israel. In addition, they meet multilaterally at the International Co-operation on Cosmetic Regulation (ICCR) with the USA, Canada and Japan, which sometimes includes industry.

I hope this answers the points you raised. Clearly we shall have to await the Commission report on their enquiries which is expected to be published in the course of 2011 to see what actions will be appropriate.

*14 January 2011*

#### **Letter from the Chairman to Edward Davey MP**

Your letter of 14 January 2011, replying to my letter of 20 October 2010 on the above report, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 26 January 2011.

We were disappointed by the answers which you gave to the questions which I raised in my previous letter.

I asked about the commercial implications for the cosmetics sector if alternatives are not available by the 2013 deadline. Three months after I raised the question, you comment that we should await a further analysis before the implications can be assessed.

I asked why the Commission should meet any of the cost of funding the development of alternatives to testing, which is a clear regulatory requirement on the industry. You comment that the industry lacks expertise and therefore requires additional support. We are not convinced. If the industry lacked financial resources, it might be a different matter. This is clearly not the case, and we look to you to offer a better explanation of why the Government support the intention of providing what is in effect a subsidy to a well-resourced industry.

Finally, I asked for the Government's view of the effectiveness of international discussions on acceptance of alternative methods. You list meetings that have taken place; you do not comment on their utility and outcome.

We look forward to your providing better considered answers to my questions, within ten days.

*26 January 2011*

#### **Letter from Edward Davey MP to the Chairman**

I am writing in reply to your letter of 26 January requesting further information on the questions you raised earlier. I do apologise for the delay in my response of 14 January, but there is little factual information available at present and I shall try to answer these as soon as the information is presented.

Unfortunately, the Government does not have the information necessary to estimate the commercial implications of the 2013 ban being maintained when alternatives are not available.

I therefore outlined the areas where there may be commercial implications, but did not quantify these, in part given the global nature of the industry, and equally that we have no indication of the number of, or reasons for, tests on animals for cosmetic purposes that have been carried out in recent years. I believe the Commission's Impact assessment will be available once evidence has been completed and assessed in the next four or five months.

You also asked why the Commission should meet any of the cost of funding the development of alternatives to testing. Aside from the specific requirements on the cosmetic industry there is a more general European objective to reduce animal testing for all purposes. Supporting research into the 3R's (refinement, reduction and replacement, of animal testing) has been an objective funded by the Commission in the context of the European Research and Technology Development Framework Programmes over the last 20 years. Validated alternative tests would negate or reduce the requirements for animal testing in respect of other products such as chemicals and household products, as well as for medicinal purposes. However bearing in mind that these tests are there to help ensure the safety of products, the alternative test methods have to be robust. The funds are being disbursed by the Commission, and the cosmetics industry is matching the funding offered to those projects approved by the Commission. I attach the 2010 Commission Work Programme which details these objectives at page 80 [not printed].

Regarding international negotiation, the UK does not take part directly. The Commission has reported positively on these meetings and we believe that they should be useful and necessary in terms of understanding what other major regimes are doing, to avoid parallel work being done in separate countries, and to advance international acceptance of such methods and to reduce possible trade restrictions that might result from different regimes in relation to requirements for animal testing.

More specifically the International Cooperation on Cosmetic Regulation (ICCR), with the USA, Japan and Canada has as a particular objective the reduction of hurdles to the international regulatory acceptance of alternative test methods. In September 2008 there was agreement on a Framework for International Cooperation on Alternative Test Methods. In April 2009 representatives of the validation bodies signed a Memorandum of Cooperation promoting enhanced cooperation and coordination on the scientific validation of non- and reduced-animal toxicity testing methods.

I do hope this answers some of the points raised. There will no doubt be further views to take when the Commission Impact Assessment is published and if any proposals to change the existing regulations are made.

*15 February 2011*

#### **Letter from the Chairman to Edward Davey MP**

Your reply of 15 February to my letter of 26 January 2011 was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 9 March 2011.

We welcome the responses which you have given to the points which I raised, but your reply does little to assuage our concern that EU may be failing to make sufficient progress on these issues.

On the issue of the commercial implications for the cosmetics sector if alternatives are not available by 2013, I raised this question with you in October 2010, and again in January of this year; and your latest letter says that evidence will be available (through the Commission's impact assessment) only in the next four or five months. We fail to see why it should take so long to assess these commercial implications, not least since the relevant imminence of the 2013 deadline should help to concentrate the minds of those concerned.

We shall of course want to hear from you as soon as the impact assessment is published. If you share our view of the need to take stock more urgently than is indicated by the timetable set for the impact assessment, we would welcome further comments from you before then.

*10 March 2011*

#### **DANGEROUS SUBSTANCES: CONTROL OF MAJOR HAZARDS (18257/10)**

#### **Letter from the Chairman to the Rt Hon Chris Grayling, Minister of State, Department for Work and Pensions**

Your Explanatory Memorandum of 20 January 2011 about this proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 2 February 2011.

We note that you give a general welcome to this proposal to amend the "Seveso II" Directive, in order to respond to changes in the EU system of classifying chemicals, and to clarify and update certain provisions to achieve a more consistent approach to implementation. At the same time, however, you explain that the UK Government intend to prepare an impact assessment which will be submitted to Parliament; that you wish to carry out further consultations with interested parties in the UK; and that there are issues to be resolved flowing out of aspects of the proposal (including new derogation arrangements and a safeguard clause) before you can take a final position on it.

We look to you to keep us informed about these matters as negotiations progress. We will await the impact assessment that you have promised, and we will be keen to hear from you about the outcome of your consultations.

In the meantime, we will keep the proposal under scrutiny.

3 February 2011

### **Letter from the Rt Hon Chris Grayling to the Chairman**

I am writing in response to your letter of 3 February 2011 on the above. As you will recall, the above proposal was put under scrutiny pending further information. Further information is now available; this letter gives an update for the Committee on the progress of negotiations on the proposed Directive so far and provides the conclusions from the UK impact assessment for the proposal. I will be writing to you again later in the year prior to the European Parliament having its first reading on this proposal.

#### CONCLUSIONS FROM THE UK GOVERNMENT IMPACT ASSESSMENT

A full UK impact assessment has been prepared with assistance from the Health and Safety Laboratories and ORC International and is attached. Over 10 years estimated costs range from £75m to £95m. This includes: the costs of aligning the Directive with the new regulation for classification and labelling of around £20m; costs to the operators of providing information to all those liable to be affected of around £20m; and an opportunity cost of time to the Competent Authority of the additional duties being suggested of around £41m. The impact assessment reveals more than a tenfold underestimate of costs by the Commission based on its preferred option.

#### UPDATE ON NEGOTIATIONS

As you may be aware, negotiations in the Council Environment Working Group (EWG) on this dossier began in February 2011 and are currently continuing under the Hungarian Presidency. The Presidency has recently and helpfully revised their ambitious timetable and now has a more realistic aim of delivering a progress report for the June Environment Council, with possibly an exchange of views amongst Ministers on the key issues. From then, it is likely that the Polish Presidency will look for a first reading deal towards the end of their Presidency.

The first read through of the proposal has now been completed by the EWG. The UK has been an active and influential player in negotiations. A revised text incorporating many of the UK suggestions has been issued and discussion will now centre on the key issues. The proposal is broader than originally envisaged. As you may recall, the main driver for a new Directive is the change of the chemical classification system used in the EU. This affects the legislation that the current Seveso II Directive uses to determine its scope. The proposed Seveso III Directive seeks to align Annex I (list of dangerous substances) with the new Regulation on classification, labelling and packaging of substances and mixtures (CLP). The proposal also includes other provisions. The key issues for the UK (and the majority of other Member States) currently concern four broad areas:

— Alignment of Annex I with CLP

There is no direct alignment for toxicity classifications, which has implications for bringing new sites in to the Directive and taking other sites out, regardless of major accident potential. An additional area of concern is self-classification of substances where there is potential for inconsistency between suppliers and this could lead to inconsistency in application of Seveso III. We are looking to achieve an alignment method that is more easily understandable by dutyholders and regulators alike.

— Correction mechanism

A correction mechanism is proposed to deal with the unwanted effects of alignment; this is welcome but the methods proposed are politically sensitive. The proposal suggests that changes to Annex I would be effected by the EC using delegated powers. We are pushing for a practical correction mechanism that would preserve Member State autonomy.

— Information for the public

The proposal strengthens the provision of information to the public in line with the Aarhus Convention and other environmental Directives. There are significant costs associated with this particularly in relation to the requirement to make information available in an electronic format. A linked proposal would give the public more input into the decision making process in a number of areas, associated with a requirement for access to justice and the possibility of judicial review. Whilst agreeing in principle the need for better information provision, we aim to ensure costs are minimised and will argue that the requirement for access to justice is superfluous because the provisions concerned are largely covered by the Environmental Information Regulations 2004.

— Inspection

There are tighter standards and timescales which appear out of place in a goal-setting Directive.

#### EUROPEAN PARLIAMENT CONSIDERATION

In the European Parliament, the Environment, Food and Public Health (ENVI) leads on the dossier, and the Internal Market and Consumer Protection (IMCO) and Industry, Research and Energy (ITRE) will be providing opinions. At a 13 April 2011 MEP workshop on Seveso III, the rapporteur concluded that the aim should be to maintain the same level of safety as under the Seveso II Directive and to complete the negotiations as quickly as possible in order to meet the deadline in 2015 when the new CLP legislation comes fully into force.

#### CONSULTATIONS WITH INTERESTED PARTIES

A cross Whitehall group has been set up and is working effectively to advise on the implications for wider government policy.

Consultation with industry and representative bodies is on-going. There is some industry concern at the potential complexity of the Directive, though currently there are no significant differences between industry and HSE's negotiating objectives.

I hope this is of benefit to the Committee.

*19 May 2011*

#### EU BIODIVERSITY ACTION PLAN: ASSESSMENT OF IMPLEMENTATION (14863/10)

##### **Letter from the Chairman to Richard Benyon MP, Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum of 18 November 2010 about this report was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 1 December 2010.

The report provides ample evidence of the failure of the EU to meet its own 2010 bio-diversity target. We note, for example, that, in the information which it provides about the impacts of agricultural practices on farmland bio-diversity in the EU, the report states that there has been a decline in common farmland bird populations, from 1990 to 2007, of approximately 20-25%. We would expect that your Department would be as concerned as we are about such a negative development.

We are clear that the new EU Biodiversity Action Plan, which is currently in preparation, will be of central importance in tackling the problems which have been caused by inadequate implementation of the previous plan. However, even before the new plan is available for scrutiny, we would like to see from you an assessment of the implications for EU policy of the results of the Nagoya Conference, not least for the reformed CAP; your Explanatory Memorandum contained little in this regard. We would ask for this further information within the next ten working days.

In the meantime, we shall keep the report under scrutiny.

*2 December 2010*

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

Thank you for your letter of 2 December in response to the Explanatory Memorandum regarding the above Report.

You asked for an assessment of the implications for EU policy of the results of the Conference on Biological Diversity (CBD) Conference of Parties (COP) in Nagoya, and in particular for the reform of the Common Agricultural Policy (CAP).

In order to achieve the EU's biodiversity target, agreed in March, of 'halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible', the Commission had already started preparing a new EU Biodiversity Strategy, prior to Nagoya, and conducted an EU-wide public consultation in September/October 2010. Now that the Nagoya COP has taken place, the Commission is finalising a Communication on the Biodiversity Strategy which will be published in the New Year. This will be based on the responses to the public consultation exercise and the agreement reached in Nagoya.

The new EU Biodiversity Strategy will, in essence, be the EU response to the CBD's Strategic Plan agreed in Nagoya. The Commission's proposals build on an analysis of reasons for failure to meet the 2010 target and in particular they seek to address the main pressures on biodiversity and make the most of upcoming EU policy reviews to integrate consideration of biodiversity within the relevant sectors. The six draft priority 'Sub-Targets' identified by the Commission are:

- Agriculture and forestry
- Fisheries
- Invasive non-native species
- Nature conservation
- Green infrastructure and restoration of ecosystem services
- Contribution to global biodiversity

The measures proposed by the Commission under each of these Sub-Targets are expected to provide an appropriate EU-level response to the targets of the CBD Strategic Plan, with a focus on areas of EU competence and collective action.

The Agriculture sub-target is expected to include a CAP element. With regard to CAP reform, we support reform which focuses on delivering environmental public goods that the market does not deliver, such as biodiversity, which are currently delivered through the second pillar of the CAP. Agri-environment schemes, both now and in the future, will have a key role in tackling biodiversity loss and addressing domestic and EU level targets in this area.

The Commission is also considering a shift of the European Regional Development Fund (ERDF) towards outcome-based approaches to enable collaboration amongst farmers. It also intends to promote measures to conserve genetic diversity in farming. The final Communication from the Commission will be published in the New Year.

Within England, we are working on translating the Nagoya agreement into our national biodiversity strategy and other relevant Government strategies and policies. One of the main vehicles for doing this is an ambitious Natural Environment White Paper and revised England Biodiversity Strategy.

*16 December 2010*

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

Your reply of 16 December 2010 to my letter of 2 December, in which I referred to your Explanatory Memorandum of 18 November 2010 about this report, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 12 January 2011.

We were grateful for the information which you provided about the work in progress to prepare the new EU Biodiversity Strategy, which, you say, will in essence be a response to the Strategic Plan agreed at the Nagoya Conference on Biological Diversity. We shall be closely interested in the Strategy.

We are content to release the above report from scrutiny.

*13 January 2011*

## EU EMISSIONS TRADING SCHEME (18249/10)

### **Letter from the Chairman to Charles Hendry MP, Minister of State, Department of Energy and Climate Change**

Your Explanatory Memorandum of 17 January 2011 about this Communication was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 2 February 2011.

You set out the contents of the Communication, including the Commission's belief that the carbon market is developing well in terms of liquidity and participation. Your EM does not make it explicitly clear whether you endorse this assessment. It would be helpful if you could say whether the Government agree with it and, in doing so, if you could comment on how effectively the carbon market (as part of the EU ETS) is contributing to the objective of reducing greenhouse gas emissions.

Given the events of recent days, we would ask you as well to comment on the extent to which the recent "phishing" attacks on national registries affect your assessment of the functioning of this market.

We shall keep the Communication under scrutiny while we await your reply, which we would like to receive within ten days.

We completed an inquiry into the revision of the EU's Emissions Trading System and published a report at the end of 2008. Against this background, we will be interested to be kept informed of the further study into the working of the carbon market which you mention, and of course any further legislative proposals.

*3 February 2011*

### **Letter from the Chairman to Charles Hendry MP**

Your reply of 16 February 2011 to my letter of 3 February about this Communication was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 9 March 2011.

We were grateful for the information which you have provided on the issues that I raised. We look forward to the further update which you have promised.

In the meantime, we are happy to release the Communication from scrutiny.

