



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

This edition includes correspondence from 9 June to 17 October 2011.

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

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

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

Your reply of 16 May 2011 to my letter of 17 March 2011 on the above proposals was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 June 2011.

We were grateful for the information which you provided about progress in negotiations on these proposals, and for your undertaking to give further updates in future. For the moment, we shall continue to keep the proposals under scrutiny.

*9 June 2011*

##### **Letter from the Rt. Hon Jim Paice MP to the Chairman**

I am writing in response to your letter of 9 June in order to provide you with a further update on the negotiations relating to these two legislative proposals concerning various EU quality schemes. My last update to you was sent on 16 May, and I thought it would be helpful to let you have a progress report before work resumes in Brussels on both dossiers in September. This update focuses on developments since my letter of 16 May, including what we know at this stage about the plans of the Polish Presidency for taking this work forward.

##### UPDATE ON THE QUALITY SCHEME PROPOSAL

Progress on this dossier has been reasonably quick with a large degree of consensus among Member States. The final Working Group under the Hungarian Presidency took place on 24-25 May. The main aim of that meeting was to discuss the latest draft of the Presidency's compromise text. That

draft had been drawn up to take account of the previous Working Group discussions, written comments from Member States and the latest information from the European Parliament's Agriculture Committee concerning its proposed amendments to the Commission's proposal.

The other main developments since my previous update were a discussion at the 4 June meeting of the EU Special Committee on Agriculture of some specific issues arising from the May Working Group and the vote by the European Parliament's Agriculture Committee on its draft report and amendments to the Commission proposal which took place on 21 June. Taking account of these your Committee will wish to note the following points:

- The draft Presidency compromise text has removed the Commission's proposed provisions relating to the Traditional Speciality Guaranteed (TSG) scheme: restricting eligibility to processed products and changing the definition of "traditional" from 25 years to 50 years. We have welcomed this as it takes account of our strong opposition (and that of most other Member States) to those proposed changes to the existing TSG scheme. However, the MEPs on the Agriculture Committee voted in favour of an amendment which would mean that an applicant group wishing to use the 25 year definition of "traditional" would have to meet some additional criteria. We are opposed to this amendment.
- The treatment of TSGs already registered without reservation of the name if it is decided to limit the registration of TSGs only to the registration with reservation of the name. Under the current rules there are two levels of protection:

Protection without reservation of the name. This means that registered TSGs are only distinguished from other products carrying the same name by the fact that they can carry the EU TSG symbol and/or indication. In other words these TSGs are not protected in any meaningful way.

Protection with reservation. In this case the protection is strong and along the lines of that granted to Protected Designations of Origin (PDOs) and Protected Geographical Indications (PGIs).

There is broad support from Member States (including from the UK) and MEPs for the Commission's intention that in future only applications to register TSGs for protection with reservation of the name should be allowed. There is agreement that the lesser level of protection undermines the integrity of the scheme. However, this raises the question as to what should happen to those names which are protected without reservation of the name which are already registered. Two dates have been proposed after which those names would be removed from the register: 31 December 2017 and 31 December 2027. The earlier of these dates is favoured by the majority of Member States including the UK.
- MEPs on the Agriculture Committee and most Member States are also in favour of moving the proposed provision on optional quality terms from this proposal to the marketing standard proposal.
- Member States views have been more mixed on the issue of including provisions for local farming/direct sales labels and product of mountain farming and island labels. We have argued that these kind of additional schemes dilute the impact and importance of the existing PDO/PGI and TSG schemes and that at the very least they should only be introduced subject to the findings of an Impact Assessment by the Commission, which it agreed it would carry out when publishing the proposal. The European Parliament's Agriculture Committee shares our view with respect to a local farming/direct sales label and island label, but favours the introduction of the product of mountain farming scheme without the need for further assessment by the Commission.
- A push from some Member States to give producer groups the power to control supply of protected food name products on the market. A majority of MEPs on the Agriculture Committee also supported this. The UK and a number of Member States strongly oppose this as does the European Commission, as this could distort the market in those products.
- MEPs have also voted in favour of two amendments which may have implications for the relationship between trademarks and PDOs and PGIs.

This is a sensitive issue in relation to compliance with WTO rules on intellectual property and the wording on the current legislation was drawn up very carefully in order to avoid a challenge to the EU system from countries opposed to it. The Commission have been very clear that it does not want to amend the existing wording at all. This is a new issue so we are considering our position.

A further Working Group is planned for 7-8 September. The European Parliament's plenary vote is planned for later that month. Early indications from the Polish Presidency are that it will be seeking to get agreement between the Commission, the European Parliament and the Council on a compromise draft of the quality schemes proposal by the end of 2011.

#### UPDATE ON THE MARKETING STANDARDS PROPOSAL

Progress on this proposal has been slow in comparison to that on the quality schemes proposal and there were no further Working Group meetings under the Hungarian Presidency after those on 11-12 April. To date, discussions have been dominated by 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. However, more recently (4 July) the European Parliament's Agriculture Committee has voted on the draft report and amendments to the Commission proposal and there has been a Working Group under the chairmanship of the Polish Presidency. This took place on 15 July. Following on from this the current position of this proposal can be best summed up as follows:

- Broad agreement between the Commission and the European Parliament's Agriculture Committee on the Commission's proposal;
- However, at Council level (Working Groups) Member States continue to have serious concerns about specific aspects of the Commission's proposal, including the: proposed General Marketing Standard, provision on place-of-farming and the power the Commission wants to extend to specific marketing standards across all sectors. I have flagged up these issues in my previous letters but the latest discussion at the 15 July Working Group reinforced these concerns;
- At the same Working Group the UK and the majority of Member States did support the MEPs amendment to move the provisions for the Optional Quality Terms from the quality scheme proposal to the marketing standards proposal; and
- Further discussions are needed between the Polish Presidency, the Commission and MEPs on which elements of the proposal there is agreement.

Another Working Group on the proposal is planned for 21 September.

I will, of course, continue to keep you updated on progress of both these proposals. However, in view of the intention of the Polish Presidency to try and reach a consensus I would be grateful if the Committee would consider granting scrutiny clearance to both dossiers.

*27 July 2011*

#### **Letter from the Chairman to the Rt. Hon Jim Paice MP**

Your reply of 27 July 2011 about these proposals, replying to my letter of 9 June, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 14 September 2011.

We note that there has been quick progress, and a large degree of consensus among Member States, on the Quality Scheme proposal (17672/10), and it is possible that the proposal will come for agreement at an early stage. We are content to release this proposal from scrutiny, and look forward to receiving a further update from you in due course.

Conversely, you explain that the Marketing Standards proposal (17677/10) is moving forward more slowly, and it appears that there is far less convergence of views. For the moment, we will retain this proposal under scrutiny, and await further information from you as matters progress.

*15 September 2011*

## AN EU BIODIVERSITY STRATEGY TO 2020 (9658/11)

### **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 document was briefly considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 15 June 2011.

The Sub-Committee intends to discuss the Communication once again at its next meeting. We understand, however, that the Environment Council is likely to be asked to agree Conclusions at its meeting of 21 June 2011.

We will retain the Communication under scrutiny but, in line with paragraph 5(l) of the scrutiny reserve resolution, agreement by the Government to the above Conclusions need not be withheld pending completion of scrutiny.

*16 June 2011*

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

Your Explanatory Memorandum (EM) on the above Communication was considered for the second time by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 22 June 2011.

We consider the actions suggested by the Commission to be, for the most part, welcome, and those relating to the sustainable use of fisheries resources are of particular note, including the gradual elimination of discards. Much of the plan does, however, seem long on aspiration and short on substance. We have in mind not least the fisheries actions, as also those applicable to the Common Agricultural policy. Realisation of the strategy in those two policy areas may face challenging political obstacles.

In addition, and perhaps even more significant, there is a lack of detail on the financing of biodiversity protection. Our report on the EU Financial Framework from 2014 noted the important commitment made by the EU in the area of biodiversity, and we recommended that this be reflected in the Framework. You make no reference to that issue in your EM, and we would be interested in your stance. We are aware that Commission proposals for the new Framework are due on 29 June.

Any financing available through the EU budget, however, is likely to be small compared to that required to meet the challenge. Your Department's recent Natural Environment White Paper flagged up the possibility of financing biodiversity protection through biodiversity offsets. We note that you plan to pilot biodiversity offsetting, at as local a level and as simply as possible, over the period 2012-2014. We note too that, in parallel, the Commission plans to look at the issue, with a view to a proposal by 2015.

Biodiversity offsetting is clearly very complex. Whilst it may have substantial value, it must be well designed. We would be grateful for information as to how you intend to help with the design of the various local schemes in the pilot and how you plan to work with the European Commission on its efforts in this area.

Finally, we agree with you that any proposals for legislation in the areas of Invasive Alien Species and Access and Benefit Sharing need, as always, to be justified on the basis of a full impact assessment.

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

*23 June 2011*

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

Thank you for your letter of 23 June following the Sub-Committee's consideration of the Explanatory Memorandum on the above Communication. I would also like to express my thanks for the Scrutiny Waiver allowing us to agree to adopt the Council Conclusions at the Environment Council on 21 June.

You asked for further information on how implementation of the Strategy will be realised in light of the politically challenging areas of fisheries and CAP reform policies. You also asked how the cost of implementation will be financed.

First I would like to update you on developments since we submitted EM 9658/11 on 18 May. As you know, the Strategy itself was published by the Commission on 3 May. The next step was to get

endorsement of the Strategy by EU Environment Council. The Hungarian Presidency initially drafted ambitious Council Conclusions which would have endorsed the Strategy including all of its six targets and 20 actions.

During Working Group discussions Member States gradually weakened this text owing to the very issues you have raised (i.e. concerns over the fisheries target, pre-empting future negotiations such as those on the Multi-annual Financial Framework, CAP reform and the fundamental cost of implementation).

The Council Conclusions finally agreed at Environment Council endorsed the Strategy but emphasised the need for further discussion of the actions. The Council fell short of endorsing the targets but the final text recognised their importance.

Clearly now Member States need to implement measures to achieve our global and EU 2020 biodiversity targets. The EU Biodiversity Strategy will be used as a framework by Member States, along with the Convention on Biodiversity (CBD) Strategic Plan agreed in Nagoya last year, to produce their own national biodiversity strategies and action plans. The UK is already progressing well with this through the publication of our Natural Environment White Paper, the UK's National Ecosystem Assessment and the soon to be published England Biodiversity Strategy.

In response to your specific points, we will continue to work with the Commission and other Member States on refining the detail of the targets and actions within the EU Strategy. On the fisheries target, we have made clear in Council that we do not believe the text accurately reflects our existing international commitments on Maximum Sustainable Yield (MSY) and will therefore need to be adjusted accordingly in due course. On CAP reform we would prefer to see increased funding through Pillar 2 (agri-environment schemes) rather than the proposed greening of Pillar 1.

In response to your question on the need to reflect the EU Biodiversity Strategy in the development of the future EU Multi-annual Financial Framework you will see that paragraph 6 of the Council Conclusions emphasises the need to 'effectively integrate the relevant elements of the Strategy into all relevant sectoral policies' including the Common Agricultural Policy, the Common Fisheries Policy and Cohesion Policy, as well as on-going policy development such as the Multi-annual Financial Framework. The UK will be seeking a range of tools to deliver the agreement reached at Nagoya, including a strong role for agri-environment schemes, in the CAP Reform negotiations.

You also raised the issue of biodiversity offsetting. We believe that a consistent framework for biodiversity offsetting has the potential to improve the implementation of planning policy requirements for biodiversity compensation. In the Natural Environment White Paper we announced that we will establish a new voluntary approach to offsetting and will test this in a number of pilot areas.

As you say, any approach to offsetting must be well-designed. The 2-year pilots have a crucial role to play here, gathering a body of information and evidence so that we can decide whether to support greater use of biodiversity offsetting in England, and if so, how to use it most effectively. The approach we will take in the pilots has been informed by discussions with a range of stakeholders, including 74 written submissions received earlier this year in response to discussion material on our website.

You asked how we will help with the design of the pilot areas. We will provide an offsetting 'toolkit', which will contain detailed guidance and information for developers, conservation organisations and individuals who want to provide offsets, and local planning authorities. Before the pilots start on the ground we will work with those participating to make sure the toolkit is fit for purpose. In addition, Natural England will work with pilot areas, to provide some advice, support and quality assurance.

Further information, including how to express interest, will be available on the Defra website shortly.

I understand that the EU Commission is at an early stage in its thinking on offsetting, but we will certainly be keeping in close contact with them regarding this issue.

4 July 2011

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

Your letter of 4 July 2011 about this Communication, replying to my letter of 23 June, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 13 July 2011.

We note your statement that the text of draft Council Conclusions was weakened during working group discussions, because of the issues which were flagged up in my previous letter, a process of dilution which was reflected in the Conclusions finally agreed at the Environment Council on 21 June. We trust that the Government will continue to press for serious and sustained EU action to protect biodiversity – we shall look for this in our future scrutiny of relevant proposals.

We are releasing this Communication from scrutiny.

14 July 2011

## A SUSTAINABLE BALANCE BETWEEN FISHING CAPACITY AND FISHING OPPORTUNITIES (12026/11)

### **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 on 12 October.

The overall conclusion of the Commission – that fishing capacity remains excessive – mirrors that of the last few years. It serves to demonstrate that the current policy is failing to deliver the necessary changes and that reform is therefore required.

We are content to release this Report from scrutiny, but we shall take the issues raised forward in the context of our scrutiny of the CFP reform proposals.

13 October 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 9 December 2010 concerning the proposed alignment of the direct payment schemes regulation with the amended comitology provisions of the Lisbon Treaty. You asked to be kept informed of how differences of opinion between the Government and the Commission in terms of the proposed use of implementing and delegated powers were resolved. The negotiations have yet to conclude but useful progress has now been made and I thought you would welcome this update.

The Commission proposals have been discussed in detail by officials in a series of Council Working Groups since the end of last year, and have also been subject to a report from the European Parliament. Following these discussions the Presidency produced a compromise text, which has formed the basis of the ongoing negotiations with the European Parliament and Commission. Overall, we consider that the Presidency text provides an appropriate balance between delegated and implementing powers and also reflects the Common Understanding between the European Parliament, the Council and the Commission which included standard comitology clauses for use in legislation. There are only a few areas on which agreement has not yet been reached between the Council and the European Parliament.

In relation to the areas of concern that I previously identified and of which I notified you in my letter of 2 December, I can report the following progress:

#### ALIGNMENT WITH THE COMMON UNDERSTANDING

- The Commission now agrees that a time limit (which will be extended for a period of identical duration provided that neither the European Parliament nor Council objects not later than three months before the end of each period) should be added to their powers to make delegated acts (in what was Article 141b(1) of the Commission's proposal). The Presidency has proposed a time limit of five years, which we consider acceptable, although we would also be content with seven years should the Commission prefer to align it with the duration of the multi-annual financial framework.
- In line with the Common Understanding, the time period for the Council and European Parliament to object to a delegated act (as was covered in Article 141b(3) of the Commission's proposal) has been changed to two months, extendable by a further two months (rather than one month as the Commission had proposed).

- The recital of the compromise text now includes a commitment that the Commission will consult experts (which in practice will mean the Member State committee of experts) when drafting delegated acts. Again, this is in line with the Common Understanding.

#### ON PROPOSED DELEGATED POWERS

- In the Presidency compromise text the proposed delegated powers 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 (which were in Article 27(a)(1)(e) of the Commission's proposal) have been removed. In their place provisions have been included in the Council Regulation itself allowing Member States to take further measures required for the proper application of the integrated system and implementing powers have been introduced to allow the Commission to define implementing rules. We consider this acceptable as it would ensure that the detailed implementing rules would be voted on by the Member State committee of experts.
- The rules on reductions of farmers' payments for beaches of scheme rules (which were covered by Article 27(a)(4) and (5) of the Commission proposal) have been changed from delegated to implementing powers in the Presidency compromise text. We consider this to be a positive change as it would mean that these sensitive provisions would continue to be subject to approval by the Member State committee of experts. However, these provisions, in particular, are the subject of continued negotiation with the Commission and European Parliament. In order to move things forward on this proposal, the Commission has suggested that the parties seek first to agree a horizontal approach to provisions on controls and sanctions that can be applied across the various CAP regulations. In principle that seems sensible, but we will obviously want to be comfortable with the substance of any such agreement.
- We initially had reservations about the delegation of powers to the Commission concerning rules on the integration of coupled support into the Single Payment Scheme (Article 67a of the Commission proposal). On reflection, we are now content that this delegation is appropriate.
- The Presidency text removes the provision granting the Commission power via delegated acts to adopt rules relating to the scope of the Farm Advisory System (FAS) (Article 12(5) of the Commission proposal). Instead, they have proposed that the scope of the FAS remain defined in the Council Regulation itself. This change would address our previous concerns.
- There has been no substantive change to the wording of Article 45(a)(1)(a) which gives the Commission powers via delegated acts to set rules on farmers' eligibility to claim under the Single Payment Scheme. While we would have preferred this to be more tightly defined, we recognise the difficulty of doing so in practice without removing the Commission's ability to respond to any further refinements of the eligibility rules which may be identified in light of continued experience of operating the scheme. We will not, therefore, be insisting on an amendment.
- The Commission has agreed to the re-drafting of Article 45(a)(3)(a) so that it now avoids any suggestion that the Commission would have powers to change the definitions for 'inheritance' and 'anticipated inheritance' in Member States' national legislation. We welcome this change.

The Presidency text did not introduce any significant new areas of concern for us.

The only other issue worth noting is that the European Parliament has been seeking to be given powers, jointly with the Council, to agree to any proposals from the Commission setting financial discipline adjustments (i.e. reductions to farmers' payments to avoid the relevant EU budget being exceeded). As calculating financial discipline adjustments is largely a mathematical calculation, we don't believe granting the European Parliament these powers would give it much extra influence on the process in practice. In any event, the Commission will have the power to act alone and set financial discipline adjustments were Council and the Parliament to fail to agree, thereby ensuring that

sound financial management could be maintained. Nevertheless, we have raised the need to ensure that there is an appropriate legal basis for any change in powers.

I will provide a further update to you once the Presidency has concluded its negotiations with the European Parliament and the Commission.

*19 September 2011*

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

Your reply of 19 September 2011 to my letter of 9 December 2010 about this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 12 October 2011.

It was helpful to receive this information about progress in discussions since the turn of the year. Negotiations clearly have some way to go still and, pending a further update from you, we will retain the proposal under scrutiny.

*13 October 2011*

### **COMMON AGRICULTURAL POLICY: INFORMATION MEASURES (11829/11)**

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

Your Explanatory Memorandum of 22 June 2011 about this report was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 6 July 2011.

While you mention some of the activities supported under the scheme, neither your EM nor the Commission document contain any indication of whether there has been a systematic assessment of the effectiveness of these activities. We would ask you to let us know whether they have been appraised in this way and, if so, what were the findings.

We note that the budget for this scheme stood at €8 million in 2009, and also in 2010. These are significant sums of money, and we agree with your view that there is scant justification for such expenditure at a time of financial stringency. We would support reviewing the case for the expenditure, for which, we understand, you will be pressing.

However, there is an important issue of communication in relation to the Common Agricultural Policy. Through Pillar 2, which we understand to be supported by the Government, the CAP delivers useful benefits to farmers and to the environment. It must be appropriate for credit to be given to the CAP where credit is due, and we would be interested to hear your view of the role that the Government should play in improving general understanding of these arrangements.

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

*6 July 2011*

#### **Letter from the Rt. Hon Jim Paice MP to the Chairman**

Thank you for your letter dated 6 July concerning the report on the implementation of Council Regulation (EC) No 814/2000 on information measures relating to the Common Agricultural Policy (CAP).

To our knowledge no assessment has been made of the effectiveness of the information measures implemented under this Regulation.

It appears that third party organisations implementing co-financed measures under the scheme are required to provide some information about how effectively the information measure has achieved its aim. However, this information does not appear to be generally available and we have no indication that the information is used to inform an overall assessment. Less information is available about measures completely funded and entered into at the initiative of the Commission. We will continue to seek more information when opportunities arise.

Following the undertaking we set out in the Explanatory Memorandum we are working in conjunction with HM Treasury to seek to cut the provision of €8 million of expenditure for this activity in the 2012 EU budget. We will be monitoring progress closely.

The current Rural Development Regulation and EU Implementing Rules set out the requirement for managing authorities to ensure that opportunities for support under the Rural Development Programme are publicised. In the case of the Rural Development Programme for England, this is carried out at national level through the Defra website, which contains the latest news and contact details and also incorporates the RDPE network, an information exchange tool which publicises the Programme and encourages communications between existing and potential beneficiaries. This is available at the following web address:

<http://www.defra.gov.uk/rural/rdpe/>

Information on the Programme is also provided through the programme's delivery bodies: for example Agri-environment schemes are publicised by Natural England (see web address below), and the community-led Leader approach is publicised on the websites of individual Local Action Groups, for example at the leader4 website (web address below):

<http://www.naturalengland.org.uk/ourwork/farming/funding/es/default.aspx>

[www.leader4.org/](http://www.leader4.org/)

*27 July 2011*

#### **Letter from the Chairman to the Rt. Hon Jim Paice MP**

Your letter of 27 July 2011 about this report, replying to my letter of 6 July, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 14 September 2011.