*10 March 2011*

## EU EMISSIONS TRADING SCHEME: PHASE II

### **Letter from the Chairman to Gregory Baker, Minister of State, Department of Energy and Climate Change**

Your letter of 13 December 2010 about progress in implementing Phase III of the EU Emissions Trading System was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 2 February 2011.

We were grateful for the information which you have provided, and for your confirmation that the Commission's proposal for a Decision was in line with the Government's desired objectives. In the event that any significant issues arise before adoption of the Decision, we would ask that you let us know.

*3 February 2011*

## EUROPEAN AGRICULTURE FUND FOR RURAL DEVELOPMENT (14344/10)

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

Your reply of 25 November 2010 to my letter of 11 November about this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 December 2010.

We have noted your comments about your approach to assessing whether a proposed delegation affects only non-essential elements of a legislative act, which leads you to conclude that none of the

delegations in this proposal affect essential elements. We have also noted that you do not share the concern expressed by the Polish Senate in relation to the seven articles listed in our correspondence.

You explained as well, however, that there are some differences of opinion between the Government and the Commission in terms of the procedures proposed. Given that discussion of this proposal may well set precedents for subsequent delegations, we would ask that you keep us informed about the way in which these differences are resolved. For the moment, and pending further information from you, we will retain the proposal under scrutiny.

9 December 2010

## EUROPEAN COMMISSION REVIEW: LESS FAVOURED AREAS

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

I am writing further to your letter to Richard Benyon of 1 July 2010 to update you on progress on the European Commission's review of Less Favoured Areas (LFA).

As you are aware, the previous Administration's key concern following the mapping simulation was that the Commission's proposed criteria did not capture areas constrained by the UK's cool and wet maritime climate (particularly in South West England and Wales). I share this concern, and my officials have therefore been continuing to seek to persuade the Commission of this case.

The UK's proposal for a new criterion of Field Capacity Days (FCD) to address this problem has been met by the Commission's view that the criterion is not applicable across the EU and they have been resistant to including it within the proposal. We have also tried alternative approaches which have captured some of the land that we are concerned about, but have not yet proved to be a totally acceptable alternative for England (although they have resulted in a fairer distribution for Wales). Recently, in presenting their initial conclusions of the simulation exercise, the Commission acknowledged that excessive wetness can be a factor which constrains land beyond simply poor drainage and have suggested measuring this using "number of days at field capacity given by soil moisture balance model". We are now seeking further details about this model and how it would work in practice.

Several of the UK's other suggestions have been acceptable to the Commission. These are: applying a more stringent temperature threshold to remove non-disadvantaged land in South East Scotland; ability to choose a different level of administrative unit (e.g parishes in Scotland, townlands in Northern Ireland); and using an alternative method of fine tuning, such as biophysical fine tuning (e.g. Agricultural Land Classification).

We currently expect that the formal re-designation proposals will come forward in Autumn 2011, and will be taken forward alongside the CAP reform discussions. Our aim is to ensure that we are able to use the final re-designation proposals to designate LFA land in the way that we think is most appropriate for the UK, including our maritime climate.

We understand that several other Member States (including France and Germany) also have concerns about the Commission's proposed approach. A priority for our work over the next few months will be to gain a better understanding of the position of other Member States and establish areas of common ground, including with Ireland who also have a maritime climate and have made a separate proposal to the Commission to address the problem.

However, we continue to welcome the move towards using biophysical criteria as being consistent with an LFA measure which is focussed on public benefits.

I will keep you updated on progress.

7 May 2011

## EUROPEAN COURT OF AUDITORS SPECIAL REPORT NO 5/2010: IMPLEMENTATION OF THE LEADER APPROACH FOR RURAL DEVELOPMENT (16487/10)

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

Your Explanatory Memorandum of 7 December 2010 about this report was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 12 January 2011.

As you know, we are currently conducting an inquiry into innovation in EU agriculture, and against this background we were particularly interested to read the finding in the European Court of Auditors' report that, under the Leader approach, local action groups (LAGs) could provide little evidence of innovation or interaction between sectors in their strategies or projects. The report states that LAGs financed projects that were little different to those of other EU programmes or that corresponded to the normal activities of local authorities.

More generally, the ECA report provides a good deal of evidence that the influence of LAGs often worked against the "key features" which the Leader approach is intended to support in rural development. The report attributes a share of responsibility for this outcome to the Commission and Member States for inadequate supervision of the process of implementation.

In your EM, you say that the report points to actions that the UK could support to ensure that the Leader process adds value to delivery of Rural Development Programmes (RDPs), and that the process is fair and transparent; and you tie this to the mid-term evaluation (MTE) of UK RDPs. We would welcome it if you could be more specific about the pointers in the ECA's report that you consider of most relevance to the UK's experience, and if you could spell out in more detail how you are taking forward the MTE process, and how you will ensure that this process draws appropriately on the ECA's findings.

We are content to release the report from scrutiny, but would ask you to reply to this letter within ten working days.

*13 January 2011*

### **Letter from the Chairman to Jim Paice MP**

Thank you for your letter of 13 January 2011 advising me that your Committee is content to release the above European Court of Auditors (ECA) Special Report from scrutiny. You asked for further information on how Defra is to take forward the findings contained in the Report that might help with the House of Lords inquiry into innovation in EU agriculture.

England and the Devolved Administrations have individual Rural Development Programmes so delivery arrangements differ.

As a point of clarification, the Leader approach is defined within the Rural Development Regulation. That definition includes the "implementation of innovative approaches". In this context innovation is about approaches to delivery of the objectives of Rural Development Programmes, through local public private partnerships and bottom-up decision-making, rather than innovative solutions to achieving the actual actions funded.

#### **THE RURAL DEVELOPMENT PROGRAMME FOR ENGLAND**

Defra, as the Managing Authority for the Rural Development Programme for England, has delegated responsibility for managing delivery of the socio-economic elements (Axis 1, 3 and 4) to the Regional Development Agencies (RDAs), with the exception of the London Development Agency. The RDAs are also responsible for management of the 65 English Local Action Groups (LAGs) that deliver Programme benefits through the Leader Approach under the Programme. These delivery arrangements will be changing as a consequence of the abolition of the RDAs, with delivery transferring into Defra. As part of those changes, Defra will also need to consider management of the LAGs.

The English LAGs mainly deliver benefits under Axis 3 of the RDPE, which aims to improve the quality of life in rural areas and diversification of the rural economy, in particular the elements that provide assistance to rural communities. The report of an independent Mid-Term Evaluation (MTE) of the RDPE was submitted to the European Commission in December 2010. Within its findings, the MTE recommends that issues around the Leader process be reviewed, particularly on the level of support for LAG running costs and the level of bureaucracy LAGs are asked to manage, much of which stems from the EC Regulations governing the Programme.

Account will be taken of the recommendations contained in the MTE and those in the ECA Special Report in planning for the transition of delivery from RDAs to Defra, and consideration of future arrangements for the management of delivery.

## THE NORTHERN IRELAND RURAL DEVELOPMENT PROGRAMME

In Northern Ireland, the Leader methodology is used to provide support through the six Axis 3 Measures (Quality of Life and Diversification of the Rural Economy) in the Northern Ireland Rural Development Programme 2007-2013 (NIRDP), with the exception of a rural broadband project.

It is felt that the infrastructures developed for the elements of the NIRDP delivered using the Leader methodology have guarded against most of the delivery failures identified by the ECA Report. Therefore, in general, the Report's recommendations are not thought to impact significantly on Northern Ireland. From the start of the programme, a focus of the NIRDP has been building the capacity of the Leader groups. Training has been provided in corporate governance, project assessment and best practice in rural development. In addition, through the Rural Network for Northern Ireland, the Leader groups have been encouraged to participate in thematic groups looking at specific issues and share the findings with other regions.

However, there are elements of Recommendation 4 of the ECA Special Report in relation to the efficient use of the programme funds, the achievement of added value through the Leader approach and closer alignment of supported projects to local area strategies which will be addressed.

The Mid-Term Evaluation of the NIRDP was finalised in November 2010 prior to the release of the ECA Report. Therefore, it was not possible to take account of any ECA Report findings. However, the recommendations in the MTE report are currently being considered by departmental officials and relevant stakeholders and the findings from the ECA Report will be considered by officials in conjunction with this process. The MTE states that, while it is widely agreed the Leader approach is a crucial aspect of the programme, it recommends a full review of the current delivery structure and general Leader approach to identify what works best in a Northern Ireland context in advance of the next programming period. An MTE Action Plan will be developed by the Managing Authority and discussed with the NIRDP Monitoring Committee in spring 2011.

## RURAL DEVELOPMENT PLAN FOR WALES

In Wales, the Leader approach has a specific team (the Rural Programmes Team) to advise on governance, minimise duplication with other European funding streams and assess project applications. The Axes 3 and 4 programme in Wales has been split into two bidding rounds.

To ensure adequate supervision of the process of implementation in Wales, Local Partnerships and LAGs are required to undertake continuous evaluation on the delivery of their projects and their Business Plans over the programme period to examine their progress against the objectives of the Local Development Strategy (LDS). The Local Partnerships and LAGs are also required to submit a qualitative assessment every quarter on the delivery of Axes 3 and 4 projects; this provides the Welsh Assembly Government with an evaluation on the delivery of projects.

In February 2009 a detailed review of the delivery of Axes 3 and 4 programmes was conducted and local groups consulted. An evaluation of the Local Partnerships in Wales is scheduled to take place during 2011 in order to establish the effectiveness of the local partnerships created to manage the implementation of Axis 3 and 4 at the local level.

In December 2010 the Welsh Assembly Government completed the MTE of the Rural Development Plan for Wales 2007-2013. The Assembly is now awaiting formal feedback from the European Commission on this report. It should be noted that the Wales MTE had been finalised prior to the release of the ECA Report and therefore could not take account of its findings. In the meantime the Assembly is taking a number of specific actions to take forward the recommendations from the MTE process and draw on the findings from the ECA Special Report on the Implementation of the Leader approach in Rural Development:

## SCOTLAND RURAL DEVELOPMENT PROGRAMME

In Scotland, the Leader methodology is used to provide support through the Axis 4 of the Scotland Rural Development Programme 2007-2013 (SRDP). The Scotland Rural Development Programme (SRDP) provides for the use of European Agriculture Fund for Rural Development (EAFRD) monies for Axis 4 of the RDR to fund the Leader approach to rural development in Scotland.

Leader in Scotland is delivered by 20 LAGs approved by the Scottish Government. LAGs have flexibility in making decisions about the rural development actions they want to support in their areas through their Local Development Strategy. LAGs are also required to undertake continuous evaluation of the delivery of their projects and their Business Plans over the life of the programme and examine progress against the objectives of the Local Development Strategy ensuring fairness and

transparency. The LAGs in Scotland are required to submit data quarterly with information on project indicators and an annual report.

The MTE of Scotland (SRDP) 2007-2013 was finalised in December 2010 prior to the release of the ECA Report. The Scottish Government is currently awaiting formal feedback from the European Commission on this Report.

Meanwhile the recommendations in the MTE report are currently being considered by Scottish Government officials and relevant stakeholders and the findings from the ECA Report will be considered by officials in conjunction with this process.

#### PROPOSED AMENDMENT TO THE RURAL DEVELOPMENT IMPLEMENTING REGULATION

Since the Explanatory Memorandum was submitted to the Select Committee, the European Commission has tabled proposed amendments for discussion to the Rural Development Implementing Regulations, including changes to take forward the recommendations in the ECA Special Report. The Commission has also proposed changes to its "Guide for the application of the Leader Axis of the Rural Development Programme 2007-2013 funded by the EAFRD" (European Agricultural Fund for Rural Development).

These amendments will require Member States to make changes to their Rural Development Programmes to ensure the Leader process is more transparent, by requiring that decisions on the selection of projects are approved by both public and private representatives in order to help avoid situations of conflict of interest.

*27 January 2011*

#### **Letter from the Chairman to Jim Paice MP**

Your letter of 27 January 2011 about this report, replying to my letter of 13 January, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 16 February 2011.

We were grateful for the information which you provided about the mid-term evaluation of UK Rural Development Programmes. We shall continue to take an interest in the "Leader" approach in the context of our current inquiry into innovation in EU agriculture, but we are content to regard this strand of correspondence as closed.

*16 February 2011*

#### EUROPEAN FISHERIES FUND: THIRD ANNUAL REPORT ON IMPLEMENTATION (6224/11)

#### **Letter from the Chairman to Richard Benyon MP, Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum on the above Report was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 March 2011.

We note that the Commission's approval of the UK's Management and Control System remains outstanding, and that a decision on this is expected by Easter. We would welcome confirmation from you of the Commission's decision once you have received that information.

In the past, we have heard that the European Fisheries Fund (EFF) has supported projects leading to increases in fishing capacity, which offset the positive impact of fleet reduction supported by the EFF. We are aware that the EFF Regulation is strict on that matter, but we would nevertheless welcome your assessment as to whether those rules are being respected. The Commission's Report offers figures (at section 2.2) on capacity reduction as a result of fleet reduction supported by the EFF, but offers no comment on the overall impact of the EFF upon capacity.

We will retain the Report under scrutiny pending responses on the above points.

*31 March 2011*

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

Thank you for your letter of 31 March about the above Explanatory Memorandum, and Sub-Committee D's comments on the UK's Management and Control System and the support of

European Fisheries Fund (EFF) projects leading to increases in fishing capacity. I apologise for the delay in replying.

As requested, I can confirm that on 12 May the European Commission notified the UK that its Management and Control System had been approved.

Concerning your points on the EFF and fleet capacity increases/reductions, I cannot comment on whether the rules are being respected in other Member States as we do not have access to this information. The delivery bodies implementing the scheme in the UK, however, have processes and procedures in place for evaluating applications before a decision is reached to ensure that the rules and regulations are met.

The Commission also carries out monitoring and evaluation to ensure that Member States comply with the regulations, and the European Court of Auditors scrutinises grants paid out under the scheme. It is also a requirement of the Commission that all beneficiaries of grant aid from the EFF are publicised. This is done through the European Transparency Initiative: in the UK, details of all grants are published on the Marine Management Organisation's website.

Member States must also carry out an interim evaluation of the scheme at the midpoint in its cycle, and this is currently under way. Reports must be sent to the Commission by the end of June, and it is expected that a full report for Europe will be available later in the year. The evaluation will reflect on the impact and effectiveness of the scheme and will be subject to a discussion at an EFF Committee meeting at the end of this year.

*16 May 2011*

## EUROPEAN NETWORK OF REFERENCE CENTRES FOR THE PROTECTION AND WELFARE OF ANIMALS (15307/09)

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

Further to your letter of 10 February to my predecessor, I am writing to update you on the Commission's report on options for animal welfare labelling.

The report was discussed in Agriculture Council earlier last year. Discussion showed some common ground among Member States. In particular there was support for any welfare labelling scheme to be simple, clear and voluntary which fits with the general principles that we have developed. Member States were also keen to ensure that any welfare labelling scheme did not place undue burden on producers while allowing for new market opportunities. There was limited support for an EU animal welfare reference centre. The Commission will now take forward its thinking on labelling as part of a wider strand on consumer awareness and education in its new Strategy for animal welfare for the period 2011-2015. Drafting will begin on the Strategy this year.