We welcome the information that you have provided about arrangements in this country for publicising support available under the CAP through the Rural Development Programme.

It appears that more needs to be done across the EU, and by the European Commission, to assess the effectiveness of the measures supported under this Regulation. We look to you to let us know as and when you receive more information about such an assessment. For the moment, however, we shall regard this correspondence as closed.

*15 September 2011*

#### **COMMUNICATION ON RIO+20: TOWARDS THE GREEN ECONOMY AND BETTER GOVERNANCE (11845/11)**

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

Your Explanatory Memorandum of 4 July 2011 about this Communication was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 7 September 2011.

We look forward to seeing more specific information about the actions that may flow from the relatively broad proposals in this Communication. In particular, we would welcome more detailed comment from you on the need, and scope, for global science and research cooperation on the global challenges posed by sustainable development.

This is an area where the UK has great strengths, and we would like to hear more about the Government's intentions in relation to helping the UK's science and research community make the best possible contribution to meeting these challenges. You will know that the strength of agricultural research has been of particular concern to us, as we made clear most recently in the July 2011 report of our inquiry into innovation in EU agriculture.

*8 September 2011*

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

Thank you for your letter of 8 September regarding the European Commission Communication on Rio+20 in which you raise a series of queries.

You asked for more specific information about the actions that may flow from the relatively broad proposals in the Commission Communication. While we (in line with the EU) want agreement at Rio on specific concrete deliverables that will drive the transition to a greener global economy, our thinking (in the EU and the UK) has not yet gone into fine detail. It is also the case that with several

months of negotiations ahead we don't want to risk being tied down to statements too early in the process.

We are leading work with other UK government departments to consider what deliverables could perhaps be developed. Deliverables in specific sectors are also being considered; for example, we are following up the Foresight report on the Future of Food and Farming, which considers the need for environmentally sustainable agriculture to feed a global population of 9 billion. Other sectors being considered include forestry, fisheries, water and clean energy. Cross sectoral approaches are also being considered such as: natural resources valuation, green growth indicators, and developing a growth metric beyond GOP.

As you mentioned, global science and research co-operation will be essential to addressing the challenges posed by sustainable development. We are working with the Government Office for Science on the "Planet Under Pressure" international science conference (London, March 2012) that will attempt to explore these challenges further and provide scientific leadership towards the Rio+20 conference.

*5 October 2011*

## CONSERVATION OF FISH RESOURCES

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

Given the interest of your Select Committee in this area, I am writing to draw your attention to the UK's response to the Commission Consultation Document concerning an Impact Assessment on the possible utilisation by the EU of trade-related measures against non-cooperating States for the purpose of conservation of fish resources.

The consultation was carried out in response to the ongoing dispute in the North East Atlantic mackerel fishery. In recent years, Iceland and the Faroe Islands have set themselves autonomous Total Allowable Catches that greatly exceed their historical fishing activity. These actions seriously jeopardise the future sustainability of the fishery (which is the UK's most important both in value and volume of landings). The consultation was aimed at ascertaining what action Member States would like to see taken in order to compel both Iceland and the Faroes to return to the negotiating table in order to reach a settlement that will meet with the needs of all parties and ensure long term stability. The UK response to the consultation was cleared by a write round of Whitehall departments and devolved administrations.

*5 July 2011*

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

Your letter of 5 July 2011, enclosing a copy of the UK's response to this Commission consultation, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 13 July 2011.

We were pleased to be sent a copy of this document. We are firmly behind the line which the Government took in the response. For information, we would be interested to know what recourse to international law may be open to the EU as the actions of Iceland and the Faroe Islands would appear to contravene the United Nations Convention on the Law of the Sea.

The consultation closed on 10 May of this year. Are you able to let us know what conclusions the Commission has drawn from it? We would welcome a reply by the end of August.

*14 July 2011*

## CONSERVATION OF MIGRATORY SPECIES OF WILD ANIMALS (11065/11)

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

The Hungarian Presidency has prepared two proposals to amend Appendix I of the Convention of Migratory Species of wild animals (CMS) to list two species of birds of prey, Falco cherrug (Saker Falcon) and Falco vespertinus (Red-footed Falcon), at its 10th Conference of Parties in November. A

Council Decision relating to them has been prepared and is the subject of the accompanying Explanatory Memorandum.

We have highlighted to the Presidency, the Commission, and EU Member States that we do not believe the proposals to be adequate and have offered our comments on them. Our key concerns are outlined in the accompanying EM. We have also explained that we do not believe the correct legal base has been used in the draft Decision.

A meeting of the Working Party on the Environment on 8 June agreed that all documents would be reconsidered and we have resubmitted our comments. However, we are still waiting to see the final draft Decision and proposals which we expect to be submitted to Council for adoption on 21 June before transmission to CMS Secretariat by 23 June.

*14 June 2011*

## CONSULTATION ON FISHING OPPORTUNITIES (10836/11)

### **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 Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 6 July 2011.

On the question of when to take decisions, we, like you, welcome the Commission's suggestion that its main legislative proposal be tabled in September, particularly for the purposes of national parliamentary scrutiny. We trust that, if the Commission delivers on this suggestion, you too will play in your part in allowing for effective parliamentary scrutiny.

On the setting of TACs where scientific advice is weak, we agree with you that decisions should be taken on a case-by-case basis. Nevertheless, there is clearly a serious problem with data collection that has existed for some time and has yet to be resolved. The lack of data in the Mediterranean and Black Seas is particularly alarming. You suggest that Member States are not entirely to blame, but do not offer a solution. Without high quality data, CFP decision making will inevitably be flawed regardless of the policy framework. Please, therefore, tell us what you are doing to rectify the situation in UK waters, and how you are working with colleagues around the EU. What is the remedy against Member States that fail to supply data?

Finally, you make a sound point about discards and extension of catch quotas. It is highly regrettable that the Commission makes no mention of this in its Communication. We strongly agree that discards must come to an end and that the catch quotas scheme should be extended as a priority. You note that such an extension would remove the need for effort restrictions. We are not entirely convinced that this would be the case, unless further conditions were applied, such as CCTV technology. Your further comments would be welcome.

We will retain the Communication under scrutiny and look forward to your response to this letter within ten working days. We look forward also to effective dialogue with you in the autumn prior to decisions in the Fisheries Council.

*6 July 2011*

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

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

In my letter of 21 March 2011, I undertook to update the Committee on the outcome of our deliberations on the approach taken by the Commission in its 'Dairy Package', in relation to the alignment of the above proposal with the new Lisbon Treaty rules on delegated acts and implementing measures. I am now able to do this. I would also like to take this opportunity to provide, for your information, an update on the progress of the negotiations.

#### DELEGATED ACTS AND IMPLEMENTING MEASURES

I noted in my letter of 21 March 2011 that our view differs from that which the Commission expresses in its proposal in a number of areas, which relate both to aspects of general application and specific measures.

### *General application*

In terms of general application, we would like the proposals to match the Common Understanding, and we would like delegated acts to be clearly time limited. The Commission has proposed no time limit.

We would also 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. In our view the proposal should also include the standard recital committing the Commission to consult Member State experts when it operates through delegated acts.

In official level discussions in Council, the Presidency has made proposals to alter the package to match our view on these points of general application.

### *Specific measures*

As regards specific measures, we consider that 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. We also 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.

We will continue to press these points.

Further to the completion of our considerations on comitology proposals, I can now confirm two further areas of difference with the Commission's proposal. Firstly, the Commission proposed that it should, by means of delegated acts, adopt rules on the scope, content, format and timing of compulsory declarations of volumes received by the first purchasers of raw milk from farmers. We consider that implementing measures are more appropriate here, particularly in respect of format and timing. The Presidency has proposed that implementing measures be used, and this has been widely accepted by other Member States.

Secondly, the Commission proposes to assess whether the activities of inter-branch organisations are incompatible with Union rules, and to declare that the provisions in the package do not apply to inter-branch organisations that do not meet specified conditions, through implementing acts without the assistance of the Member State committee. An analogous provision is made in the tobacco sector. We would accept the absence of the Member State committee only where this is in line with the tobacco provision.

## UPDATE ON THE LEGISLATIVE PROCESS

### *Council*

There have now been a series of working groups at official level and one discussion at the Special Committee on Agriculture (SCA) in Council. We expect the Presidency to return to SCA in June or July in order to confirm a mandate for negotiations with the European Parliament.

We have not been able to move the proposal closer to the UK position on substantial items. In particular, we have not been able to include reference to the key competition law concept of the relevant market or alter the text to ensure the ability of national competition authorities to protect against "significant distortions" in competition. However, the proposal has not moved substantially further away from UK preferences. We have been successful in aligning the proposals for delegation of power to the Commission with the Common Understanding and we have been able to work with other Member States to improve the drafting in a number of areas.

### *European Parliament*

In the European Parliament, there have been 307 proposed amendments to the text. The Agricultural Committee's adoption of a report has been delayed through failure to reach an agreed set of compromise amendments. We expect them to discuss the issue on 27 June, with a plenary session now expected in October.

### *Trilogue – following conclusion of Council and European Parliament processes*

If Council and the European Parliament can each reach an agreed position in their own separate processes, then a trilogue negotiation between Council, the European Parliament and the Commission will occur with a view to establishing an agreeable text which will go back to the European Parliament and Council for final adoption. We now do not expect this to occur until after June.

The Presidency's initial aim was to achieve a first reading deal in July. A first reading deal may still be possible, but is now unlikely to occur before October at earliest.

I hope that this letter provides a useful update to the Committee, and explains in full our views on the Commission's proposals for delegated and implementing acts.

*17 June 2011*

#### **Letter from the Chairman to the Rt. Hon Jim Paice MP**

Your letter of 17 June, replying to my letter of 31 March 2011 about this proposal, was considered by the Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 6 July 2011.

We note your helpful explanation of the difference of views that you have with the Commission in relation to the proposed use of delegating and implementing powers. It will be important to maintain pressure to overcome these differences, and we support your efforts to do so.

We also note that the Government have not been able to move the proposal closer to the UK position on substantive items, including the concept of the relevant market. However, you do not comment on the likely implications of this, and we would ask you to do so.

We shall retain the proposal under scrutiny for the moment, and look forward to your reply within ten working days.

*6 July 2011*

#### **Letter from the Rt. Hon Jim Paice MP to the Chairman**

Thank you for your letter of 6 July 2011 regarding the above proposal and requesting comment on the likely implications of a failure to move the proposal closer to the UK position on substantive items, including the concept of the relevant market.

I would like to explain to the Committee the potential implications of the proposal as drafted, which may be seen as a worst-case scenario, before explaining the (more limited) likely implications. I would also like to note the potential wider implications of this proposal.

#### **POTENTIAL IMPLICATIONS**

If the proposal, in its final form, permitted individual producer organisations to grow to 33% of national production and did not allow sufficient scope for timely interventions by national competition authorities to prevent anti-competitive agreements or practices, oligopolistic or monopolistic producer groups could form in the raw milk market.

Producer organisations would each be able to negotiate a single price for 33% of UK raw milk production (around 4.5 billion litres per year). Raw milk has a short shelf-life and is a bulky good relative to its value. It is therefore not normally traded over long distances or across the sea. Because of the failure to secure reference to the 'relevant market', a producer organisation could geographically concentrate its operations in order to monopolise sub-national raw milk markets, thus raising potentially serious issues for the competitiveness of other market participants and potentially increasing prices to end consumers.

In the worst case, 99% of UK output could be split between three producer organisations operating within geographically distinct areas and only engaged in competition in the few hundred kilometres either side of the limits of their operations. For example, one organisation could control Scotland and Northern Ireland, one South Wales and the South West and the third North Wales and the remainder of England. This could leave areas of UK milk production such as Scotland, Northern Ireland, Cornwall, or Norfolk devoid of any competitive market whatsoever. The consequences of this exclusion of competition could be higher consumer dairy prices, reduced output, reduced innovation and increased imports of dairy products.

We have been attempting to ensure that national competition authorities could intervene (even when below the 33% threshold) to prevent this scenario developing through wording enabling them to prevent a negotiation by a producer organisation that may cause competition to be "seriously distorted". The Commission's proposal states that intervention is possible only when competition is "excluded". In the absence of success on this point, competition authorities may not have sufficient power to prevent the development of a situation as described above.

## LIKELY IMPLICATIONS

It is difficult to predict what the likely implications of this proposal will be for the UK raw milk market.

On the one hand, the proposal will be likely to make it more straightforward for producers to cooperate in certain ways than under the present regime and may therefore be attractive to producers. In particular, the ability for producer organisations to agree a collective price, which would be allowed under the proposal, might of itself, depending on the size of the producer organisations, lead to serious distortions and ultimately to an increase in consumer prices.

On the other hand, it is not necessarily the case that the worst-case scenario described in the previous section will materialise. As I have explained to Parliament and to the industry previously, farmers are not being widely constrained by current competition law. There is much more that farmers can already do to work together and to improve their bargaining power (including forming groups of producers) within the parameters prescribed by existing competition law. It therefore seems unlikely to me that implementation of the proposal concerned will necessarily engender a change in the structure of the UK raw milk market as dramatic as I describe above.

## WIDER IMPLICATIONS

The implications of this proposal may go beyond the dairy sector. We are concerned that the changes to competition law proposed here, if approved, may provide a precedent for similar exemptions from competition law in other (particularly agricultural) sectors. We fear the principle of competition law based on the relevant market may be undermined, leading to the introduction of similar provisions in other sectors where the practical implications may be more dramatic and damaging.

The proposal may also have adverse effects outside the UK market. Structural and protectionist approaches in politically strong sectors may undermine the EU case for competition internationally, and the costs to EU businesses from similar protectionism by others could be high. The proposal will likely weaken the ability of the EU collectively to argue for an effects-based competition policy to other jurisdictions, including in emerging markets.

*13 July 2011*

### **Letter from the Chairman to the Rt. Hon Jim Paice MP**

Your letter of 13 July 2011 about this proposal, replying to my letter of 6 July, has been considered by our Agriculture, Fisheries and Environment Sub-Committee.

It was helpful to receive your explanation of the potential implications of the proposal as drafted. We understand that the proposal is expected to be before a Council meeting on 5 September. We are content now to release it from scrutiny, but we would ask that you write to us again following that meeting to explain the result, and to say whether your concerns in relation to other sectors continue.

*19 July 2011*

### **Letter from the Rt. Hon Jim Paice MP to the Chairman**

Your letter of 19 July 2011 requested that I write to you following the meeting of the Special Committee on Agriculture (SCA) on 5 September. You asked that I explain the result of this meeting and say whether I remain concerned that the Milk Package proposals for an exemption from competition law may set an unwelcome precedent for other sectors.

## SCA

The meeting of SCA discussed five topics. In addition to these agenda items, we highlighted again the importance of allowing national competition authorities to intervene to prevent competition being "seriously distorted" by large producer organisations (rather than only when it is "excluded", as drafted).

### *Control of supply of quality products*

Some member states have called for restrictions of supply of dairy products with Protected Designation of Origin (PDO) or Protected Geographical Indication (PGI) status to be permissible. We have resisted this attempt at market management. Fourteen other member states joined us in opposition to this amendment at SCA. Nine member states supported this amendment. The Presidency concluded that it did not yet have a mandate for discussion of this amendment with the European Parliament.

#### *Minimum contract durations*

The proposals on contractual arrangements would not allow member states to specify the detail of raw milk contracts. Some member states, however, have argued that they should be able to specify a minimum duration which all contracts for sales of raw milk within their territory must meet. We have resisted this proposal. We are concerned that it may harm trade, by preventing one-off sales by a farmer close to a border with a member state that established minimum contract durations. At SCA, we were one of thirteen member states that opposed this amendment. Ten member states supported this amendment. The Presidency again concluded that it did not yet have a mandate for discussion of this amendment with the European Parliament.

#### *Small member states*

The original proposal sets the size limit for producer organisations at 33% of national production of raw milk. Smaller member states have argued that higher limits should apply in their territory as the 33% threshold, when applied to low levels of production, represents a low volume limit. We did not comment as only Cyprus, Malta and Luxembourg are small enough to be affected by the amendment that has been proposed on this point. The Presidency concluded that most member states would accept a higher limit of 45% of national production for producer organisations operating in these small member states.

#### *Delegations of power to the Commission*

The Commission explained where implementing the proposal would require delegated or implementing acts. We requested a wider discussion on transition issues including the timescales required for Member States to implement the final package.

#### *Effect of the proposals on co-operatives*

The Netherlands proposed an amendment that would exempt co-operatives from the rules relating to producer organisations in the package. The aim of this amendment was to protect co-operative structures. We were concerned that the wording proposed by the Netherlands could have unintended consequences and potentially overly-restrict what co-operatives may do. We suggested that the Commission clarify the effect of the proposals on co-operatives and propose more careful wording, if necessary to protect co-operative structures. Other member states agreed with this approach.

#### PRECEDENT

We continue to be concerned that the proposed changes to competition law in the Milk Package may set a precedent for other sectors as part of the 2014-20 CAP reform process.

To mitigate this risk, we are seeking to ensure that the recitals to this proposal note the exceptional nature of the milk market situation that led to the development of the Milk Package. At present, the recitals help to make this position clear and we are not aware of any pressure to remove this. Nonetheless, the possibility of further exemptions from competition law in agriculture remains and we will pay close attention to this when the Commission publishes its draft legislative proposals for reform of the CAP.

*19 September 2011*

#### **Letter from the Chairman to the Rt. Hon Jim Paice MP**

Your letter of 19 September 2011 about this proposal, replying to my letter of 19 July, was considered by our Agriculture, Fisheries and Environment Sub-Committee at a meeting on 12 October.

We were interested to read the information that you provided about discussion at the meeting of the Special Committee on Agriculture on 5 September.

We agree with you on the importance of watching for any spill-over from the changes to competition law made by this proposal into other sectors, in the context of CAP reform. As regards this specific proposal, however, we now regard our correspondence with you as closed.

*13 October 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 in response to your letter of 10 March sent in reply to mine of 15 February and 14 January. You specifically requested that I write again as soon as the European Commission's Impact Assessment is published.

Unfortunately, this Impact Assessment has not yet been published but I thought that it would be helpful to provide an interim update based on the latest information from the officials' Working Group on Cosmetic Products that met in June.

At the meeting, the Commission reported on its two stage approach to the impending deadline, the development of the Experts' Report to establish the availability of alternative tests and the preparation of the Impact Assessment on the implications of the deadline.

The Experts' Report, entitled "Alternative (non-animal) methods for cosmetics testing: current status and future prospects—2010" published in May 2011, ([http://ec.europa.eu/consumers/sectors/cosmetics/files/pdf/animal\\_testing/final\\_report\\_at\\_en.pdf](http://ec.europa.eu/consumers/sectors/cosmetics/files/pdf/animal_testing/final_report_at_en.pdf)) found that no specific timeline could be estimated for alternative test methods in the areas of toxicokinetics, repeat dose toxicity and reproductive toxicity because of the underlying scientific challenges. The report does, however give a detailed review of the extensive efforts made to develop alternative test methods and the progress made in understanding the toxicological processes in the human body.

The Commission is currently analysing the data gathered from the targeted stakeholder consultation which took place between December 2010 and April 2011 and is preparing the Impact Assessment report.

Preliminary findings are that the majority of those consulted believe that it will not be possible to guarantee safety without testing data and, as a result, certain products will not be placed on the market. The specific areas where there is expected to be future needs for data on 2013 endpoints are for decorative cosmetics, preservatives, UV filters, endocrine disruptors and nanomaterials.

It is estimated that large cosmetic companies introduce about 70 new ingredients a year, 10% of which are completely new (i.e. not used in other sectors) and these tend to be relied upon for new products. Since 2004 Colipa (the European trade body) has defended 20 ingredients (under scrutiny by the Scientific Committee) for which data on 2013 endpoints was required. 10% (17,000 employees) of the EU cosmetics industry is engaged in R&D and many respondents expect a relocation of these activities and the subsequent loss of employment should the deadline remain. Colipa believes that if the ban had been in place for the past 5 years, they would not be able to defend any ingredients, no new ingredients would be used and there would have been fewer new products. The industry estimates the corresponding losses in turnover and profitability ranges from 3-20% in the short-term, 7-20% in the medium term, and up to 25% over the longer term. The industry also expects it to have a negative impact on exports where EU products will be less innovative. NGOs dispute the industry's concerns believing that innovation is possible with existing ingredients and that existing validated tests allow in most cases for safety assessments to be undertaken.

As to the next steps, the Commission intends to report to the European Parliament and the Council on the Experts Report (and its own annual report) and following the preparation of the Impact Assessment a political decision will be taken on whether or not to make a proposal on the deadline. This is expected in the coming months. The Commission believes that it has a number of options available; maintaining the deadline of 2013, postponement with a new deadline, partial postponement, or postponement with no fixed deadline (with the ban coming into effect as each alternative test is validated).

In terms of the Government's response to this issue, I share the frustration of many animal welfare groups that the scientific evidence which the Commission has requested is not more definitive, and that validated alternatives are not yet established for safety testing for toxicokinetics, repeat dose toxicity and reproductive toxicity. However, before making a commitment on this issue we believe that it is first necessary to wait for the full Impact Assessment to be published and to then assess the precise details of any proposal. I am hoping that every effort will be made so that the 2013 deadline can be confirmed.