*10 January 2011*

### **Letter from the Chairman to Jim Paice MP**

Your letter of 10 January 2011 about this report, replying to my letter of 10 February 2010 to your predecessor, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 19 January 2011.

You have provided information about the progress of discussions on animal welfare labelling among Member States. It seems clear that issues which were of concern to us have figured significantly in these discussions.

You have explained that the Commission will take its thinking forward in the context of its new strategy for animal welfare for the period from 2011 to 2015. We shall take a close interest in all elements of this strategy, including of course any labelling proposals.

In the meantime, we are content to release this report from scrutiny.

*20 January 2011*

## FARM ADVISORY SYSTEM (16611/10)

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

Your Explanatory Memorandum of 21 December 2010 about this report was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 19 January 2011.

Advice to farmers is an issue which is at the heart of much of our current consideration of the present and future nature of the Common Agricultural Policy. In March of last year, we published the report of our inquiry into adapting EU agriculture and forestry to climate change. It is appropriate to quote a key finding in that report: "Adapting agriculture and forestry to climate change will be little more than an abstract aspiration unless governments turn policies into specific advice to farmers and foresters. The Commission is reviewing the Farm Advisory System which Member States operate under the CAP; any such system is worthy of the name only if it serves as an effective channel for this purpose."

As you know, we are currently conducting an inquiry into innovation in EU agriculture. Here too, a key focus has been the importance and effectiveness of knowledge transfer, from the lab-bench to the farm, and the adequacy of agricultural extension services. That inquiry will continue for some months, but it is not pre-judging its findings to say that we have received a good deal of evidence suggesting that in this country such services are not at the level which would best serve the farming sector. We would like to receive detail from you about the Government's proposals for knowledge transfer in the agricultural sector.

In your Explanatory Memorandum, you say that the Farm Advisory System (FAS) can be a useful tool in enabling farmers to comply with the requirements of cross-compliance, and you welcome the report's recognition of the role of advice in addressing future challenges such as climate change.

The Commission's report provides an impetus to review and enhance the role of the FAS. We understand that your Department is considering how to carry forward implementation of the FAS in this country beyond the end of the current agreement with your contractor. I would ask you to let us know if you will take the opportunity which is at hand to re-energise delivery of agricultural extension services, and in particular to expand the remit of FAS advisers to cover the challenges posed by climate change and by the need for innovation in agriculture.

The report indicates that all Member States except the UK (England) had implemented the FAS on the basis of one-to-one advice. We would also ask you to let us know what evidence is available to your Department that the approach followed in England provides an effective service to farmers.

We note that earlier this month the Secretary of State told the Oxford Farming Conference 2011 that she saw her job as helping the farming sector to become "more profitable, innovative and competitive". In our view, getting the FAS advisers to assist with these challenges would serve this aim very well.

We will keep the report under scrutiny while awaiting your reply, which it would be helpful to receive within ten working days.

*20 January 2011*

### **Letter from Jim Paice MP to the Chairman**

I am writing in response to your letter of 20 January 2011, regarding the above Explanatory Memorandum. You asked about the Government's proposals for knowledge transfer in the agricultural sector and the Farm Advisory System (FAS). I apologise for the delay in replying to you.

Defra recognises that it is important for government policies to be turned into effective advice for farmers and that there is a need for a joined up approach to advice delivery in order to manage this. The Cross Compliance Advice Programme (CCAP) currently delivers face to face advice to farmers through group events. These types of event are a more cost effective way of reaching larger numbers of farmers regarding key areas of non-compliance or changes to requirements. One to one advice delivered on farm to claimants provides less value for money, as the overall number of farmers able to receive advice would drop due to the higher cost of delivery per farmer. However, farmers are currently able to discuss issues on a one to one basis with a technical expert at events and, particularly, through the CCAP helpline.

At the moment, Defra is considering the future delivery of cross compliance advice under the FAS, and will be working with stakeholders on options for a Big Society approach which fits in with other advice streams. These options include looking at the provision of one to one advice on farm,

particularly for those who are currently disengaged or who have chronic compliance problems. The aim is to re-focus advice delivery to better address non-compliance, and to explore linking the receipt of advice to a reduced risk of inspection. This is in line with commitment 1.4(ii)(a) in Defra's Structural Reform Plan and the preliminary views of the Task Force on Farming Regulation.

In February 2011, Defra commissioned a significant year-long project, the Integrated Advice Pilot (IAP), to test the effectiveness of delivering integrated advice while reducing the burden on farmers. The IAP will build on previous research to define practical on-farm advice integrating measures from a range of policy objectives: climate change mitigation and adaptation, water, soil and air quality, nutrient management, bio-diversity and farming competitiveness. Using social research techniques and previous work on farmer behavioural types, different approaches to advice delivery will be robustly monitored for their effectiveness in influencing farmers' production methods. Developing from this research, the pilot will deliver a flexible training package for farm advisors. Through the pilot we will work closely with a wide range of organisations involved in the delivery of advice and consultancy services to farmers. It is hoped that a number of these will incorporate the new approach to advice delivery into the existing training packages for their advisors, leaving a lasting legacy of reduced pollution and emissions.

Also, Defra is leading facilitation across government departments on the implementation of the Taylor Review recommendations, with industry. These recommendations include re-invigorating research and translation of research into practical benefits to encourage innovation and knowledge transfer in the agricultural sector. At a recent meeting, representatives from industry, research institutes, consultancies, levy bodies and Knowledge Transfer Networks (KTNs) expressed their enthusiasm for developing and building on the existing networks of knowledge transfer activities and expertise. To improve co-ordination, Defra will take forward a small mapping exercise to inform options for further consideration. The Agriculture and Horticulture Development Board (AHDB) agreed to work together with other organisations (including the National Farmers Union) to coordinate better networking of demonstration farms that test and showcase new techniques and products.

*21 March 2011*

#### **Letter from the Chairman to Jim Paice MP**

Your letter of 21 March, replying to my letter of 20 January 2011 about this report, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 30 March 2011. The issues raised in this correspondence were also discussed at that Sub-Committee's meeting on 23 March, when you gave evidence in the context of the inquiry into innovation in EU agriculture.

In your letter and in your oral evidence, you explained that your Department has commissioned a project to test the effectiveness of delivering integrated advice to farmers – the Integrated Advice Pilot (IAP). The relevance of this project to the delivery of cross-compliance under the Farm Advisory System (FAS) is clear. We welcomed your comment, in giving evidence on 23 March, that you saw no point in having a separate stream of advice simply on cross-compliance, which has hitherto been the focus of the FAS.

We know that the Commission is also looking at the possibility of adjusting, and widening, the scope of the FAS. This augurs well for a meeting of minds, in seeking to improve a set of arrangements which at present fall well short of what seems to us to be required.

We will retain the report under scrutiny, and would ask you to keep us informed of developments. As you know, the organisation and content of advisory services to farmers is an issue at the heart of our inquiry into innovation in EU agriculture, on which we hope to report in June of this year.

*31 March 2011*

#### **FISHERIES: PARTNERSHIP AGREEMENT WITH MAURITANIA (6079/11)**

##### **Letter from Richard Benyon MP, Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

I am writing to advise you that this proposal was approved at Environment Council on the 14th March 2011. The document was restricted and therefore it was not possible to deposit the proposal for scrutiny. I have attached a copy of the proposal [not printed]; reference number 6079/11, under the usual rules on confidentiality barring discussion of the document with others either inside or outside Parliament.

Fisheries Partnership Agreements are deals negotiated by the European Commission that agree access to fisheries resources for EU vessels in exchange for a financial contribution, or in exchange for other fishing opportunities in EU waters.

The purpose of the proposal was to formally open negotiations with Mauritania for agreeing a Fisheries Partnership Agreement. It is important that negotiations commence to allow uninterrupted fishing operations for Community vessels. The UK has one licence to fish under this agreement, and we did not wish to inconvenience the vessel owners or those from other Member States with an interest in the fishery, and thus voted in favour of the proposal.

*05 April 2011*

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

Your letter of 5 April 2011 about this recommendation was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 4 May 2011.

We have no comment to offer specific to this recommendation. However, we would be interested in due course to see the details of the renewed protocol to this Fisheries Partnership Agreement, once negotiations have been completed. I would be grateful if you could confirm that you will let us see this, and if you could indicate when you expect to be able to do so.

*05 May 2011*

**FISHERIES: PARTNERSHIP AGREEMENT WITH MOZAMBIQUE (5177/11)**

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

I am writing to advise you that this proposal was approved at the Agriculture and Fisheries Council on 21 February 2011. The document was restricted and therefore it was not possible to deposit the proposal for scrutiny. I have attached a copy of the proposal [not printed], reference number 5177/11, under the usual rules on confidentiality barring discussion of the document with others either inside or outside Parliament.

Fisheries Partnership Agreements are deals negotiated by the European Commission that agree access to fisheries resources for EU vessels in exchange for a financial contribution, or in exchange for other fishing opportunities in EU waters.

The purpose of the proposal was to formally open negotiations with Mozambique for agreeing a Fisheries Partnership Agreement. It is important that negotiations commence to allow uninterrupted fishing operations for Community vessels. The UK has two licences to fish under this agreement, and we did not wish to inconvenience these vessel owners or those from other Member States with an interest in the fishery, and thus voted in favour of the proposal.

*7 March 2011*

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

Your letter of 7 March 2011 about this recommendation was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 16 March 2011.

We have no comment to offer specific to this recommendation. However, more generally, we are aware of questions that have been raised about the practical operation of such Fisheries Partnership Agreements and the adequacy of audit trails within recipient States. We have raised this issue in the past and would urge you to remain vigilant on this subject. We look forward to dialogue with you on this matter in relation to discussions on reform of the Common Fisheries Policy, when the international aspect of the CFP will arise.

*17 March 2011*

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

Sub-Committee D last considered the horse mackerel dossier on 28 July, and you wrote to me at that time to confirm both clearance of the proposal from scrutiny, and your interest in ongoing progress. I am writing to update you on the progress with negotiations on this dossier following a first reading in plenary by the European Parliament on 22 November.

Also covered at that plenary was the above dossier relating to anchovy in the Bay of Biscay. The UK has no direct interest in this stock, with the TAC allocated exclusively to Spain and France, although we support the development of a long term management plan. I include mention of it here for completeness, as it is the other dossier affected by the impasse on the legal base (see below) in addition to the horse mackerel plan. All following discussion below on the legal issues applies equally to both, bearing in mind the issues raised have wider implications in agreeing the approach for the future development of all such plans.

Before moving on to those wider implications, I will briefly comment on the amendments suggested for the horse mackerel plan by the European Parliament. Most are entirely consistent with necessary changes to reflect post-Lisbon adjustments, and the advent of the updated Control Regulation. One persistent theme, however, has been to request references to be made within the plan to a need to differentiate between the industrial fishing fleets and the artisanal coastal fleets supplying high-quality fresh fish for human consumption. Related comments refer to 'splitting the TAC' to protect the separate interests.

Our UK view on this suggestion is that such references to different fleets (which are not, in any case, clearly defined) are irrelevant for the purposes of this and other long term management plans, which are intended to determine an appropriate harvesting level and manage the stock. Naturally, this includes supporting the interests of fisheries exploiting that stock, by aiming to ensure long term sustainable yields. But subsequent distribution of each Member States' quota to their respective fleets and protecting their separate interests through that process, which is what these suggestions really relate to, is in practice carried out under separate domestic arrangements which are not part of the higher level objectives of the EU legislation. We continue to make this point, as a move to include such references will introduce unnecessary domestic interests and assertions within the plan which are not conducive to its aims, or relevant.

Turning back to the wider implications, as previously noted, a significant faction of Member States has continued to oppose the Commission's proposal where the legal structure reflects the Lisbon Treaty inter-institutional full co-decision arrangements. Their argument is that the harvest control rule fixes fishing opportunities, which Treaty amendments provide as a specific prerogative of Council (i.e. not for both Council and Parliament). The current Presidency has unsuccessfully sought to reach a compromise on this issue, including through the possibility of separating out parts of the management plan which could be left specifically to Council.

One such Presidency compromise has been to suggest a variable range (between 70 and 80 thousand tonnes) for the annual 'minimal removal amount' – which is a factor within the TAC harvesting rule calculation – to be determined by Council, thus providing them with a level of discretion to determine the fishing opportunities. This has already been mooted and rejected by Member States, however, primarily as it introduces an unscientific element into the all important harvesting rule. The Parliament subsequently advocated the approach as a suggested amendment, although at the first reading in November the Commission explained why this had been explored and rejected by Member States.

A solution that respects the Council's prerogative to set annual fishing opportunities, or provides a measure of discretion towards meeting that aim within the management plan, clearly is not straightforward. Our own UK position has been to support the Commission on the basis that the structure should safeguard the key element of long term management plans agreed by Council and Parliament, which would otherwise continue to be subject to annual political bargaining rather than following the science within an agreed long term strategy. We do, however, remain open to exploring solutions in a constructive way.

The Council was briefed on these issues by the Commission at the November Agriculture and Fisheries meeting. As a way forward, the Commission proposed trilateral meetings enabling the Council, the Commission and the European Parliament to discuss the procedural issues relating to these plans. I believe finding a way forward is crucial, as we see regionally developed long-term management plans as integral to future fisheries management and conservation, including under a reformed CFP. Now December Council is behind us, we await these proposed trilateral discussions in the new year with interest.

22 December 2010

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

Your reply of 21 December 2010 to my letter of 28 July about this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 12 January 2011. Your reply also referred to a parallel proposal (12548/09) relating to anchovy in the Bay of Biscay.

We were grateful for the fairly full explanation which you have provided of the state of discussions on these proposals between the Council, the Commission and the European Parliament. You indicate that further trilateral discussions are in prospect. As before, we would welcome a further update as these progress.

13 January 2011

### **FISHING: FISHING OPPORTUNITIES 2011 (9888/10)**

#### **Letter from Richard Benyon MP, Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman**

I write with reference to your letter of 28 July concerning the above Explanatory Memorandum.

You have now received Explanatory Memorandum 16068/10 detailing the Commission's proposals for fishing opportunities in 2011, as well as a copy of the interim report on the catch quota trials. The final point you raised in your letter was concerned with how discussions with the Commission are progressing over devolved responsibility for the management of stocks for which there is a sole Member State interest.

As part of its Total Allowable Catch (TAC) and Quota proposals the Commission has included provision for Member States to set their own TAC for stocks where there is a sole interest, including for the UK to set a TAC for Clyde Herring. Council Legal Services have confirmed that, whilst fisheries is exclusive Community competence, such authority can be delegated through Article 2(1) of the Treaty on the Functioning of the European Union. Member States are required to inform the Commission subsequently, by the end of February, of the TAC that has been set, and of any associated management measures. However, the TAC does not require Council approval.