6 September 2011

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

Your reply of 6 September 2011 to my letter of 10 March was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 14 September 2011.

Our concern about the handling of this area of policy, by the European Commission and indeed by the Government, has only been heightened by your latest letter.

Your line throughout our correspondence has been that, as regards the implications for the cosmetics sector if alternatives are not available by 2013, the Government will take a view only when the Commission has published a full impact assessment (IA). In your letter of 15 February 2011, you expected this IA to be available by July of this year. Now, in September, it emerges that the IA is still not available, and there is no firm indication of when it will be.

Given the imminence of the 2013 deadline, the continuing delay in producing the IA begs the question of whether those involved may in fact welcome such delay in order to make the impossibility of complying with the deadline a *fait accompli*. We would ask you to comment further on this issue.

We would also ask you whether the Government are prepared to contemplate continuing delay, or whether, alternatively, you see a point in time beyond which you will not be content to allow matters to drift, as they appear to have done over the past year. We would ask for a reply by the end of September.

*15 September 2011*

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

Thank you for your letter of 15 September in response to my letter of 6 September which expressed your concern about the handling of this policy by the European Commission and the Government. In particular you were concerned about the delay to the Impact Assessment and whether the continuing delay would make it impossible to comply with the 2013 deadline. You also asked whether the Government was content with the continuing delay.

I do not think that the delay in the Impact Assessment, whilst frustrating for the Government and indeed for you, is actually in the interests of any party because of the uncertainty that it brings. An Impact Assessment is essential for the development of evidence-based policy making because both Member States and the Commission need to be clear about the full implications of maintaining the deadline. However, the key issue that will affect the ability to meet the 2013 deadline is the development of full and validated replacement tests.

In respect of the deadline, all stakeholders are committed to the development and validation of alternative approaches in the cosmetics field and much has already been achieved but the work has been complex and scientifically challenging. There are differing views on the extent to which these alternative tests replace animal tests, and indeed there may be scope for partial replacement strategies. The Commission's latest report concludes that full and validated replacements will not be possible by 2013.

This conclusion does not automatically mean that the Commission will be proposing to postpone the full marketing ban. But we do expect a decision by the end of the year, as required by the Cosmetics Directive.

I should also add that a further Explanatory Memorandum will be produced by my Department on the 2009 Commission Report to the European Parliament and the Council, published on 13 September, which will explain the policy options under consideration.

*30 September 2011*

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

Your reply of 30 September to my letter of 15 September 2011 was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 12 October 2011.

It was useful to receive the information which you have now provided. You say that your Department will submit a further Explanatory Memorandum on the September report from the European Commission, and I understand that this will come forward this week. We shall await this Explanatory Memorandum before offering further substantive comment.

*13 October 2011*

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

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

Your letter of 19 May 2011, replying to my letter of 3 February about this proposal, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 15 June 2011.

It was helpful to receive the information which you provided. It seems clear, however, that you are gathering more input from interested parties in this country, and that there will be developments in consideration of the proposal in the EU. We will keep the proposal under scrutiny while we await the further update which you have offered.

Meanwhile, we were struck by the statement in your letter that the UK impact assessment has shown that the Commission under-estimated the costs of its proposal by a factor of ten or more. We would be interested to learn more about the background to this under-estimate, and whether you think that it points to a wider problem with the Commission's estimates.

We would also welcome clarification of your comment, in relation to information for the public, that the provisions set out in the proposal are "largely" covered by the Environmental Information Regulations 2004. The devil is in the detail: are any of the proposed provisions which are not covered by the 2004 Regulations of real significance?

We would be grateful for a reply within ten working days.

*16 June 2011*

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

Thank you for your letter of 16 June 2011 about the above European Commission proposal and your request for further information on two specific points. These are dealt with below along with an update on the progress with negotiations on the dossier.

#### COMMISSION SEVESO III IMPACT ASSESSMENT – UNDER-ESTIMATE OF COSTS

You asked for further information on the under-estimate of the costs of the proposal. The UK Impact Assessment (IA) found that the Commission had under-estimated costs by a factor of ten or more. The Government believes that this was caused by relying on data collected in the 1990s and an under-estimate of both the number of new sites likely to come within scope of the proposal and the costs associated with additional duties on regulators.

The UK approach used data from a survey of UK major hazard (Seveso) sites commissioned in 2010/11 to identify the costs of compliance with the proposal and a more detailed analysis of regulator and industry costs. The UK IA identified costs to industry of between £75m and £95m over 10 years compared to the Commission figure of just over £7m. The UK IA includes:

- around £20m for aligning the Directive with the new European Regulation on classification. This is due to the likely net increase of around 65 Seveso sites as a result of alignment;
- costs of around £20m for Seveso sites to provide information to populations affected. This is because of a change of calculation method of the affected population that results in an increase by a factor of four; and
- an estimated £41m cost to the UK Competent Authority for the extra inspection and safety report assessment work arising from the increase in the number of sites covered.

The Government will seek to reduce these costs as negotiations on the dossier progress.

You asked if we consider that this dossier is indicative of a wider problem with Commission estimates. The Government does believe that more could be done by the Commission to provide greater quantification of costs to member states and to industry in particular. The 2010 Impact Assessment Board's Annual Report states that only 27% of reports examined in 2010 were based on comprehensive quantitative modelling. The Government would like to see this proportion increase.

#### INFORMATION FOR THE PUBLIC

My comment about information for the public provisions being "largely" covered by the Environmental Information Regulations 2004 related to 'Access to justice' provisions.

Existing Directives (Access to Information Directive (2003/4/EC) and the Public Participation Directive (2003/35/EC) in part implemented by the Environmental Information Regulations 2004) already enable the public to seek a review of the acts or omissions of a public authority and to participate in decision making. There is a good argument that these provisions in the proposal are already covered.

The item in the proposal not covered by other related Directives is provision for the public to seek an injunction. The Government plans to resist this specific provision.

#### UPDATE ON NEGOTIATIONS

Since my letter of 19 May, the first read through of the proposal has been completed under the Hungarian Presidency in the Council's Environment Working Group. The Environment Council received a progress report on the dossier in June. Key issues emerging from the negotiations in the Council so far concern:

- the alignment mechanism between the old and new classification systems;
- the correction mechanism to be used where alignment produces undesirable outcomes (derogations and the use of a safeguard clause);
- public information provision (extent and means used, with related cost); and
- impact on inspection arrangements.

The European Parliament Committee on the Environment, Public Health and Food Safety had an initial discussion on the draft report from the Rapporteur on the proposal at the 14 June meeting. Key issues that emerged from the discussion were the alignment mechanism, how public information provision should be balanced with security concerns and use of co-decision for derogations.

I will keep the Committee updated on developments with the dossier.

*5 July 2011*

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

Your letter of 5 July 2011 about this proposal, replying to my letter of 16 June, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 13 July 2011.

We welcome the information that you have provided about the causes of the Commission's under-estimation of the costs of its proposal by a factor of ten or more. Can you say whether you have taken this issue up with the Commission and, if so, what they have said about this discrepancy? Can you also say what the practical impact on those affected by the proposal will be, of the much higher costs now identified by the UK's impact assessment?

We will keep the proposal under scrutiny while we await your reply and any further updates on negotiations.

*14 July 2011*

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

Thank you for your letter of 14 July 2011 about the above European Commission proposal and your request for further information on the two points below.

#### UK RESPONSE TO THE COMMISSION UNDER-ESTIMATE OF COST

Following lobbying from the UK, the Commission produced an Impact Assessment (IA) for the Directive setting out the estimated costs of the proposal and published it together with its proposal on 21 December 2010. As I mentioned in my earlier letter of 5 July, this was based on dated information. The UK conducted research of its own to inform an IA which we believe is more reliable.

We have used the UK Impact Assessment as the basis on which to highlight concerns about the original Assessment by the Commission in the Council Environment Working Group, both verbally and in writing. We have pointed out a number of inadequacies in the data used as detailed in my earlier response. The Commission has acknowledged the difficulty in assessing the impact of the proposal and, in particular, the implications of the new alignment method for dangerous substances. These will determine the scope of the Directive but will only finally be clear when sites to which the Directive applies notify that they are within scope when the new law is in force. The Commission has

chosen not to quantify what they consider to be the inevitable cost associated with modernising the Directive, such as improved public information provision through the internet.

We will continue to use data from the UK IA to support our case for changes to be made to the proposal to reduce the impact on industry and regulators. We are also making the UK IA available to help influence interested parties. As well as the Commission, we are sharing our findings with key members of the European Parliament and other Member States. This approach is starting to bear fruit. The rapporteur in the European Parliament has shown a keen interest in the work that we have done, has asked for our IA and has requested a meeting with officials early in the Autumn.

#### PRACTICAL IMPACT OF THE COST UNDER-ESTIMATE

The overriding aim of our negotiating strategy is to ensure that a high level of protection for people and the environment from on-shore major hazards is maintained. One of the objectives is to limit any undesirable impact on UK industry and regulators. I gave some information on likely costs to these groups in my earlier response. However we have already made some progress during discussions under the Hungarian Presidency which will reduce the overall costs of inspection both to industry and the regulator.

We will continue to press for changes that will help to reduce costs of the proposal and bring them in line with the original Commission estimates. We are in discussion with those sectors of industry who are likely to be affected to help them plan for the impact and also to make comments to interested parties themselves during negotiations. Whatever the outcome new resource is unlikely, particularly for regulators, and any additional costs will have to be met by redirecting existing resource.

The Polish Presidency is now taking forward negotiations in the Council with the aim of making progress towards reaching an agreement at First Reading with the European Parliament by the end of the year. We will continue to engage with the Commission, Member States and the European Parliament.

I will keep the Committee updated on developments with the dossier.

*17 August 2011*

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

Your letter of 17 August 2011 about this proposal, replying to my letter of 14 July, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 14 September 2011.

We were interested to see your comments on the UK's response to the Commission's under-estimation of the costs of its proposal, and also on the practical impact on those affected by it.

We note the latest state of progress on the proposal and will keep it under scrutiny while we await a further update.

*15 September 2011*

#### DEPLETION OF THE OZONE LAYER (12173/11)

#### **Letter from Lord Henley, 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 12 July 2011. The document was restricted and therefore it was not possible to deposit the proposal for scrutiny. I have attached a copy of the decision, reference number 12173/11, under the usual rules on confidentiality barring discussion of the document with others either inside or outside Parliament.

The European Union and its Member States are Parties to the Vienna Convention for the protection of the ozone layer, and to the Montreal Protocol, adopted under that convention, on Substances that Deplete the Ozone Layer.

The decision was to agree that the Commission would participate in the negotiations, where it falls within their competence, on behalf of the European Union for the 23rd (2011) and 24th (2012) Meetings of the Parties to the Protocol. The reason for granting the Commission a two year negotiating mandate is that it is expected negotiations on amendments to the Protocol will continue into next year. The UK voted in favour of this proposal.

Document 8930/II REV I [not printed], which sets out the recommendation from the Commission to the Council on this matter, is also attached and may provide a useful background to the Council Decision.

*15 September 2011*

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

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

Thank you for your letter of 9 December 2010 concerning the proposed alignment of the Rural Development Regulations 1698/2005 with the new provisions for the delegation of powers to the Commission under the Lisbon Treaty.

The Commission proposals were discussed in detail by my officials at a series of Council Working Groups over the last few months, and have been subject to a report from the European Parliament. Following these discussions the Presidency produced a compromise text which we consider provides an appropriate balance between delegated and implementing powers and also reflects the Common Understanding, agreed with Member States, on standard comitology clauses to be included in regulations.

I noted some areas of concern in my letter of 25 November 2010 and you asked to be kept informed of developments.

One of the procedural issues we were concerned about was the duration of the power to make delegated acts. We also suggested that the time period for the Council and the European Parliament to object to delegated acts should be two months, extendable for a further two months. The duration of the power to make delegated acts is still under discussion. We have suggested seven years to correspond with the length of the programme. However, we would also be content with five years as this is consistent with the duration of delegations in other regulations. In line with our suggestion, the time period for the Council and the European Parliament to object to delegated acts has been set at two months extendable by two months. The Regulation is now in line with the Common Understanding between the Commission, the European Parliament and the Council on Delegated Acts.

On the proposed application of delegated or implementing acts, I mentioned we had expressed concerns about Article 19(2) (Commission decisions on Member State proposed changes to rural development programmes) and Article 69(4) (annual breakdowns by Member States of Community support for rural development).

Article 69(4) provides for a process to allocate European Agricultural Fund for Rural Development (EAFRD) (CAP Pillar 2) funds between Member States at the beginning of the seven year financial perspective. In 2006, when this issue last arose it was a matter for the Commission without the involvement of the Rural Development Committee, taking account of the criteria agreed by the Council in the EU budget negotiations. We are content with this approach since the allocation key for Rural Development is a politically sensitive issue and the involvement of the Rural Development Committee in the decision would risk reopening Member States' positions already settled in the Council. We are therefore content that the proposal represents a continuation of the current procedure.

As regards Article 19(2), we have considered this matter in further detail and are content the proposal does not go beyond the remit of the recast or the Lisbon Treaty alignment.

On the whole we are content with the Presidency's text which has not introduced any significant new areas of concern. The European Parliament has put forward proposals to the Commission proposal. These are currently subject to negotiations between the institutions and I will write to you once these have been concluded. I hope these clarifications prove useful.

*7 October 2011*

EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT: FINANCIAL  
MANAGEMENT (13397/11)

**Letter from the Chairman to the Rt. Hon 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 the Environment at its meeting of 14 September 2011.

Your intended position at Council was entirely unclear from the EM. For our part, we are strong supporters of the second pillar of the Common Agricultural Policy. It would be regrettable if the current economic circumstances were to block its availability to those who most need it. Consequently, we welcome the pragmatic solution identified by the Commission as long as spending remains within the overall financial perspectives for the period 2007-13 agreed unanimously by the Member States in 2005.

We are content to release the proposal from scrutiny but we would welcome information from you on the Government's chosen position and the reasons for it.

*15 September 2011*

EUROPEAN FISHERIES FUND: FINANCIAL MANAGEMENT (13407/11)

**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 Sub-Committee on Agriculture, Fisheries and the Environment at its meeting of 14 September 2011.

Your intended position at Council was entirely unclear from the EM. For our part, we are strong supporters of the European Fisheries Fund as long as it is deployed sustainably. It would be regrettable if the current economic circumstances block its availability to those who most need it. Consequently, we welcome the pragmatic solution identified by the Commission as long as spending remains within the overall financial perspectives for the period 2007-13 agreed unanimously by the Member States in 2005.

We are content to release the proposal from scrutiny but we would welcome information from you on the Government's chosen position and the reasons for it.

*15 September 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 letter of 16 May 2011 on the above Report, replying to my letter of 31 March, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 June 2011.

We are pleased to note that the Commission's approval of the UK's Management and Control System has now been confirmed.

As regards our questions about the European Fisheries Fund, you have said that, while the UK does not have access to information about compliance with the rules in other Member States, a full report for Europe will be available later in the year. Could you confirm that the report will deal with the questions that we have raised?

We will retain the current Report under scrutiny, and would ask you to reply within ten working days.

*9 June 2011*

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

Thank you for your letter of 9 June on the above Report, in response to mine of 16 May. I apologise for the delay in replying.

The Commission has confirmed that its Interim Evaluation of the European Fisheries Fund will look at the fleet reduction measures implemented in Member States that have approved such projects. The Commission's report will be based on each Member State's Interim Evaluation report, which had to be submitted to the Commission by 30 June 2011. The Commission expects to finish its report in the autumn.

Regarding projects that have led to increases in fishing capacity, the Commission is currently undertaking an analysis of vessel modernisation projects and their potential impact on the increased ability to catch fish. At this stage we do not know when the analysis will be complete, or whether it will be shared with Member States. If it is published in the public domain then I will ask officials to provide the Committee with a copy.

*10 August 2011*

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

Your letter of 10 August 2011 on the above report, replying to my letter of 9 June, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 14 September 2011.

It is clear that more information about implementation of the European Fisheries Fund will be made available by the European Commission later this year. We welcome your offer to keep us updated. In the meantime, we will retain the report under scrutiny.

*15 September 2011*

#### **EXPORT AND IMPORT OF DANGEROUS CHEMICALS (9896/11)**

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

Your Explanatory Memorandum (EM) on this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee on 22 June 2011.

We note that the Government are giving further consideration to the actual delegation to the Commission in relation to amending the Annexes of the proposed Regulation. In addition, the Government are seeking legal advice on whether the proposal alters the balance between the Member States and the Commission in participating in the Rotterdam Convention.

We note as well that you will be providing a UK impact assessment to Parliament.

We will await the outcome of your further consideration of these issues, and the submission of the impact assessment. In the meantime, we will keep the proposal under scrutiny.

*23 June 2011*

#### **FARMERS: AID TO FARMERS IN AREAS WITH A NATURAL HANDICAP (8858/11)**

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

Your letter of 7 May 2011 in reply to my letter of 1 July 2010 to Richard Benyon was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 June 2011.

We were grateful for the update which you have provided on progress with the European Commission's review of Less Favoured Areas (LFAs), and about the views of other Member States. As you know, we have the same concern that you describe, about the need to ensure that the rules for designating LFAs must account for the UK's maritime climate, including the effect of excessive rainfall. We shall be particularly interested to hear from you about your view of the adequacy in this regard of the formal re-designation proposals, which you now expect to come forward this autumn.

*9 June 2011*

## FISHERIES: EXPLOITATION OF NORTHERN STOCK OF HAKE (7764/09)

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

I am writing to inform you that this proposal, which your Committee is holding under scrutiny, has now been withdrawn by the Commission, as it is now obsolete.

While we are keen to see a long-term management plan developed and agreed for this stock, we agree with this decision.

In fact, the International Council for the Exploration of the Sea (ICES) has recently reassessed the advice on this stock, which has provided a new perspective on historical stock trends. This suggests that the previously defined precautionary reference points are no longer appropriate for the recovery plan which operates now. The implications for the proposal under discussion for a long-term management plan to replace this recovery plan therefore need to be taken into consideration before any new proposal is brought forward. Clearly the reference points used to draw up the original proposal are no longer appropriate.

There is also the wider issue of the current legal impasse on developing long-term management plans to resolve a disagreement between some Member States who do not want to lose flexibility or have diminished December Council bargaining powers. The UK are supporting the Commission and European Parliament position for full co-decision to set up the LTMP including harvesting rules – which we consider to be a priority. In this respect we welcome the Commission's initiative to resolve the current impasse, and support its approach to ensure such plans are subject to both Parliament and Council agreement.

We remain open to constructive dialogue to explore solutions which will meet the objectives. It is essential to resolve this impasse. We consider regionally developed long-term management plans to be an essential element of future fisheries management and sustainability, and look forward to the development and agreement of future plans, including one for the northern stock of hake.

*3 September 2011*

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

Your letter of 3 September 2011 was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 14 September 2011.

We note that this proposal has now been withdrawn by the European Commission. I confirm, therefore, that we are no longer keeping it under scrutiny, and that we shall regard this correspondence as closed.

*15 September 2011*

## FISHERIES: PARTNERSHIP AGREEMENT WITH THE GABONESE REPUBLIC (11241/11)

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

A fisheries partnership between the EU and Gabon was agreed on 28 June. The Proposal concerned was protectively marked (as 'limite'), therefore we were unable to provide an Explanatory Memorandum until the Proposal was agreed. I have attached a copy of the agreement with this correspondence [not printed].

The agreement itself offers the UK no additional fishing opportunities, but the UK supported the proposal on the basis of the agreement being consistent with other agreements.

*5 October 2011*

## FISHING: OPPORTUNITIES FOR CERTAIN FISH STOCKS AND ANCHOVY IN THE BAY OF BISCAY (9593/11, 12599/11)

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

I am writing to inform the Committee that the above proposals have now been adopted at Council, the most recent one relating to anchovy at the Agriculture and Fisheries Council on 19 July, and the earlier one on fishing opportunities as an 'A' point at the Economic and Financial Affairs Council meeting on 20 June. Regrettably at the time of adoption neither had completed clearance from the scrutiny process due to the timings involved, although I should add we had no direct UK interest in the anchovy fishery in the Bay of Biscay.

As the UK parliamentary scrutiny process had not been completed in either case, the best course of action seemed to be for the UK to record an abstention on both occasions, and for the first proposal adopted in June, we submitted an accompanying statement explaining our action (please see attached Annex). This made a plea for the eight week principle to be observed for 'non-legislative acts', such as proposals on fishing opportunities, to allow for proper scrutiny by national parliaments.

This principle, according to the terms of the relevant protocol to the EU Treaties, does not apply to non-legislative acts. But in recognition of the importance of the scrutiny process, as all of our EU business on fishing opportunities falls into the category of 'non-legislative acts' – and I am thinking particularly of the key decisions to be made for 2012 during the upcoming autumn Council negotiations – the adoption of these proposals seemed a timely opportunity to record such a plea now. While I recognise the practical necessity for rapid adoption on occasions, I know the Committee shares my views on the Commission's timetable in bringing such proposals forward for consideration.