We have warmly welcomed the approach outlined by the Commission. While there are still some ongoing discussions about the exact legal provision for this change in the TAC and Quota Regulation, we are confident that a mechanism can be agreed this year, which will provide the facility for the UK to manage the stock independently in 2011.

2 December 2010

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

Your reply of 2 December 2010 to my letter of 28 July about this Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 December 2010.

You have written separately, on 6 December, about the proposal for a Council Regulation fixing for 2011 the fishing opportunities for certain fish stocks and groups of fish stocks (16068/10). As you say, that letter deals with other points raised in my letter of 28 July.

However, as regards discussion with the Commission on devolved responsibility for management of stocks, we were pleased to see from your letter of 2 December that there have been positive developments. We would ask that you let us know when a mechanism is finally agreed for the UK to set a TAC for Clyde Herring.

9 December 2010

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

Following the conclusion of negotiations on Total Allowable Catches (TACs) and Quotas at EU Agriculture and Fisheries Council in Brussels on 13-15th December 2010, I am writing to detail the outcomes achieved for the UK.

As in previous years, these negotiations took place against a challenging background of a generally poor scientific outlook for most stocks. Our guiding principle was to seek a balance between the need to conserve fish stocks for the long term with the need to safeguard the livelihoods of fishing

fleets and their local communities. The Government also sought to ensure a package of measures that reflected the interests of different parts of the UK.

The main discussion centred on the setting of TACs and quotas for 2011 for around 100 stocks in the major sea areas of the EU. Negotiations were particularly intense, concluding in the early hours of the third day, but I am pleased to report that we secured some significant gains for the UK in line with our priorities. These are set out in summary below:

- We successfully resisted the division of the English Channel plaice fishery, which would have created real problems for UK fishermen, by unreasonably restricting both their fishing opportunities and their flexibility.
- We also obtained the Commission's commitment to a fundamental and comprehensive review of the EU's Cod Recovery Plan in 2011. At our insistence, this will look in particular, at exploring appropriate incentives to encourage fishermen to participate further in more sustainable fishing activities and to develop novel ways of improving the long-term management of EU fish stocks.
- The results of the recent EU/Norway agreement were endorsed, with a welcome increase in the amount of additional North Sea cod quota available as part of an expanded catch quota scheme (+12%). This will allow fishermen to land more of what they catch, in return for more intensive monitoring of their fishing activities and restrictions on discarding. An additional 5% was also subsequently agreed for Western Channel (ICES Area VIIe) sole to carry out a similar project. There were also increases in quota for both North Sea whiting (+15%) and herring (+21%), reflecting improved scientific positions. In the case of the former, this was directly as a result of additional information provided by the UK.
- Elsewhere, the UK was able to resist the extension of the cod recovery plan to the Celtic Sea (ICES Areas VIIf and g). The Commission accepted our argument that this would have been unduly restrictive in a fishery where cod represents only a very small proportion of total catches – and where what is caught is predominantly non-quota species like squid, cuttlefish and red mullet. There was however a welcome commitment to consider a more appropriate management regime next year.
- In the South West, we were able to persuade the Commission that a reduction in fishing effort was not in keeping with the spirit of the Western Channel sole management plan and would pose difficulties, given the 15% TAC increase that had been agreed. The proposal was therefore dropped.
- In the Irish Sea, the UK devoted a considerable amount of time to ensuring further thought is given to the potential for a Functional Unit management regime for Nephrops (langoustines) next year, before any decision is reached – and thus this will not now apply in 2011. We also ensured that the significant TAC cut proposed (-17%) was reduced (to -3%) to better reflect the latest scientific assessment for the stock. Following submission of more recent scientific advice, the Irish Sea herring TAC was increased by 10%.
- In the West of Scotland, fishermen will have 10% more quota for megrim in 2011 and only slightly less monkfish (-2%) – reflecting improved science for both stocks. These were significant improvements on the Commission's original proposals.
- Finally, the UK again invoked Hague Preference on both North Sea haddock and whiting to ensure adequate fishing opportunities for these stocks for fishermen in the North East and Scotland (by significantly supplementing the amounts otherwise available). We also counter-invoked on those stocks of interest to the UK (to the west of the British Isles) - on which the Irish applied their own Hague Preference prerogative - to limit the potential damage of such invocation.

Annex A [not printed] contains a table listing the final position on a fuller range of stocks of interest to the UK.

In relation to other aspects of the negotiations, it is clear that 2011 will be a particularly challenging year for the effort regime in the Irish Sea, North Sea and West of Scotland. We will need to deliver 15% cuts in effort for the main gears in North Sea cod recovery zone and a 25% cut in West of

Scotland and Irish Sea, in line with provisions of the management plan. As highlighted above, this management plan will be subject to review during the year.

I hope you will agree that, taken as a whole, this was a very good result for all parts of the UK – and one which shows that the UK is committed not only to the long-term sustainability of the stocks in question, but also the economic viability of our fleet.

In conclusion therefore, I believe this was a successful Council during which we were able to make gains in a number of important areas for the UK. The package offers a fair deal for the UK in which British fishermen gain vital quota increases while enabling action to protect stocks and cut waste. I look forward to working with the fishing industry in 2011 on the implementation of the provisions agreed.

*31 January 2011*

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

Your reply of 2 February 2011, replying to my letter of 2 December 2010, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 9 March 2011.

We were interested to read about the approach that is being taken, in line with the special provision under Article 6 of the Regulation, for the UK to set a TAC for Clyde Herring. In the light of this information, we are happy to regard this correspondence as closed.

*10 March 2011*

#### **FISHING OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS (16068/10)**

#### **Letter from the Chairman to Richard Benyon MP, 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 and Environment Sub-Committee at its meeting of 1 December 2010.

We note that the Commission proposal was published much later this year than last year (17 November rather than 19 October). This appears to represent a reversion to previous bad practice, and we would be interested in any information that you may have on the reasons as it significantly hinders effective parliamentary scrutiny.

Your comments focused on the proposed TAC levels but did not cover effort restrictions as these were not available at the time of drafting the EM. We would be grateful if you could provide an updated position with reference to effort restrictions and to updated TACs following the negotiations with Norway.

On the “use it or lose it” principle, we agreed with the Government when this was discussed in the context of the Communications on Fishing Opportunities for 2010 and 2011. Recalling scrutiny of the latter Communication, we were aware that ICES had asked Cefas to analyse the Commission’s proposed model. Do you know whether Cefas has completed this analysis and, if so, what its outcome was?

We were particularly interested to note the positive findings of the catch quota pilot scheme which you helpfully outlined in an annex to the EM. It seems that the scheme has reduced discards and has encouraged behaviour change in order to avoid the capture of juvenile cod in particular. We note that problems seem to have arisen with the functioning of the on-board CCTV technology and would welcome your comments on how those problems might practically be resolved.

In terms of the upcoming negotiation, we would agree that the catch quota pilot should be extended to other vessels and stocks and we would urge you to pursue this particular policy with vigour. It would be interesting to us to receive information on the involvement and interest of other EU Member States aside from Denmark.

Considering the West of Scotland cod and whiting TACs in particular, it seems to us inevitable that a 50% reduction will lead to a certain level of discarding and we would welcome your view on this.

We appreciate that time is pressing, but we would welcome responses to the points raised above in time for consideration at the Sub-Committee’s meeting of 8 December and in advance of the Council meeting on 13 December.

We will hold the Proposal under scrutiny.

### Letter from Richard Benyon MP to the Chairman

Thank you for your letter of 1 December regarding Explanatory Memorandum 16068/10. I am grateful for the prompt attention this dossier has received in the Committees of the House prior to December Council.

You asked why the Commission had reverted back to previous bad habits where the proposals were not published well in advance of UK Parliamentary Scrutiny Clearance. Despite my best intentions to resolve this matter, the Commission has yet to present me with an appropriate reason for the delay.

While not yet subject to a formal Commission proposal, a non-paper has been circulated detailing likely effort reduction proposals for 2011. Unfortunately, the EU - third country TACs and quotas are still under negotiation and therefore not available at this stage. I will endeavour to inform you of the outcome once confirmed.

The days at sea restrictions are as follows:

#### Effort levels proposed by the Commission for 2011 under the western channel sole management plan

Gear type	Max number of days
Beam trawls of mesh size $\geq$ 80mm	<b>164</b> (-15%)
Static nets with mesh size < 220mm	<b>164</b> (-15%)
Reference: 26th Jan 2010 OJ L 21/107	

The bold figures represent the 2010 figures. The figures in brackets are the percentage reduction from 2010 (15% cut on 2010 levels). UK Beam trawlers are eligible to use an additional 28 days reflecting the fact that the UK fleet has significantly reduced in size since the start of the effort control scheme.

#### Effort reductions proposed by the Commission for 2011 under the Cod Recovery Plan (change on 2010 levels)

	North Sea and Eastern Channel (% change)	Irish Sea (% change)	West of Scotland (% change)
TR1 - Demersal trawls – mesh size equal to or greater than 100mm	<b>135</b> (-15.4%)	<b>124</b> (-25%)	<b>135</b> (-25%)
TR2 - Demersal trawls – mesh size equal to or larger than 70mm and less than 100mm	<b>135</b> (-15.4%)	<b>130</b> (-25%)	<b>135</b>

On the “use it or lose it” principle, ICES had asked Cefas to analyse the Commission’s proposed model. Cefas has completed this analysis and the outcome suggests that none of the rules can be considered consistent with the Precautionary Approach and consistent with achieving Maximum Sustainable Yield (MSY). The biomass abundance rules are more helpful than the fishing mortality (F) target rules (as measuring F is difficult/impossible in a data poor situation), but the Commission rule (i.e. +/-15% to the TAC depending on whether the stock increasing or decreasing by 20%) is not evaluated as being useful at maintaining stock size, and could potentially lead to catastrophic stock decline. Finally, an alternative rule that changes the TAC (based on the actual percentage of change in stock size) is better at maintaining stock size where suitable abundance information exists. However, maintaining stock size is not necessarily advantageous for an already depleted stock.

You were concerned about the West of Scotland cod and whiting stocks. In 2008, Scotland introduced a voluntary programme known as “Conservation Credits”, which involved real-time closures (RTCs) combined with gear requirements. This was designed to reduce mortality and discarding of cod. The scheme gave incentives, by rewarding participating skippers with additional days at sea. The real-time closures system discouraged vessels from operating in areas of high cod abundance. In 2009, the scheme has been further developed, taking advantage of provisions in the European Union effort management regulations agreed at the 2008 December Council. Unfortunately, for whiting there is evidence that suggests that management control has not so far been effective in limiting the catch. The proportion of fish landed is still very high or under sized resulting in discarding. Measures to reduce discards and to improve the exploitation pattern would be beneficial to the stock and the fishery. Until then, the Commission has proposed a reduction in the TAC by half.

We appreciate your positive comments on our catch quota pilot scheme. As you note, the interim results show that the trial has encouraged behaviour change to reduce discards, and the scheme will ensure that mortality is also reduced. On the whole the Remote Electronic Monitoring (REM) technology has been working very reliably with minimal malfunction issues arising throughout the pilot. We are learning lessons from any minor issues that do occur with the technology, the majority of which can be fixed quickly. However, on the basis that serious technological failure is possible, the interim results paper from Cefas has recommended that the organisation responsible for installation and maintenance of the technology should make provisions to have spare parts available in an expanded scheme. This is currently the case and will be in the future.

From the perspective of maintaining control and enforcement of the scheme, the vessels are not allowed to go to sea if their technology is not working. In the event that a fault occurs at sea, the vessel is expected to notify the authorities of the fault, stop fishing and return to port for necessary repairs. Failing to have a fully functional system at sea is considered as acting out of the spirit of the scheme, and a penalty may apply for frequent or obvious offences (e.g. disconnecting power). These will remain conditions of future schemes.

Additionally, the REM system alerts the skipper instantly to any faults and also has the option to perform automated reports to authorities to confirm faults. We were pleased that the control and effectiveness of fully documented catch quotas (including an assessment of the monitoring technology) has recently been positively assessed by the European Commission's advisory body, the Scientific, Technical and Economic Committee for Fisheries (STECF).

We agree that it is important that other Member States are involved in trialling the system. The UK, Denmark, Germany and Norway recently signed the Ardoe Declaration [not printed] which supports the expansion of the scheme in 2011. We understand that Germany was interested in running trials last year but was unable due to a lack of volunteers; they intend to try again this year. Sweden, the Netherlands and France are also interested in the scheme and the technology but have not yet committed to trials.

*6 December 2010*

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

Your reply of 6 December 2010 to my letter of 1 December about this proposal, together with a Supplementary Explanatory Memorandum of the same date, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 December 2010.

We were grateful for your prompt response to the issues that we raised. It is disappointing that the Commission has failed to give an appropriate reason for the delay in publishing the proposal, and we will be interested to hear from you if any better explanation is forthcoming.

We will also be keen to hear from you again on the issue of how best to establish TACs where there is a lack of scientific advice on stock size. It seems clear that the Cefas analysis of the Commission's proposed model points to the need to keep the issue under review.

We read with interest the information that you provided about the catch quota pilot scheme and the actual or potential participation in the scheme of other Member States. Here too we look to you to keep us updated on developments.

Given that any such additional information is likely to be available only in the New Year, we are content now to release the proposal from scrutiny.

*9 December 2010*

#### **FRUIT JUICE AND CERTAIN SIMILAR PRODUCTS: INTENDED FOR HUMAN CONSUMPTION (14046/10)**

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

Your letter of 23 November 2010 about this proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 1 December 2010.

We are grateful for your comprehensive response.

We shall continue to hold the proposal under scrutiny, while we await further information from you on the results of consultation and as discussions proceed between Member States and in the European Parliament.

2 December 2010

### **Letter from Jim Paice MP to the Chairman**

I am writing with reference to the above Explanatory Memorandum of 13 October 2010 relating to fruit juices which has been considered by your Committee. Your letter of 23 November 2010 indicated that you would continue to hold the proposal under scrutiny awaiting the results of discussions with Member States and the European Parliament before taking a final view. The Impact Assessment is in preparation and we are currently working with the industry to try to establish costs based on the current proposal, but we envisage that overall these are likely to be fairly small as any potential relabelling costs will be limited to a small number of products offset by a long transition period and balanced by savings in other areas such as optional aroma restoration.

The Belgian and Hungarian Presidencies have moved very swiftly with this proposal since its publication in September. Two meetings have been held under the Belgian Presidency and good progress has been made towards reaching a common position. At the most recent meeting under the Hungarian Presidency, most Member States were supportive of the proposal, with only Germany voicing any concerns. As a result, the Hungarian Presidency has indicated their intention to submit a revised proposal to Coreper on 16 February 2011 prior to transmission to Council and the UK will be required to indicate whether it is in favour of the proposal.