*11 August 2011*

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

Your letter of 11 August 2011 about these proposals was considered by our Sub-Committee on Agriculture, Fisheries and the Environment at its meeting of 14 September 2011.

We note your explanation of the process that led to the adoption of these proposals before the parliamentary scrutiny process had been completed, and also the statement which you made pressing for the eight-week principle to be observed for non-legislative acts.

I confirm that we regard this correspondence as closed.

*15 September 2011*

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

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

I am writing with reference to the above Explanatory Memorandum of 13 October 2010 relating to fruit juices which have been considered by your Committee. Your letter of 16 February 2011 indicated that you were content to release the proposal from scrutiny notwithstanding the absence of an Impact Assessment as negotiations had progressed rapidly. Despite the best efforts of the Hungarian Presidency it was not possible to vote on the proposal before the summer break. The proposal is currently at Coreper and the Polish Presidency will be looking to gain agreement in the next few months. Given that it is some months since you agreed to the UK position, I am writing to update your Committee on progress, and would be grateful if you could urgently reaffirm that you are content for us to vote in favour of the proposal, which is likely to go to Council in early November. A view is needed by 28 October if at all possible to enable the UK to indicate its intent at Coreper.

In addition I now enclose the Impact Assessment for this proposal and apologise for the length of time it has taken to provide this. This assessment takes the form of the new EU checklist for assessment of the impacts of EU proposals as outlined in Mark Prisk's letter of 22 July. I am also providing you with a further update on progress with this proposal.

Industry has continued to be supportive of our position and the British Soft Drinks Association have indicated they are pleased with the way negotiations are progressing and with the content of the

current proposal. Industry has indicated that the proposal is likely to be cost neutral and 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 Polish Presidency remains hopeful of reaching a first reading deal with a European Parliament vote likely in November. Three trilogues have already taken place and only a small number of outstanding issues remain. The EP has been willing to compromise on most of the 26 amendments proposed, although one potential sticking point relates to the EP wanting to permit the addition of up to 10% mandarin juice to orange juice. The Commission and all MSs except Spain are firmly against this but this may prove to be a deal breaker. Compromise text from the Presidency to alert consumers to the fact that fruit juice will no longer have added sugar has been accepted and this will go some way to alleviating industry's concerns that it can no longer use "no added sugar" claims.

The proposal remains very satisfactory to the UK after the discussion phase. It still includes a number of UK priorities, crucially permitting aromas, which can be lost during processing, to be optionally added back as necessary, and preventing the addition of mandarin juice to orange juice without indicating this on the labelling. 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 removes sugar from the list of authorised ingredients that can be added to fruit juice, includes tomatoes in the list of fruits that can be used for fruit juice production and permits freezing as an authorised storage method. The UK's British Soft Drinks Association has indicated the proposal is largely acceptable and provides them with legal clarity on aroma restoration.

Given that this proposal will most likely come before Council before the end of the year, I would be grateful if you could confirm urgently that your Committee is content for us to vote in favour of this proposal. I will of course write to you in the event that there are any significant developments; however it seems unlikely at this time that there will be major changes.

*17 October 2011*

## GMOS: GENETICALLY MODIFIED CROPS (9665/11)

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

Your letter of 25 May 2011 on the above documents was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 8 June 2011.

As regards the current proposal for amending Directive 2001/18/EC, we understand from the information you have provided that, in its current form, the proposal could create more problems than it might solve. We understand that the UK Government intend to oppose the proposal, and that this is also the position of a number of other Member States. We will keep the documents under scrutiny until we hear more about the progress of discussions. Whatever the outcome, we look to the UK Government to maintain pressure within the EU to improve the regulatory framework for the cultivation of GMOs.

In your letter, you comment that significant change in the regime may become possible only when GM crops with more obvious appeal for consumers become available. There is at least a suggestion in this that the Government might choose to sit on the sidelines and leave it to producers and consumers to determine the future use of GM technology in EU agriculture. Given the challenge of global food security, we consider that such a laissez-faire approach would be inappropriate. We trust that the Government will play an active role in communicating the scale of the challenge to the public and in offering an objective presentation of the case for deploying a range of solutions and technologies in response.

*9 June 2011*

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

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

We found the report to be of interest as it links closely to the work that we have been doing in our inquiry into innovation in EU agriculture. The review of the current international scientific literature was particularly useful in that regard.

However, we were concerned that there is such a paucity of information, rendering it impossible to draw conclusions on this subject. Much better information, analysis and conclusions are urgently needed on a subject of such gravity.

We would welcome your view on the Commission's suggestion that there is a need to define a robust set of factors, indicators and rules for data collection, to capture properly the socio-economic consequences of GMO cultivation across the EU, through the whole food chain from seed production to consumers.

The Commission also advocates exploring "different approaches to make use of the increased understanding of these multi-dimensional socio-economic factors in the management of GMO cultivation in the EU". The Commission's desire to give impetus to the debate is welcome, but we wonder what your interpretation of, and position on, this suggestion is.

Finally, it is very disappointing that there are no plans for this Report to be discussed by the Council. Such debate would highlight at the political level the dearth of information available and therefore the impossibility of undertaking quality analysis. We urge you to take a pro-active approach, impressing on Member States the importance of the matter and encouraging the Commission to work with speed.

We will retain the Report under scrutiny pending your response, which we would hope to receive in the near future.

*16 June 2011*

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

Thank you for your letters of 9 June and 16 June on the Commission's legislative proposal to amend the GMO regime and the Commission's report on the socio-economic implications of GMO cultivation.

A progress report on the national decision making proposal was discussed at the meeting of the Environment Council on 21 June. No conclusions were reached, so the situation remains that some Member States, including the UK, are continuing to highlight concerns with both the principle and practicality of allowing national GM bans on non-safety grounds. Discussions will resume under the Polish Presidency in September, but at this stage it is not clear what the outcome might be.

The Government thinks that regulatory decisions on GM crops should be firmly based on robust scientific evidence of the health and environmental impacts of cultivation. If other issues such as socio-economic impacts were considered as part of the authorisation process, there is the strong possibility that the EU regime would operate even less effectively than it does at present and as such would become more difficult for safe products to gain market access. Our current priority is to continue to urge the Commission to remove the blockages in the current approvals process – which is already widely regarded as the most robust system globally – and to bring forward votes on products which have been deemed safe by the European Food Safety Authority.

It is of course important to understand the socio-economic impacts of GMO cultivation in greater detail, and therefore I support the use of relevant evidence to explore the issue further. Defra has commissioned an independent systematic review of the data available on the economic and environmental impact of current GM crops, which should report later this year.

I have noted your wider point about communicating the challenge ahead on food security and the role that GM technology could play within that. The Government will communicate the need to recognise and be open to GM as one of the available techniques that could help us to achieve more efficient and sustainable production. This point is part of the Coalition's policy on GM and Ministers will raise it relevant debates, meetings and correspondence. The Government's position on GM was set out by my Ministerial colleague the Rt. Hon Jim Paice MP during a recent Commons Scrutiny Debate on these proposals and is available on Defra's website (<http://www.defra.gov.uk/environment/quality/gm/>).

*12 July 2011*

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

Your letter of 12 July 2011 about this report, replying to mine of 9 and 16 June, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 7 September.

It was helpful to receive the update that you have provided about discussions at the Environment Council on 21 June. We will continue to keep the report under scrutiny pending further developments.

*8 September 2011*

GREEN PAPER: PROMOTION MEASURES AND INFORMATION PROVISION FOR  
AGRICULTURAL PRODUCTS (12817/11)

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

Your Explanatory Memorandum of 3 August 2011 about this Green Paper was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 14 September 2011.

As you explain, this Green Paper seeks views on the financing of promotion measures for agricultural products under Council Regulation (EC) No 3/2008. It is clearly appropriate for the case for such financing to be reviewed, not least in the context of current consideration of CAP reform.

We are content to release the document from scrutiny. However, we would ask that you let us know the outcome of the consultation process initiated by the European Commission, and whether the Commission brings forward proposals to change the scale or scope of the present scheme.

*15 September 2011*

HEALTH OF THE GENERAL PUBLIC: RADIOACTIVE SUBSTANCES IN WATER  
INTENDED FOR HUMAN CONSUMPTION (12491/11)

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

Your Explanatory Memorandum of 21 July 2011 about this proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 14 September 2011.

We understand from your EM that the arrangements made in the UK at the time of implementation of the Drinking Water Directive (Directive 98/83/EC) effectively anticipated the monitoring requirements set out in this proposal, and that the only change which the UK may need to make as a result of the proposal, on technical requirements for sampling and analysis, will have a minimal impact.

We are content to release the proposal from scrutiny.

*15 September 2011*

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

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

I wrote to you on 15th December 2010 in response to questions that you raised on an Explanatory Memorandum on the above mentioned proposed Directive. You signalled that you would keep the Commission's proposal under scrutiny until we were able to provide the Impact Assessment. I had indicated that we aimed to provide you with an Impact Assessment (IA) in the New Year. However, progress during the negotiations has been such that an agreement by the majority of Member States, including the UK, on the draft text was only reached at the Committee of Permanent Representatives in Brussels (COREPER) on the 8th June. A copy of this agreed text (17717/10/11 REV 1) is attached for information.

Following the agreement at COREPER we are now in the position to be able to provide an Initial IA which is based on the UK achieving our desired outcomes. The UK has achieved some key wins and where there have been opposing views, has been key in bringing Member States to a majority agreement. In particular, much of the prescriptive nature of the proposal has been removed, as has the specific requirement for a Safety Case irrespective of the category of radioactive waste to be managed, although the spirit of the need for safety considerations to be applied remains throughout the proposal.

You raised concerns in relation to the potential burdens of meeting the proposed requirement for Member States to have National Programmes on spent fuel and radioactive waste management. My officials have sought confirmation from the Commission that the National Programmes could consist of a document or a series of documents and the UK already has the majority of the elements in place to comply with this requirement. As a result we believe that the potential burdens to the regulators and industry would be minimal with the main administrative burden falling on Government when

developing and maintaining a high-level document which would refer to these key elements. This burden is not anticipated to be significant - the IA outlines the estimated cost.

The negotiations are reaching their final stage in Brussels with the Hungarian Presidency aiming for agreement by Member States as a priority. The draft Directive has received a favourable opinion from the European Parliament's Industry, Research and Energy Committee (ITRE) and will be voted on at the Parliament's plenary session on 22nd and 23rd June. The text is now under-going final drafting, rather than substance, amendments at Council Working Group level (AQG).

However, you will wish to be aware that the Energy Commissioner has indicated that he does not accept this compromise text and is therefore continuing to seek to amend the substance of the compromise proposal in relation to Article 4(3) which relates to the export of radioactive waste for disposal. As the compromise text has been accepted by Member States at COREPER the Commissioner will need to gain support at a political level – i.e. at Council – to force through his proposed changes to the text.