Following the discussions at Council Working Group, the revised proposal has not changed significantly from the initial proposal put forward by the Commission in September 2010. The proposal remains very satisfactory to the UK and represents a good deal for UK industry while continuing to protect consumers. Importantly, it continues to reaffirm the distinction between fruit juice and fruit juice from concentrate, terms with which the consumer is now familiar. It also now permits the optional rather than mandatory restoration of aromas to juice, which is in force at present and is a significant win for the UK. The current directive is unclear about how much aroma needs to be restored and the UK along with other Member States have highlighted the difficulties in fully restoring aromas for certain juices because they are either not available in sufficient quantity or are of too poor quality to add back to a juice. Optional restoration provides legal clarity and also allows UK industry to continue to produce their "Value" brands where only certain aromas are added back for reasons of economy, competitive product pricing and consumer demand.

The UK's major trade association for producers of fruit juice, the British Soft Drinks Association (BSDA), has indicated the proposal to be largely acceptable to them and is very pleased with the current outcome. They remain concerned on only one aspect of the proposal - the fact they will no longer be able to make "no added sugar" claims on fruit juices. This is because the proposal now prohibits the addition of sugar to fruit juice. This is in line with UK policy on reducing fat, sugar and salt intakes. The UK industry is supportive of prohibiting sugar as it is not common practice for industry to add sugar to fruit juice, and realistically only a few grapefruit products will be affected. However, by prohibiting sugar addition to all juices the use of a "no added sugar" claims will now infringe food labelling rules because it is not permissible to suggest that a foodstuff possesses special characteristics when in fact all similar foodstuffs possess such characteristics. Since the proposal is that all juices can no longer contain added sugar this would be a direct contradiction. The industry would like the UK to seek a derogation, but the Government believes this would undermine the general principles of food labelling and could open the door to other such derogations. No other Member State has any concerns about the loss of the ability to use this claim. A limited number of juices currently on the market which make use of the "no added sugar" claim will be affected and they will need to amend their labelling if this proposal goes through.

The proposal has yet to be considered by the European Parliament's Agriculture and Environment Committees. A rapporteur has been appointed and discussion is scheduled over the coming months.

I would therefore be grateful if you could indicate whether your Committee is content to provide scrutiny clearance for the UK Government to vote in favour of the fruit juice proposal at the forthcoming February Coreper meeting. If the Parliament proposes significant changes I will, of course, write to you again.

3 February 2011

### **Letter from the Chairman to Jim Paice MP**

Your letter of 3 February 2011 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 16 February 2011.

We note that there has been rapid progress in negotiations on this proposal which, in your view, continues to be very satisfactory to the UK. It would have been helpful if the impact assessment to

which you refer had been available sooner, but we are content now to release the proposal from scrutiny.

*16 February 2011*

**GENETICALLY MODIFIED MAIZE: PLACING ON THE MARKET (6150/11, 6221/11, 6104/11)**

**Letter from the Chairman to Anne Milton MP, Parliamentary Under Secretary of State, Department of Health**

Your Explanatory Memoranda (EM) on the above proposals were considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 16 March 2011.

We have consistently supported the risk assessment process in place and we agree with the Government that the EFSA opinions can be supported. We are content to release the proposals from scrutiny.

The way in which these proposals are being taken forward is of course in line with EU policy that has been in place for some time. We, like you, are aware of the possibility that the EU's decision-making procedures in relation to genetically modified crops may be changed. The draft Regulation amending Directive 2001/18/EC as regards the possibility for Member States to restrict or prohibit the cultivation of GMOs in their territory remains under scrutiny (12371/10). We are clear that consideration of these changes should take account of socio-economic issues, including the socio-economic impact within the European Union of the current restrictive policy on cultivation. We await further information from the Government on the progress of discussions on that dossier.

*17 March 2011*

**GMOS: GENETICALLY MODIFIED CROPS**

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

Your Supplementary Explanatory Memorandum (SEM) on the above documents was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 4 May 2011.

Since we considered your initial EM on this proposal, in July of last year, the Sub-Committee has taken forward an inquiry into innovation in EU agriculture (including oral evidence from Mr Jim Paice, MP). The potential of bio-technology to contribute to agricultural innovation has been much discussed during inquiry evidence sessions, along with the reasons for the limited application of GM technology to crop cultivation in the EU, by comparison with, say, the US or Brazil.

Against this background, we readily understand the view that a move to allow Member States more national discretion on GM decisions has much to commend it. In your SEM, you say that the UK Government support the need to improve the EU regime, but that you believe that the current proposal is unlikely to have this effect. Your belief may well be correct, but we would like to hear more from you about the Government's views on how an improved EU regime could in fact be secured, and about whether, and how, the UK Government are engaging with the Commission and with other Member States to bring this about.

We will continue to keep the proposal under scrutiny while we await this further information.

*5 May 2011*

**Letter from Lord Henley to the Chairman**

Thank you for your letter of 5 May. In response to our Supplementary Explanatory Memorandum you have asked how the Government is engaging with the EU to improve the GM authorisation regime.

The situation we face is that there is no EU political consensus on this issue, and in this context the Commission has been reluctant in the past to progress EU votes on applications to cultivate GM crops. As there is no obvious solution to this difficulty, in the short term we believe the Commission should look to operate the EU system as it is. The UK will continue to press the Commission to process GM applications in a timely fashion, and not let the regime act as an unnecessary barrier to products gaining access to the market. This approach upholds the principle of science-based decision

making and would allow GM cultivation to take place in those Member States that are open to the technology.

More generally, the UK has consistently argued for the regime to operate more effectively, and our past efforts have had some success in relation to the import of GM commodities. A number of favourable EU import decisions have been reached, and the UK was also instrumental in pushing forward discussions on the recent agreement to implement a tolerance for trace levels of non-EU approved GM material in feed imports. Furthermore, we are actively engaged with the European Food Safety Authority on drawing up new guidance on the risk assessment of GM crops and foods, working to ensure that they continue to espouse the principles of proportionate, science-based evaluation.

Over the longer term, it may be that the EU situation will not change significantly until GM crops with more obvious appeal for consumers become available, which could prompt a more balanced debate around the potential benefits and risks of this technology.

*25 May 2011*

## HEAVY METALS: A REVISED PROTOCOL (12487/10)

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

I am writing to inform the Committee of the recently agreed mandate for the European Commission to negotiate the revision of the 1998 Protocol on Heavy Metals on behalf of the EU and its Member States. The 1998 Protocol on Heavy Metals is a protocol to the 1979 UNECE Convention on Long-Range Transboundary Air Pollution.

The Protocol on Heavy Metals requires Parties to reduce emissions into the atmosphere of three metals (cadmium, lead and mercury) through the application of emission limit values and best available techniques for key source sectors and product control measures. In December 2009, the Executive Body to the Convention agreed to begin revision of the Protocol, with a view to adopting amendments to the Protocol in December 2011. The main priority of the revision is to make amendments that allow for increased ratification of the Protocol. Further potential revisions include the updating of emission limit values and changes to ensure consistency with other Protocols under the Convention.

The subject matter covered by the Protocol on Heavy Metals is already extensively covered by EU legislation. Major stationary sources of emissions of the three metals are subject to Directive 2008/1/EC concerning integrated pollution prevention and control. That Directive is founded on the application of best available techniques. Its provisions will be incorporated into, and strengthened by, the Industrial Emissions Directive which, as my letter of 20 November informed you, will enter force at the end of this year. On this basis, and citing Article 218 (3) of the Treaty on the Functioning of the European Union, the European Commission proposed a mandate in March 2010 to negotiate on behalf of the EU and its Member States on matters falling within Union competence. The mandate documents are classified as 'restreint' and 'limité', and therefore are not deposited for scrutiny.

The UK accepts that the European Union has competence in the policy areas covered by the Protocol on Heavy Metals. However, negotiations remain at an early stage with firm EU positions on many issues yet to be agreed. A limited mandate has therefore been granted that ties the Commission to negotiating in accordance with relevant EU legislation in force or with positions agreed by the Member States by consensus. The mandate has been granted for the duration of 2010 and 2011 and the Member States may review the content of the negotiating directives in Council at any point during that period and in any case after the 28th session of the Executive Body to the Convention in December 2010. It is expected that, as negotiations on revision of the Protocol on Heavy metals progress, it may be necessary to amend the mandate, in particular cover the addition of mercury-containing products to Annex VI to the Protocol.

I will write again to update the Committee should the mandate be amended.

*13 January 2011*

### **Letter from the Chairman to Lord Henley**

Your letter of 13 January 2011 about this recently agreed mandate was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 26 January 2011.

We were grateful to receive this information. We welcome your offer to update us again if the mandate is amended.

26 January 2011

## MANAGEMENT OF SPENT FUEL AND RADIOACTIVE WASTE (15770/10)

### **Letter from the Chairman to Charles Hendry MP, Minister of State for Renewable Energy, Department for Energy and Climate Change**

Your Explanatory Memorandum of 18 November 2010 about this proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 1 December 2010.

We note that you are consulting with the Devolved Administrations and with regulators, in order to prepare an Impact Assessment which should, among other things, shed more light on the potential burdens of meeting the proposed requirement that Member States should have National Programmes on spent fuel and radioactive waste management. We shall keep the proposal under scrutiny until you are able to provide that Impact Assessment to us.

We are aware that the Science and Technology Committee of this House has taken an interest in the Government's policy on the management of radioactive waste. In particular, that Committee commented, in its March 2010 report on "Radioactive Waste Management: a further update", that it was essential that the Government's Managing Radioactive Waste Safely (MRWS) programme continued to progress as rapidly as possible. We know that, in responding to that report in your letter of 9 November, you have confirmed that the Government's approach to the MRWS programme will provide more demonstrable, stronger leadership with more effective programme management. We assume that nothing in this proposal would run counter to this intention.

2 December 2010

### **Letter from Charles Hendry MP to the Chairman**

Thank you for your letter of 2 December 2010 regarding Explanatory Memorandum 15770/10 on the above-mentioned proposed Council Directive.

You asked whether the contents of the proposed Directive run counter to the intention set out in our response to the House of Lord's Science and Technology Committee report, to provide more effective programme management and demonstrable leadership towards geological disposal. The Directive does not run counter to this objective, and is in principle welcomed, but there are, as indicated in the EM, a number of other issues that need further consideration. We are working up our negotiating position to ensure that a binding Directive does not disadvantage the UK.

On the geological disposal implementation programme, you might be interested to know that I recently chaired the first Geological Disposal Implementation Board (GDIB) which aims to provide senior level oversight of implementation as well as enable stakeholders to provide input to, or to have observation of, the programme. Further information including the minutes will be available early in the New Year at: [www.decc.gov.uk/en/content/cms/what\\_we\\_do/uk\\_supply/energy\\_mix/nuclear/forums/geo\\_disposal/geo\\_disposal.aspx](http://www.decc.gov.uk/en/content/cms/what_we_do/uk_supply/energy_mix/nuclear/forums/geo_disposal/geo_disposal.aspx)

We are working on an Impact Assessment on the draft proposal, which we aim to provide to you in the New Year.

15 December 2010

### **Letter from the Chairman to Charles Hendry MP**

Your reply of 15 December 2010 to my letter of 2 December, which dealt with your Explanatory Memorandum of 18 November 2010 about this proposal, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 12 January 2011.

It was helpful to have your confirmation that the contents of the proposal do not run counter to your commitment, given to the Science and Technology Committee of this House, to provide more effective programme management and demonstrable leadership towards geological disposal.

You refer to other issues needing consideration which were set out in your EM, and you say again that you will provide an impact assessment on the proposal during 2011. We shall keep the proposal under scrutiny until we see that impact assessment, and we would ask that, when you submit this assessment, you update us on the other issues that you mention.

13 January 2011

POST COPENHAGEN: ACTING NOW TO REINVIGORATE GLOBAL ACTION ON  
CLIMATE CHANGE (7438/10)

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

I write in response to your letter of 12 November, continuing correspondence on (i) the EU's performance in the international climate change negotiations, and (ii) the case for the EU moving to a 2020 target of a 30% reduction in greenhouse gas emissions, flowing from your scrutiny of the above Communication. In your letter you requested that I provide further information in due course as to my view on whether the EU's approach at Cancun was improved by learning lessons from the experience of Copenhagen in 2009.

In my letter to you of 12 August last year, I made the case that the EU could best implement the lessons learned from Copenhagen by adopting clearer positions ahead of key meetings and better explaining these to other countries. In my subsequent letter to you of 2 November, I identified two issues in particular which were important in the negotiations, especially for developing countries, and on which I was pushing for the EU to communicate a clear and compelling position ahead of Cancun: firstly, the potential second commitment period of the Kyoto Protocol, and secondly the delivery of our fast-start finance commitments. I expressed my belief that if the EU were successful in doing this, it would improve the chances of securing the outcome we wanted at Cancun in spite of the challenging prospects.

As you will no doubt already be aware, the overall outcome achieved at Cancun was at the top of our expectations – not only making significant progress across a number of important areas, but also restoring faith in the ability of the multilateral process to deliver. A substantial package of decisions was agreed, which brings all the major Copenhagen Accord elements into the UNFCCC process and significantly fleshes them out. In the discussion on Cancun at EU Environment Council in December it was concluded that the outcome was positive and forward-looking, laying the foundation for further work and demonstrating the success of the stepwise strategy towards the negotiations agreed by the EU following Copenhagen.

The issue of legal form, including the question of agreeing a second commitment period of the Kyoto Protocol, was not resolved at Cancun. However, the EU adopted a constructive position on this issue which was appreciated by other countries. The position adopted by Environment Council and subsequently reiterated by European Council in October confirmed that the EU was willing to consider a second commitment period in certain circumstances. This commitment was affirmed in a well-received EU statement to plenary in Cancun. By contrast, Japan and Russia stated explicitly at Cancun that they would not accept a second commitment period under any circumstances. Clearly the EU will need to reflect this year on its own position in light of these statements. On fast-start, the EU submitted its report at Cancun demonstrating that it was on track to meet its €7.2billion commitment and, with Member States, communicated the impact this spend was having. This was well-received, allaying developing country concerns and setting a good precedent for future reporting.

The outcome from Cancun shows that others are serious about taking action on climate change, reinforcing the case for the EU to move to a 30% reduction target. At December Environment Council there were calls from Germany, supported by the UK and France, for a new strategy building on Cancun, part of which should be a move beyond the current 20% target for 2020. In addition to the Danish Government, the new Spanish Environment Minister, Rosa Aguilar, has recently stated support for the EU moving to a 30% target. We expect the forthcoming publication of the EU Low Carbon Roadmap to 2050 will provide a good opportunity for discussing the costs and benefits of the possible pathways to 2050, including raising the EU emissions target for 2020 to 30%. Clearly the political conditions within Europe for seeking agreement on this issue remain challenging; we will continue to monitor the situation and, as requested, will provide you with further updates on the views of other Member States.

28 February 2011

**Letter from the Chairman to Gregory Barker MP**

Your letter of 28 February 2011 responding to my letter of 12 November 2010 (and related correspondence) was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 16 March 2011.

We were grateful for the information which you have provided. We note your reference to the December 2010 Council conclusion that the outcome of Cancun demonstrated the success of the negotiation strategy agreed by the EU following Copenhagen. It is clear that Cancun was indeed more successful than Copenhagen, and that the EU had learnt from the experience of Copenhagen. But it is also undeniable that the positions taken up by individual Member States have proved influential in their own right, and that the "Team EU" approach to shaping international climate policy has not yet fulfilled its potential.

We shall return to these questions, not least the issue of the appropriate targets for reductions of greenhouse gases, when we consider the EU Low Carbon Roadmap to 2050, which you mention.

*17 March 2011*

## PROTECTION OF VULNERABLE MARINE ECOSYSTEMS FROM BOTTOM FISHING GEARS (16151/10)

### **Letter from the Chairman to Richard Benyon MP, Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 12 January 2011.

While your EM included salient information on possible future changes to the Regulation and implied that the UK supports those changes, you offered scant detail on the Government approach. We trust, however, that the UK will be taking a robust line on this critical issue and look forward with interest to further information on your approach now that you have had more time to develop it.

Regulation 734/2008 implies that the Community has a sizeable fleet undertaking this sort of fishery on the High Seas, and it is therefore extremely hard to believe that only one Member State has an interest. We would welcome your views on that matter. More broadly, consideration of the report begs the question of how effective is the monitoring of compliance with this Regulation, and we would ask you to offer more information about that.

Finally, we would be grateful if you could clarify the current state of rules, and Government policy, in relation to the protection of vulnerable EU marine ecosystems from the adverse impacts of bottom fishing gears. We are aware that there have been some success stories, relating for example to the Darwin Mounds, but that attempts to protect areas around the Azores have been less successful.

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

*13 January 2011*

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

Your letter of 31 January 2011 on the above report, replying to my letter of 13 January, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 16 February 2011. I have to say that we do not consider that your reply has offered a full response to the points that I raised.

In my earlier letter, I asked you to offer more detail on the Government's approach to possible future changes to the Regulation. Your response did not address this matter and I therefore look forward to receiving that detail.

The Commission's Report indicates that only one Member State has reported an interest in this sort of fishery. In my earlier letter, I queried this fact with you. Without addressing my query directly, your reply nevertheless referred to the interest of several Member States. There seems to be a discrepancy here, and I would be grateful if you would comment on it.

In my earlier letter, I also asked if you could clarify the current state of rules in relation to the protection of vulnerable EU marine ecosystems from the adverse impacts of bottom fishing gears. Your letter does not respond adequately to this request. It referred to the forthcoming review of the implementation of the Regulation, but the Regulation under discussion applies to the high seas and not to EU waters.

I would ask that you reply more fully within ten working days.

*16 February 2011*

## RESEARCH: AGRICULTURE, FOOD SECURITY AND CLIMATE CHANGE (9585/10)

### **Letter from the Rt. Hon. David Willetts MP, Minister of State for Universities and Science, Department for Business, Innovation and Skills, to the Chairman**

I am writing in connection with the above Explanatory Memorandum. You cleared this and asked to be kept abreast of developments with this Joint Programming Initiative (JPI) on agriculture, food security and climate change. I am pleased to update you on recent developments.

The Biotechnology and Biological Sciences Research Council (BBSRC) is the joint lead in this JPI with the leading French agricultural research centre INRA. The JPI is now likely to be made up of 19 countries instead of 20 as originally anticipated, as the Czech Republic may choose to not continue its membership.

BBSRC is using the Programme Coordination Group of the UK Global Food Security Programme as the basis for engaging wider UK inputs to the JPI. The JPI Governing Board has both BBSRC and Defra as the UK representatives.

BBSRC and INRA were pleased to be asked to give evidence to the EU Sub-Committee on Agriculture, Fisheries and Environment on 2 February, in the context of its inquiry into innovation in EU agriculture. Both Professor Kell (CE, BBSRC) and Madam Guillou (President, INRA) enjoyed their discussions with the Committee on the JPI, the role of the EU in innovation in agriculture, public opinion, and the promotion of innovation. The JPI is looking forward to the conclusions of the inquiry as these will play a role in the further development of the JPI Strategic Research Agenda.

The JPI Governing Board held its fifth meeting on 9-10 March and adopted a pilot action on mobility and networking on modelling (to launch later in 2011); confirmation of objectives and deliverable for the CSA Work Packages for 2011; refreshment of membership of the Scientific Advisory Board; and initial formal discussions on:

- linkages and co-working with the (New Zealand led) Global Research Alliance on agricultural greenhouse gases. This links with the JPI Scientific Agenda focus on mitigation; and
- the CGIAR Climate Change Agriculture and Food Security programme (CCAFS) (where there are many common objectives with the JPI).

I am also pleased to say that the Scientific Research Agenda will be ready for consultation next month and – importantly – FP7 funding are expected to start on 1 April 2011. In anticipation of this BBSRC has appointed Dr Gabriela Pastori as a programme manager for the JPI; INRA are expected to make a similar appointment for 1 April start.

The Scientific Advisory Board next meets in May 2011, with the Governing Board meeting in June.

I will send further updates in due course once the strategic research agenda is published.

*31 March 2011*

### **Letter from the Chairman to the Rt. Hon. David Willetts MP**

Your letter of 31 March 2011 was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 6 April 2011.

It was helpful to receive the latest information about progress with this research JPI which, as you know, is of continuing interest to us. Our Agriculture Sub-Committee found it very useful to hear from Professor Kell and Madame Guillou on 2 February, and we welcome your confirmation that the JPI will consider the conclusions of the current inquiry into innovation in EU agriculture, on which we expect to report in June of this year.

We will be pleased to receive the further updates that you have offered to provide.

*06 April 2011*

## RESIDUE LIMITS OF PHARMACOLOGICALLY ACTIVE SUBSTANCES IN FOODSTUFFS OF ANIMAL ORIGIN (8653/07)

### **Letter from Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment to the Chairman**

I am writing further to previous correspondence to update you on progress regarding Explanatory Memorandum 8653/07. I am aware that Jane Kennedy wrote to you on 18 January 2009 and that it has come to light that her letter did not reach your Committee.

Regarding the queries in your letter of 14 January 2009 I can confirm that the European Commission carried out an Impact Assessment on the original proposal, which is enclosed with this letter [not printed]. This was very general and gave little information on the impact of the proposals. The Commission did not refer to biocides in the original Impact Assessment and did not produce an IA specifically for these substances when it finally became evident to Member States that the Commission wanted to include biocides in the proposal. There are no signs that the European Parliament carried out an Impact Assessment. I have noted that your Committee lifted scrutiny on this proposal.

This proposal became Regulation 470/2009 of the European Parliament and of the Council, published on 6 May 2009. The annexes of the legislation it replaced – Council Regulation 2377/90 – were very helpfully rearranged into an alphabetical table of active substances and their Maximum Residue Limits in Commission Regulation 37/2010. A second table lists the substances which are specifically prohibited from inclusion in medicines for food-producing animals in the EU because no safe level can be set for their use.

Defra has considered whether to amend the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997 to reflect the introduction of the EU legislation, or whether it would be appropriate to carry out a consolidation of the domestic legislation at this point. We have opted for an amending SI at this stage and expect to start consultation on this in March. Work is also starting on the more complicated task of consolidating the legislation.

Officials are assessing the progress of the measures contained in Regulation 470/2009 and will ask interested groups for their comments on these and a draft Impact Assessment. I will write to you and the Chairman of the European Scrutiny Committee at that point to explain progress in this area. There is a lot of activity planned by the Commission over the next two years in respect of other legislation affecting veterinary medicinal products and I will write to you again when the position is clearer on how these will be progressed.

*19 February 2011*

### **Letter from Jim Paice MP to the Chairman**

I am writing further to previous correspondence to update you on progress regarding Explanatory Memorandum 8653/07. I am aware that Jane Kennedy wrote to you on 18 January 2009 and that it has come to light that her letter did not reach your Committee.

Regarding the queries in your letter of 14 January 2009 I can confirm that the European Commission carried out an Impact Assessment on the original proposal, which is enclosed with this letter [not printed]. This was very general and gave little information on the impact of the proposals. The Commission did not refer to biocides in the original Impact Assessment and did not produce an IA specifically for these substances when it finally became evident to Member States that the Commission wanted to include biocides in the proposal. There are no signs that the European Parliament carried out an Impact Assessment. I have noted that your Committee lifted scrutiny on this proposal.

This proposal became Regulation 470/2009 of the European Parliament and of the Council, published on 6 May 2009. The annexes of the legislation it replaced – Council Regulation 2377/90 – were very helpfully rearranged into an alphabetical table of active substances and their Maximum Residue Limits in Commission Regulation 37/2010. A second table lists the substances which are specifically prohibited from inclusion in medicines for food-producing animals in the EU because no safe level can be set for their use.

Defra has considered whether to amend the Animals and Animal Products (Examination for Residues and Maximum Residue Limits) Regulations 1997 to reflect the introduction of the EU legislation, or whether it would be appropriate to carry out a consolidation of the domestic legislation at this point. We have opted for an amending SI at this stage and expect to start consultation on this in March. Work is also starting on the more complicated task of consolidating the legislation.

Officials are assessing the progress of the measures contained in Regulation 470/2009 and will ask interested groups for their comments on these and a draft Impact Assessment. I will write to you and the Chairman of the European Scrutiny Committee at that point to explain progress in this area. There is a lot of activity planned by the Commission over the next two years in respect of other legislation affecting veterinary medicinal products and I will write to you again when the position is clearer on how these will be progressed.

*24 February 2011*

#### **Letter from the Chairman to Jim Paice MP**

Your letter of 19 February 2011 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 9 March 2011.

We welcome the fact that your letter seeks to close correspondence which had been left open since my letter of 14 January 2009, to which your predecessor seems to have sent a reply that was not received here.

We are content to regard this round of correspondence as closed. However, you have undertaken to write again when you have a clearer picture about progress with measures that have flowed from Regulation 470/2009 (which the proposal became). When you do so, we would welcome further information from you about the issues raised towards the end of my letter of January 2009: the adequacy of the provisions to protect human health, and the harmonisation of limits in third-country imports.

*10 March 2011*

#### **ROADMAP: MOVING TO A COMPETITIVE LOW CARBON ECONOMY IN 2050 (7505/11)**

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

Your Explanatory Memorandum (EM) on this Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee on 4 May 2011.

You have previously written to us to state the Government's belief that it is in the EU's economic interest to move to a 30% emissions reduction target for 2020 without waiting for further offers of cuts from other countries. In your EM, you make it clear that, in your view, the Roadmap supports the UK Government's commitment to this target.

You have also submitted an Explanatory Memorandum (7363/11) on the Commission Communication on an Energy Efficiency Plan 2011 (which is being scrutinised by our Internal Market, Energy and Transport Sub-Committee). We note from that EM that the Commission estimates that the EU is currently only on track to get half-way towards the target of 20% savings in primary energy consumption by 2020, and that the revised Plan has been developed to close the gap. The EM relating to the Roadmap states that, if the revised Energy Efficiency Plan is implemented in full, this would enable the EU to deliver a 25% reduction domestically by 2020.

Given that so much hinges on the implementation of the revised Energy Efficiency Plan, we would like to explore these issues with you in more depth before taking a view on whether it is appropriate to move to a higher reduction target for 2020. It is helpful, therefore, that members of the Agriculture, Fisheries and Environment Sub-Committee, and of the Internal Market, Energy and Transport Sub-Committee will take evidence from you on 15 June. In the meantime, we will keep this Communication under scrutiny.

*05 May 2011*

#### **SINGLE CMO REGULATION: ORGANISATION OF AGRICULTURAL MARKETS AND SPECIFIC PROVISIONS FOR CERTAIN AGRICULTURAL PRODUCTS (5084/11)**

#### **Letter from the Chairman to Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment**

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 16 February 2011.

We note that, for the most part, the proposal is a re-alignment exercise. We would ask that you highlight to us any areas of difference between you and the Commission in terms of the balance between delegated acts and implementing powers.

The proposal also incorporates four other amending proposals, three of which remain under scrutiny and we shall continue their scrutiny separately. One of those proposals amends the scheme for the provision of food to deprived persons, in relation to which the House of Lords adopted a Reasoned Opinion on 3 November 2010. We note that you retain your own concerns that the amended scheme is inconsistent with the principle of subsidiarity. While we continue to agree, we will not adopt another Reasoned Opinion, but we will re-affirm our concerns in correspondence with the Presidents of the European Parliament, European Commission and Council. In so doing we will draw their attention to similar concerns expressed to us by the Scottish Parliament Rural Affairs and Environment Committee.

We will continue to hold this proposal under scrutiny and look forward to your response within 20 working days.

*16 February 2011*

### **Letter from Jim Paice MP to the Chairman**

I am writing in response to your letter of 16 February requesting further clarification on Explanatory Memorandum 5084/11, relating to the alignment of the Single CMO Regulation to the Lisbon Treaty.

The Single CMO Regulation is one of the more complex agricultural alignment exercises currently being carried out by the Commission. As such, the Commission's proposal is still being considered in detail and Defra officials are currently participating in a series of technical Council Working Parties to carry out an initial examination of the text. During these discussions, Defra officials will be keen to ensure that the Commission has found an appropriate balance between delegated acts and implementing measures.

There are a small number of areas where our view currently differs from the Commission. This is mainly to ensure that the Articles relating to the delegations of power and implementing provisions (Articles 320 – 324) reflect the Common Understanding on delegated powers agreed by the Commission, Council and European Parliament and the new comitology Regulation<sup>1</sup> that entered into force on 1 March 2011. Reflecting the Common Understanding will ensure the appropriate consultation of Member State experts when drawing up delegated acts and sufficient time (two months, extendable by a further two months) for the Council or the European Parliament to object to the adoption of such acts. The UK also favours fixing a determinate period of time (e.g. five years is being considered in this case) for conferring powers upon the Commission to adopt delegated acts, which should be automatically extended for similar periods unless the Council or European Parliament raise objections. The Commission currently proposes this power to be conferred indefinitely.

I will write to you if any further areas of difference between us and the Commission are identified during our analysis of the text or come to light during the discussions in Council.

*18 March 2011*

### **Letter from the Chairman to Jim Paice MP**

Your letter of 18 March, replying to my letter of 16 February 2011 about this proposal, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 March 2011.

You have said that there are some areas where, in the context of the re-alignment expressed in the proposal, your view currently differs from that of the Commission; and you have given details of these instances. You have also undertaken to let us know if further areas of difference emerge in the ongoing discussions.

We will continue to hold this proposal under scrutiny while we await further updates from you.

*31 March 2011*

---

<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13-18).

SPECIAL REPORT NO 6/2010: HAS THE REFORM OF THE SUGAR MARKET ACHIEVED ITS MAIN OBJECTIVES? (16315/10)

**Letter from the Chairman to Jim Paice MP, Minister of State for Agriculture and Food, Department for Environment**

Your Explanatory Memorandum of 1 December 2010 about this report was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 15 December 2010.

In December 2005, we published the report of an inquiry into the reform of the EU Sugar Regime. While welcoming the reform which would be implemented in 2006, we saw it as only a step towards a globally competitive sugar industry that would have no need for levels of protection substantially greater than those given to other sectors of the EU economy.

We were therefore interested to see the assessment by the European Court of Auditors of the extent to which the 2006 reform has achieved its main objectives. The ECA report paints a mixed picture, but makes it clear that the reforms have not fully ensured the future competitiveness of the EU sugar sector. More needs to be done.

When you wrote to me on 9 August of this year (in relation to I4122/08, on an agreement with third countries on guaranteed prices for cane sugar), you said that you thought it a little too soon to make a full assessment of the reforms on competition in the EU sugar sector, and of whether further reform could be anticipated. The ECA report has strengthened the basis for making such an assessment, and we note the statement in your EM that the report will prove an important contribution to the forthcoming debate on the CAP.

Could you let us know whether you will be pressing for further reform of the EU sugar regime, and whether you expect this to come about within the framework of wider reform of the CAP, and on what timescale?

We are content to release the report from scrutiny, but would ask you to reply to this letter by mid-January.

*15 December 2010*

**Letter from Jim Paice MP to the Chairman**

Thank you for your letter of 15 December 2010 requesting further information on EM 16315/10, which you cleared from scrutiny.

Since I last wrote to you about the 2006 reforms of the EU Sugar Regime, Defra has commissioned an economic study into the outcomes of this reform. This work is being undertaken by the Scottish Agricultural College (SAC) and is expected to report later this year.

The results of this study will influence the detailed position the UK will take on sugar in the forthcoming round of CAP reform once the negotiations commence. I note that the Commission's CAP Communication reaffirms that sugar beet production quotas are set to end in 2015. This is a statement of fact, and it is likely that the UK will be seeking further progress on sugar as part of our overall negotiating position.

However, the detailed UK position on CAP reform is yet to be fully decided. Following our recent correspondence, you will be aware of my EM on the CAP Communication (16348/10), where I explained that the Commission's views thus far remain high level, with very little detail. The UK will provide the Commission with our formal response to their Communication in due course.

I will give the Committee further information on our position as it develops, to aid your scrutiny discussions on the CAP Communication EM, under cover of correspondence pertaining to EM 16348/10.

*13 January 2011*

**Letter from the Chairman to Jim Paice MP**

Your letter of 13 January 2011, replying to my letter of 15 December 2010 about this report, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 26 January 2011.

We note that you have commissioned from the Scottish Agricultural College (SAC) an economic study into the outcomes of the 2006 reform of the EU sugar regime, and you say that the results of

the study will influence the UK's position in the forthcoming negotiations on CAP reform. You undertake to keep us informed of the developing position.

We welcome this offer. We would ask in addition that you let us see the SAC study once it is available; it will be of particular interest in the light of our 2005 inquiry.

26 January 2011

## SUGAR: GUARANTEED PRICES FOR CANE SUGAR (14122/08)

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

Thank you for your letter of 25 November, replying to my letter of 10 November 2010. You asked for an explanation from the European Commission of the low disbursement rates in the Accompanying Measures for Sugar Protocol (AMSP) countries programme as well as information regarding how the views of the European Commission, UK Government and recipient governments have been taken into consideration in assessing the programme.

A response from the Commission regarding its explanation of the low disbursement rates has now been received. The Commission is of the opinion that the disbursement to commitment ratio of the AMSP programme is satisfactory for a programme of this nature. In interpreting the commitment to disbursement ratios supplied in table I of my previous letter the Commission suggests that the following points be borne in mind:

- Allocations to countries are confirmed in May each year. Subsequently action fiches need to be prepared and approved. Once these documents are approved, contracting procedures can start. In turn, payments can only commence once contracts are in place. This process often takes more than a year; hence it is normal that there is at least a year's delay between the allocations and the start of payments.
- The AMSP countries include countries whereby cooperation with the Government is subject to political sensitivities and/or suspended (e.g. Fiji, Zimbabwe, and Madagascar). This requires careful preparation and implementation, affecting the way and pace at which the Commission, and recipients, can operate.
- The AMSP programme was an instrument created in 2006 on a rather short notice. In some cases, this required recruitment of Commission staff to handle the funds in headquarters and in delegations. In addition, eligible beneficiary countries did not always have the administrative structures, human and technical capabilities in place to respond effectively and immediately to the comprehensive requirements of the implementation process.
- In many cases, interventions in the sugar sector involve the private sector and other stakeholders (e.g. civil society organisations), depending on the specific objectives of the beneficiary countries. This applies in both countries with budget support and projects. Coordination with an increased number of stakeholders is time-consuming and should therefore also be accounted for.
- In countries where budget support was the disbursement mechanism, disbursement rates have been higher than in countries with project approaches.

While it is understandable that the complexities involved in managing such an ambitious programme can impede disbursement, the UK Government has raised concerns with the Commission over the disbursement speed of this programme, which appears to have been unacceptably low.

However, the Commission has taken steps to rectify this situation for the next tranche of funding. It has consulted with recipient governments and EU Member States to incorporate lessons learned from AMSP programmes to date in future disbursement plans. For example, given the success of budget support based disbursement, this modality will now be utilised as much as possible. Moreover, numerous country-specific changes have been made. To provide an indicative example, the following improvements will be incorporated into the disbursement plan for Swaziland:

- Programmes in the next tranche of funding will focus on improving the road network used to transport sugar cane from fields to mills, which was identified as the major impediment to the development of Swaziland's sugar sector.
- There will be better sequencing of infrastructure projects in order to improve project implementation and disbursement rates.
- The design and supervision of infrastructure works will, subject to performance, be carried out by the same contractor in order to avoid problems in the construction of the works.
- The design of infrastructure projects will ensure that sufficient quantities of materials meeting the required specifications for road works are confirmed prior to launching work contracts.

Given the detailed work that the Commission has done in incorporating country-specific lessons into these plans, the UK Government, along with other EU Member States, has approved the next phase of AMSP disbursement. DFID country offices will closely monitor progress in-country to ensure that any issues that might impact on future disbursements are raised at an early stage. The Select Committee will be alerted if there are such concerns.

*20 December 2010*

#### **Letter from the Chairman to Jim Paice MP**

Your letter of 20 December 2010, replying to mine of 25 November, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 19 January 2011.

You have provided us with details of the Commission's response explaining the low disbursement rates in the Accompanying Measures for Sugar Protocol (AMSP) programme between 2006 and 2009.

We agree with your comment that the disbursement speed has been unacceptably low. Our view on this has not been changed by the Commission's explanations.

You stress that you will monitor the next phase of AMSP disbursement to ensure that there is early warning of any recurrence of the delays that affected the programme from 2006 to 2009. Such monitoring is clearly essential, and we welcome your undertaking to alert us if any concerns arise.

In the meantime, there is no need for you to reply to this letter.

*20 January 2011*

#### **SIXTH MINISTERIAL CONFERENCE: PROTECTION OF FORESTS IN EUROPE (8779/11)**

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

Your Explanatory Memorandum of 28 April 2011, about a Communication from the Commission about EU participation in the Sixth Ministerial Conference on the Protection of Forests in Europe, falls to be examined by our Agriculture, Fisheries and Environment Sub-Committee. We understand from your Department that the Communication may be on the agenda for the Agriculture Council meeting on 17 May.

Your EM said that the Oslo conference was expected to adopt two Ministerial decisions: one focusing on the Forest Europe process and voluntary actions; and the other agreeing a mandate to open negotiations on a legally binding agreement (LBA) on forests in Europe.

However, on 11 May, we were further advised by your Department that, since the EM was submitted, the documents covering the EU's participation in the Forests Europe conference had been split into three: (a) a decision on the Commission's participation in the non-LBA "Forests 2020" decision; (b) a decision on the Commission's participation in the LBA decision; and (c) a decision on Member States' participation in the LBA decision.

Your Department advised that the UK Government were content to accept decision (a), as had been stated in the EM; that the Government did not support decision (b) which would be decided by QMV; and the Government also did not support decision (c) which, since it would be decided by consensus, could be blocked by the UK.

Our Agriculture Sub-Committee will not meet, and will not complete its scrutiny of these documents, before 17 May. Given that the position has changed from what was originally set out in your EM of 28 April, it would be helpful if you could write to explain more fully what actions are expected to flow from the agreement of these decisions, and, in particular, what the implications are of such actions for subsidiarity concerns in the area of forestry policy. We have seen little information to date about the nature of (c) above, and about the reasons for the Government's stance.

We will retain the Communication under scrutiny while we await your reply.

*16 May 2011*

#### **Letter from Jim Paice MP to the Chairman**

I am writing in response to your letter of 16 May, and to update the Committee following the Agriculture Council on 17 May.

Firstly, I would like to inform the Committee that one decision under the above proposals was adopted at Agriculture Council. Regrettably at the time of writing the proposal had not completed clearance from the scrutiny process due to the timings involved.

I would also like to update the Committee in more detail on developments since my Explanatory Memorandum of 28 April. In light of continuing differences within the EU, the documents covering EU participation in the forthcoming Forest Europe conference were split into three to reflect the split of competence within the decision more accurately. As Defra officials advised the Clerk to your Committee on 11 May, the documents were divided as follows: (a) a decision on the Commission's participation in the non-legally binding decision "Forests 2020"; (b) a decision on the Commission's participation in the LBA decision; and (c) a decision on the Member State's participation in the LBA decision.

Decision (a) was adopted as an "A" point at Agriculture Council on 17 May. The UK voted in favour of this decision, which was in keeping with arrangements for EU participation in previous Forest Europe ministerial conferences.

At Agriculture Council, the UK government was unable to support decisions (b) or (c). Decision (b), relating to the Commission's participation, could have been decided by QMV and therefore the UK, although not isolated in its position, would have been unable to block the adoption of this decision. Decision (c), relating to the participation of the Member States, must be decided by consensus, and the UK was therefore able to block its adoption. However, the UK gained agreement that the Decisions should be treated as a single package and that if possible should be agreed by consensus. Both Decisions have now been referred back to COREPER for further work.

Your letter of 16 May requested further detail on the implications of these decisions. It is impractical at best to have an agreed EU position on Commission participation without corresponding agreement on the participation of Member States on areas of national competence. The content of the proposed LBA is yet to be finalised, but it is highly likely that it will cover areas of exclusive EU, shared exercised and national competence. This has the potential to create considerable practical difficulties for negotiations sur place, especially if agreement cannot be reached on decision (c) prior to the ministerial conference. In this case, the Commission could participate in discussions on the LBA decision on areas of exclusive EU competence while Member States would be able to participate on areas of national competence, but without a coordinated position.

You also asked for more information regarding the implications for subsidiarity in the area of forestry policy should negotiations on an LBA go ahead. If an LBA were to be agreed, it is possible that the Commission would propose legislation to implement its provisions in the EU. This would go against the principle of subsidiarity, given that forestry is a national competence. Our position is to continue to press for agreement that the Decision for the EU to participate in negotiations on an LBA should not affect the respective competences of the EU and its Member States.

*23 May 2011*

#### **THEMATIC STRATEGY ON THE PREVENTION AND RECYCLING OF WASTE (5646/11)**

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

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 9 March 2011.

We agree with your approach. It would not be appropriate for the Commission to propose revised legislation in 2012 without giving Member States sufficient time to implement the Waste Framework Directive.

On that matter we would, however, raise two points. Article 22 of the Waste Framework Directive requires Member States to encourage bio-waste management, including household and commercial food waste, within their waste management plans. The recent Foresight report on The Future of Food and Farming concluded that waste in all areas of the food system must be minimised. To what extent does the Foresight report strengthen the case for ensuring that Member States not only encourage, but require, action on bio-waste? Second, Member States' implementation of waste legislation has been erratic. How do you consider Member States can be helped to implement successfully the Waste Framework Directive?

On the particular issue of landfill, we note from the document accompanying the Commission report that the UK's landfill rate remained, in 2007, above that of the EU-27 average. We would be interested to receive from you the most recent statistics on the proportion of waste in the UK that is disposed of in landfill, and any supplementary information that you may have on the proportion of the remaining waste which is recycled or incinerated.

We will retain the Report under scrutiny and look forward to a response from you on the points raised above within ten working days.

*10 March 2011*

### **Letter from Lord Henley to the Chairman**

Thank you for your letter of 10 March 2011 about the above Explanatory Memorandum on the European Commission's report on its Waste Thematic Strategy and the implementation of the revised Waste Framework Directive (rWFD) (2008/98/EC). Your letter asked three questions.

The first was about the Foresight report on The Future of Food and Farming in the context of the implementation of Article 22 of the rWFD (Bio-waste). The Government supports the recommendations of the Foresight report and acknowledges the scope to reduce food waste, particularly from consumers and the service sector, in the developed world. The benefits of food waste prevention are clear. In the UK around 16m tonnes of post-farm gate food and drink waste arises annually, 8m tonnes of which are from households. Much of this is considered to be preventable (i.e. it could have been eaten by humans at some point instead of being disposed of as waste). The production, distribution and disposal of the two thirds of household food and drink waste that is considered preventable generates approximately 20m tonnes of CO2 equivalent in greenhouse gas emissions.

The Government is currently undertaking a review of all waste policies in England. The review aims to ensure we are taking the right steps towards a "zero waste economy". As part of this, we will outline a number of important actions to reduce the amount of preventable food waste that is produced and then treat in the most sustainable way the remaining food waste that cannot be prevented. The findings of the review are scheduled for publication in May.

As part of this question, you ask whether the Foresight report strengthens the case for ensuring that Member States not only encourage, but require action on bio-waste. The Government believes that the existing suite of EU waste legislation provides the right framework to achieve the desired policy objectives of improving bio-waste management across Europe. As you indicate, Article 22 of the rWFD requires Member States to take measures to encourage (i) the separate collection of bio-waste with a view to its composting and digestion, (ii) its treatment in a way that fulfils a high level of environmental protection and (iii) the use of environmentally safe materials produced from bio-waste. The Commission produced its Communication on future steps in bio-waste management in the EU in May 2010 following the further assessment it had undertaken, as required by Article 22 of the rWFD. The Communication identified a number of issues for further investigation but stated there were no policy gaps at EU level that prevented Member States from taking appropriate action, and that existing EU waste legislation is an excellent basis for advanced bio-waste management. We provided the Committee with an Explanatory Memorandum (EM 9955/10) following the publication of the Commission's Communication. The Commission is still continuing its analysis into the issues it identified, holding consultations on bio-waste recycling targets and technical working groups on developing, under Article 6 of the rWFD, end-of-waste criteria for compost and digestate made from bio-waste. We will keep the Committee informed of the outcomes of this further analysis.

Other provisions of the rWFD will also drive improvements in biowaste prevention, including food waste, across the EU. For example, Article 4 of the rWFD establishes a five-step waste hierarchy which Member States are required to apply as a priority order. Local authorities and businesses which produce or treat waste, including bio-waste, will be required to have regard to this waste hierarchy.

The first priority under the waste hierarchy is the prevention of waste. Article 29 of the rWFD also requires Member States to establish waste prevention programmes by December 2013. These programmes must set out waste prevention objectives and benchmarks for measuring progress against those objectives. Our waste prevention programme will include food and other bio-wastes.

The Landfill Directive (1999/31/EC) also plays an important role in diverting the amount of food and other biodegradable wastes away from landfill and up the waste hierarchy. It has targets for reducing the amount of biodegradable waste to landfill to 35% of 1995 levels by 2016 (or 2020 for those Member States that had a high reliance on landfill when the Directive was drafted, including the UK). In the UK the landfill tax is the most significant policy lever to achieve this and also encourages the prevention of all types of waste, including food waste.

Your second question is about helping to ensure the successful implementation of the rWFD by Member States. The Commission is the guardian of EU legislation and has made known its concern about the effective implementation of all EU waste legislation, including the rWFD. In this context, the Commission has set up a project which addresses, in particular, the implementation of the rWFD and Regulation EC no. 1013/2007 on shipments of waste. Details of the Commission's project are set out in the attached copy of their letter of 10 February 2010 [not printed].

As part of this project, the Commission has organised information exchange and awareness raising events on the rWFD in fifteen Member States. Information about these events is available at <http://www.bipro.de/waste-events/wfd/wfd.htm>. The most recent event was held in London on 15 March 2011 and officials from Defra, the Devolved Administrations and the Environment Agency fully participated in it. As part of its project, the Commission also proposes to publish a package of guidance on the rWFD to help ensure that the Directive is effectively implemented. The Commission's rWFD guidance is currently being prepared and Member States have not yet been consulted on a draft of it.

Your third question is about the most recent statistics on the proportion of waste disposed of by landfilling in the UK and the proportion of the remaining waste that is recycled or incinerated. The latest statistics for all EU Member States are those for municipal waste arising in 2009. They were published by Eurostat on 8 March 2011 and are available at [http://epp.eurostat.ec.europa.eu/cache/ITY\\_PUBLIC/8-08032011-AP/EN/8-08032011-AP-EN.PDF](http://epp.eurostat.ec.europa.eu/cache/ITY_PUBLIC/8-08032011-AP/EN/8-08032011-AP-EN.PDF).

I attach a copy of Eurostat's news release [not printed] for ease of reference. According to this data on municipal waste, in 2009 the UK landfilled 10% more than the EU27 average, incinerated 9% less than average and recycled 1% less than the EU27 average. The following is a summary:-

**Municipal waste : UK comparison to the EU27 2009 average**

	Landfilled	Incinerated	Recycled/composted
UK	48.25%	10.89%	40.87%
EU27	38.07%	20.19%	41.74%

I hope the information I have provided is helpful and answers your questions.

23 March 2011

**Letter from the Chairman to Lord Henley**

Your letter of 23 March, replying to my letter of 10 March 2011 about this Report, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 March 2011.

We were grateful for your full response to my queries about bio-waste management, notably in the light of the pertinent observations in the Foresight report on The Future of Food and Farming. You say that the Government are now reviewing all waste policies in England, with review findings scheduled for publication in May.

It was also helpful to receive from you recent statistical information about the disposal of municipal waste in the UK and on average in the EU. There continue to be interesting differences in the approach followed in the UK.

We are content to release the Report from scrutiny. We would welcome the further information that you have offered to send us, and this includes an update on the findings of the waste review that you mention.

31 March 2011

## WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (17367/08)

### **Letter from Mark Prisk MP, Minister for Business and Enterprise, Department for Business, Innovation and Skills, to the Chairman**

Your letter of 14 October 2009 gave clearance for this proposal, following consideration by Sub-Committee D (Environment and Agriculture). You did, however, ask to be kept informed of developments, so I thought that now would be an appropriate time to do so.

Negotiations have continued in Brussels on a first reading of the Commission's proposals throughout the remainder of 2009 and all of 2010, so I thought it would be appropriate to update the Committee on progress. The Hungarian Presidency aims to conclude the first reading with political agreement this month, although this could be delayed until the Council meeting in June.

Discussions have focussed on a number of key issues, namely the scope or coverage of the Directive, the basis and overall ambition of the Member State collection targets, the role and definition of a 'producer', and the monitoring requirements for the shipment of used equipment overseas for either reuse or recycling. I will take each of these issues in turn.

On scope, the Commission proposed maintaining a 'closed' scope defined by the ten broad categories of equipment in the current Directive. A large number of Member States however now favour 'open' scope that would apply to all electrical and electronic equipment. Various positions and compromise proposals have been put forward, but it looks as if a move to a more 'open' scope might achieve political agreement, but some five or six years after the adoption of the recast and, more importantly, with some very broad exclusions (such as means of transport, for example). This follows the model agreed under the first reading deal secured under the associated recast of the Restriction of Hazardous Substances in electrical and electronic equipment (RoHS) Directive in November last year.

On the overall collection target, the original Directive foresaw a move to a new target based on the tonnage of equipment placed on each Member State market. The Commission has proposed a target of 65% by weight as an average of the equipment placed on the market over the previous two years, to be reached by 2016. All Member States have questioned the pragmatism and practicality of this target; the UK currently recycles around 38% of electrical equipment if the current collection rates were to be recorded in this way. Current compromise proposals from the Council Working Groups suggest that the 65% target should be phased in on a longer timescale (probably 2020) with an interim target of 40 or 45% by 2016.

The role and definition of a 'producer' has been the most pronounced example of a difference in the views expressed by Member States and those held by the Commission. The Commission proposed an EU-wide definition of a producer, which would mean that those placing equipment on any or all Member State markets would only be required to register in one. Information would then be sent by that Member State to the others to account for the waste arising elsewhere. The Member States have been unanimous in their opposition to this, citing its impracticality and the loophole it creates for unscrupulous producers to avoid responsibility or financial obligations. This would drive up the costs for properly registered producers and, as a consequence, the consumers of such equipment.

It is likely that the Member States will reach political agreement in unanimity and without the Commission's approval, which will leave further debate on this issue to the second reading.

Finally there is the question of the monitoring requirements for the shipment of used equipment overseas for either reuse or recycling. These requirements have been proposed to address and minimise the amounts of waste electrical equipment being illegally shipped and dumped in parts of Asia and Africa – a practice universally condemned by all Member State Governments and equipment producers, and in contravention of the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. I am pleased to report that there has been significant progress on agreeing a text within the recast Directive addressing this issue and this should be finalised without further problems.

I hope that this update helps to keep the Committee informed of the latest developments and I will write again when further progress is made.

*8 March 2011*

### **Letter from the Chairman to Mark Prisk MP**

Your letter of 8 March 2011 about developments with this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 16 March 2011.

We welcome the information that you have provided, and would support the line which the UK Government, with like-minded Member States, are taking on the issues that you mention.

You refer to provisions on the shipment of used equipment overseas, which are relevant to the problem of the illegal shipping and dumping of such material. Could you let us know what is the scale of this problem: how much material is involved, and which are the principal countries where it is dumped? It would be helpful to hear from you on this in the near future.

*17 March 2011*

**Letter from Mark Prisk MP, Minister of State, Department for Business, Innovation and Skills, to the Chairman**

Thank you for your letter of 17 March, sent in reply to mine of 8 March.

I can now inform the Committee that political agreement on a Hungarian Presidency compromise text was reached at the Environment Council meeting held on 14 March and this concluded the first reading of the Commission's 2008 proposals.

The following was agreed in respect of the key issues that I outlined in my earlier letter.

On scope, the Council has proposed that a 'closed' scope defined by the ten broad categories of equipment in the current Directive will remain for a further six years after the new Directive enters into force. At that point an 'open' scope defined by five broad categories would be introduced, but this would be accompanied by the introduction of some very broad exclusions for certain types of equipment and would also be subject to the outcome of a review to be undertaken by the Commission no later than four years after the entry into force date.

On the overall collection target, the Council has proposed that the current target of 4kg per head of population should remain for a further four years and then a target of 45% by weight as an average of the equipment placed on the market over the previous three years would be put into place. This would rise to the Commission proposal of a 65% target, but not until a further four years had passed. As with scope, the changes to these targets would be subject to the outcome of Commission reviews on their feasibility three years after the Directive has come into force for the 45% level and seven years for the 65% level.

As I foresaw with my earlier letter, the role and definition of a 'producer' was the issue that divided the Member States and the Commission the most. Here, the Council has proposed rejection of the Commission's proposals for an EU-wide definition and agreed to retain the current national definition. This will mean that producers will continue to be required to register in each Member State where they place equipment on the market. We expect significant further discussion on this issue in the second reading that is now likely to be undertaken in the second half of this year.

Finally, there is the question of the monitoring requirements for the shipment of used equipment overseas for either reuse or recycling. Much progress was made on clarifying the Commission's original text, which will now ensure that the legitimate export of defective equipment for repair under warranty can still take place whilst requirements to address and minimise the amounts of waste electrical equipment being illegally shipped and dumped overseas will be introduced.

In addition, you particularly asked about the scale of this problem, how much material is involved and the countries where it is dumped.

The Environment Agencies are the competent authorities in respect of movements of waste into and out of the UK. The Environment Agency for England and Wales has adopted a centrally coordinated, intelligence-led approach to identifying illegal shipments of waste and taking action against the criminals involved in this damaging trade.

The intelligence they have developed and the investigations that it has carried out indicate that the majority of suspected illegal shipments of such waste from the UK are destined for West Africa, particularly Ghana and Nigeria.

Due to the fact this is a criminal activity, it is hard to know with any certainty how much waste is being illegally exported from the UK, but we do know from discussions with colleagues overseas that it is certainly a global problem and waste equipment is being exported from North America and from other countries within the EU to developing countries. It is legal to export 'working' electrical equipment for continued use or reuse and there is a high demand for such equipment in developing countries to help bridge what has become known as the "digital divide". Criminal operators, regrettably, often deliberately misleadingly describe equipment as 'working', 'tested' or 'second-hand' to avoid the proper controls. I'm pleased to report that the intelligence-led approach of the regulators in the UK to tackling illegal shipments of e-waste, however, is proving increasingly

successful in disrupting this damaging trade and securing penalties against those that have no regard for the rules.

At the global level the UK is a signatory to the UNEP Basel Convention, which is also trying to address this issue and members to the Convention have developed draft guidelines to assist national authorities in distinguishing between genuine working equipment from what is waste and subject to the waste shipment controls. We expect these guidelines to be agreed at the 10th Conference of the Parties (COP) to the Basel Convention in October.

I hope that the Committee will find this information useful and I will write again as we approach the second reading negotiations where the concerns of the European Parliament will be examined in greater detail.

*1 April 2011*

#### **Letter from the Chairman to Mark Prisk MP**

Your letter of 1 April about this proposal, replying to my letter of 17 March 2011, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 4 May 2011.

It was helpful to receive the update that you provided about the political agreement on a compromise text reached at the Environment Council meeting on 14 March.

We were also interested in the information that you offered in response to our questions about the scale of the problem of the illegal shipping and dumping of WEEE material. You say that it is hard to know with any certainty how much waste is being illegally exported from the UK. Conversely, you also say that the intelligence-led approach of the UK regulators (the Environment Agencies) is proving increasingly successful in disrupting this trade.

We recognise the difficulties inherent in monitoring an illegal activity. We would be interested, therefore, if you could tell us more about how the Government, and the regulators, determine what is success in disrupting the trade. Is there no hard information from prosecuting illegal operations that would allow an informed estimate of the scale of the problem?

As before, an early reply would be welcomed.

*5 May 2011*

#### **Letter from Mark Prisk MP to the Chairman**

Thank you for your letter of 5 May sent in reply to mine of 1 April.

You noted the first reading political agreement that was reached at the Environment Council meeting held on 14 March, but also asked for more information on how we in Government and the regulators determine what is deemed to be success in disrupting the trade in the illegal shipment of waste equipment in the light of my comment that it is hard to know how widespread this activity is.

The overriding issue to consider in this context is the official data that we hold.

The Environment Agencies receive information from all registered producers about the amount by weight of the electrical and electronic equipment that they place on the UK market each year. The Agencies also receive information on the amount of waste electrical and electronic equipment (WEEE) that is separately collected and accounted for under the formal regulatory regime.

It would be a mistake, however, to assume that the amount of WEEE generated in the UK is equal to the amount of new equipment placed on the market. Not all purchases are made to replace old products, for example, and the weight of old and new products may vary considerably.

Work is underway to try and determine the level of UK waste arisings of WEEE, but this work has not yet finished. Having a more accurate estimate of the total UK waste arisings will be helpful in determining the amount and type of waste equipment that is potentially available for separate collection. The gap between this potential amount and the amount of WEEE actually collected separately either for reuse or for treatment and recycling will reflect WEEE that is:

- in storage; or
- being dealt with properly, but not currently captured through the data reporting requirements of the UK WEEE Regulations. In the main this would be non-household electrical equipment; or
- going to landfill within mixed waste. It is not illegal for householders to discard electrical equipment with their normal domestic refuse; or, finally

— exported illegally.

In the absence of accurate data on the relative size of the pathways for WEEE not captured by the WEEE regime's collection arrangements, other indicators to gauge the degree of success in disrupting the illegal export of WEEE have had to be utilised.

The Environment Agency for England & Wales has helped create the Interpol Crime Group and has been widely acknowledged as a leader in using intelligence to investigate illegal e-waste exports in particular. By using intelligence rather than random spot checks, the Environment Agency has achieved a success rate of 98% in finding electrical waste when stopping shipping containers from being exported at the ports.

The Agency currently has 22 ongoing investigations into the illegal export of waste, including fifteen on WEEE. Four people have been successfully prosecuted so far this year alone. Fifteen defendants - companies and individuals - are currently due to appear in court later this year in the biggest ever Environment Agency prosecution into the illegal export of e-waste. These investigations and the resulting enforcement action are helping to remind waste companies, local authorities and businesses of their responsibility to ensure that waste electrical equipment in their control is dealt with properly.

I hope this reply gives you the information that you wanted.

*23 May 2011*

#### **Letter from the Chairman to Mark Prisk MP**

Your letter of 1 April about this proposal, replying to my letter of 17 March 2011, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 4 May 2011.

It was helpful to receive the update that you provided about the political agreement on a compromise text reached at the Environment Council meeting on 14 March.

We were also interested in the information that you offered in response to our questions about the scale of the problem of the illegal shipping and dumping of WEEE material. You say that it is hard to know with any certainty how much waste is being illegally exported from the UK. Conversely, you also say that the intelligence-led approach of the UK regulators (the Environment Agencies) is proving increasingly successful in disrupting this trade.

We recognise the difficulties inherent in monitoring an illegal activity. We would be interested, therefore, if you could tell us more about how the Government, and the regulators, determine what is success in disrupting the trade. Is there no hard information from prosecuting illegal operations that would allow an informed estimate of the scale of the problem?

As before, an early reply would be welcomed.

*5 May 2011*