Depending on the outcome of these final discussions at AQG, the draft Directive is expected to go to the last Council in June. This deadline is in line with European Council Conclusions of 25 March which requested adoption of the proposal as soon as possible. The UK will need to be able to vote to either adopt or reject the Commission's proposal as agreed by COREPER at Council. On the basis of the attached IA and draft Directive, I am seeking your agreement to lift your scrutiny in order for the UK to fully participate at Council.

*16 June 2011*

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

Your letter about this proposal, dated 16 June 2011, but sent by your Department only on 21 June, as well as the initial impact assessment now submitted by you, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 22 June 2011.

It is regrettable that, after some five months during which we received no update about progress with this proposal, your letter has come forward only a week before the date on which the text is likely to be finalised. Scrutiny of proposals for EU legislation is most effective when the Government provide information to Parliament in a timely and considered way.

In this case, it is still unclear whether the proposal, when it comes before Council, will contain provisions on the export for disposal outside the EU of all categories of radioactive waste which would cause significant difficulties for the UK, and other Member States. We shall retain the proposal under scrutiny, but I confirm that we are nonetheless content for the Government to take a position on the proposal in Council if you judge that this is necessary.

We shall meanwhile be in touch with your Department to seek a fuller briefing by your officials to a meeting of the Sub-Committee.

*23 June 2011*

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

I am writing in response to your comments in the Committee's criticism of the timing of my request to lift your scrutiny on the above proposed EU Directive. I note and welcome that the Committee has commented that it does not want to prevent the Government from supporting the draft Directive at Council but that it was not prepared to formally lift its scrutiny without confirmation that a satisfactory text has been agreed.

I apologise for not providing the Committee with an earlier update on the progress of the negotiations – with the ever changing position during negotiations selecting a suitable time to do so proved difficult. As I indicated in my letter of 16th June we did not know what the position would be until shortly before Member States agreed the compromise text at COREPER on 8th June. Up until this point, there were 12 remaining revisions to the text that needed to be resolved in order to reach agreement on the final text. That said, with hindsight, clearly we could have done more to keep you informed and I apologise for this.

Fortunately the current position is now both clearer and positive. As you know the main area where there had been no resolution was on the Commission's proposal to ban the export of radioactive waste for disposal outside the EU. The Commission's proposal was initially supported by a small number of Member States (Austria, Germany, Luxembourg, Sweden and Belgium) who were not prepared to accept the compromise text. However, following intense negotiations they finally agreed to revisions to the text to allow export or disposal under clearly-defined conditions. The proposed

compromise therefore had the unanimous support of all Member States at the Council Working Group. It should be noted that even at this stage the Commission still reserved their position of wanting an outright ban on export.

This uncertainty was further compounded by the changing position of the Commission, particularly following the events at Fukushima, when there was considerable doubt as to whether the Directive would go forward at all. Indeed, there seemed to be a strong possibility that the Commission would withdraw its proposal if it did not secure Member States' agreement to a ban on export of radioactive waste.

As a result of the Commission's position, the UK, supported by a number of other Member States, signalled that we would block the Commission's proposal. Officials stressed at both the Council Working Group and at COREPER that this would effectively mean that the whole Directive would fall. However, all Member States are in agreement that there is much to be gained from the key elements of the proposed Directive, particularly following the events in Japan and the public's perception of nuclear safety. As a result, unanimity was reached at COREPER on 16th June by Member States (the exception of Sweden who abstained) on the compromise text.

The European Parliament voted on the draft proposal at its plenary on 22nd/23rd June and has given a favourable opinion but on the basis that the Commission proposal to ban the export of radioactive waste outside the EU was included in the Directive. Following this opinion, which is not binding as Directives made under the EURATOM Treaty are not subject to co-decision, the draft text was finalised at the Council's Working Group on 27th June with a view to the adoption of the Directive without the ban on exports being included in the text. I now expect the draft proposal to go forward to COREPER on 14th July as an 'I' (information) point and to the Agriculture Council on 19th July as an 'A' point (ie: without discussion).

Following the Council Working Group meeting on 27th June the Council Secretariat are preparing the final text of the proposal. I expect to receive it within the next few days and I will ensure that as soon as it arrives it is forwarded to your Committee for consideration. In advance of seeing the final text my officials have informed me that they are confident that all the Government's negotiating objectives have been met. Therefore the final text is not unacceptably prescriptive and will now place restrictions on the export of waste for disposal rather than an outright ban – the compromise text is therefore now in line with current UK practice.

As requested I have asked my officials to be ready to provide an oral briefing to the Committee shortly after the final text has been produced.

In addition to the above, I understand that the Commission are still considering making a declaration, and the Energy Commissioner a Statement, on the proposed Directive. While we do not yet know the detail of these documents, or whether they will in fact materialise, we suspect that the Commissioner may take the opportunity to express his disappointment that Member States have decided against a ban.

*28 June 2011*

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

First, I would like to take this opportunity to thank the Chair of Sub-Committee D for allowing my officials to provide the Committee with an oral briefing on 13th July. I hope that the Committee found this helpful; my officials will provide the further related information requested at the briefing shortly.

Secondly, in my letter of 28th June, I indicated that following the Council Working Group meeting on 27th June that the Council Secretariat were preparing the final text of the proposal and that it would be forwarded to your Committee for consideration as soon as it arrives. A copy of the near final text agreed was sent by my officials to the Clerk to Sub-Committee D on 11th July and I now enclose a copy of the final text which was circulated by the Council Secretariat late afternoon on 12th July.

This text has undergone detailed scrutiny by DECC policy officials and our Legal Services and my officials have signalled to me that they are satisfied that all the Government's negotiations have been met. I am now writing to request that, subject to the Committee's consideration of the proposal that you agree to formally lift your Scrutiny at your earliest convenience.

It is now planned that the final text will go for consideration by the Committee of Permanent Representation in Brussels (COREPER) on 14th July and is expected to be adopted at the Agriculture and Fisheries Council on 19th July as an 'A' point (without discussion). You may wish to be aware that Austria, Luxembourg and Sweden have signalled that they will abstain from voting on the proposal at Council as they do not support the compromise reached on the Commission's proposed ban on exports of radioactive waste for disposal outside the EU. In addition to the above, I

understand that the Commission are still considering making a declaration, and the Energy Commissioner a Statement, on the proposed Directive. While we do not yet know the detail of these documents, or whether they will in fact materialise, we suspect that the Commissioner may take the opportunity to express his disappointment that Member States have decided against a ban.

*14 July 2011*

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

Your letter of 28 June 2011 about this proposal, replying to my letter of 23 June, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 13 July, when officials from your Department provided a background briefing to the Sub-Committee. That briefing was timely and useful.

From your letter, and from the explanations offered by your officials, we understand that the state of flux in negotiations made it difficult to identify a stage in discussion of the proposal when it was right to update the committee. However, you acknowledge that this left a gap in information, which you intend to avoid in relation to future proposals subject to scrutiny. We look to your Department to make good this undertaking.

In your letter, you indicated your expectation that the proposal will go the Agriculture Council on 19 July without the ban on exports, which has been the main point of contention for the UK. On 13 July, your officials confirmed that the ban will not feature in the text of the proposal to be agreed on 19 July. I confirm that we are now content to release the proposal from scrutiny.

*14 July 2011*

#### **MOROCCO: FISHERIES PARTNERSHIP AGREEMENT (11121/11, 11122/11, 11137/11)**

#### **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 proposals was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 6 July 2011.

The issue at the heart of the debate – whether the funds are reaching the local fishing communities – is an important one. It is both a key principle of the Fisheries Partnership Agreement model and, in this instance, relates to a long-standing territorial conflict. On that basis, and given the lack of assurances that you have received, we do not consider that the Agreement should be extended for one year. Furthermore, the principle that the activity of EU fishing fleets should not undermine the livelihood of indigenous fishing communities is one that we see as fundamental.

As you note, there may be political ramifications from rejection. We would welcome clarity on whether the minority voting against is likely to constitute a blocking minority.

We are aware also that, in the past, the European Union has compensated vessels when fishing has ceased due to termination of a Fisheries Agreement. Is it your judgement that such compensation would be due in this instance and, if so, are you able to estimate what levels of compensation might be necessary?

We will retain the proposal under scrutiny and would welcome an early response in order that it can be considered at the next meeting of the Sub-Committee, on 13 July.

*6 July 2011*

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

Your letter of 8 July 2011 on the above proposals, replying to my letter of 6 July, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 13 July 2011.

We note your statement that it is unlikely that there will be a blocking minority when these proposals are considered at Council, and that it is also unlikely that there would be agreement to any request for compensation if the proposals were blocked.

We are releasing the proposals from scrutiny. However, we continue to have serious concerns about the impact of EU fishing fleets on the livelihood of indigenous fishing communities, and we expect to pursue these concerns later this year when we consider the Commission's proposals for the Common Fisheries Policy.

14 July 2011

## NON-COMMERCIAL MOVEMENT OF PET ANIMALS (11216/09)

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

Following the Secretary of State's announcement to Parliament on the 30 June about the changes we are making to the rules on the movement of pets (dogs, cats and ferrets) into the UK under the Pet Travel Scheme, I am writing to provide your Committee with details of these changes and to update you on the European Commission's position with regards to proposals to enable the UK to retain tapeworm controls.

The Pet Travel Scheme is the control measure to prevent rabies, certain tick-borne diseases and tapeworm from entering the country via the importation of pets. Before pets can enter the UK under the Scheme they must meet certain animal health requirements, such as being vaccinated against rabies, which are laid down in EU law (EC Regulation 998/2003). From 1 January 2012 the rules for pets entering the UK will change as the UK aligns its Pet Travel Scheme with the EU-wide pet movement system. Annex 1 provides details on the current UK rules for pets entering the UK from the EU and non-EU countries and how they will change from 1 January 2012.

The key differences between the current Pet Travel Scheme rules and how they will change from the 1 January 2012 are:

- pets travelling from other EU Member States and 'listed' Third countries (countries which the EU considers do not present a higher risk of rabies incursion compared to movements within the EU, for example USA, Australia and Japan) will no longer need to be blood tested after they have been vaccinated against rabies.
- pets travelling from other EU Member States and listed Third countries will only have to wait 21 days following their rabies vaccination before they can enter the UK, rather than waiting 6 months as they do now.
- pets travelling from 'unlisted' Third countries (countries which have not applied or been accepted for listed status, because of less robust veterinary or administrative systems or higher rabies incidence, for example China, India and South Africa) will no longer be required to undergo six months compulsory quarantine and will be able to enter the UK if they meet certain requirements (they are microchipped, vaccinated against rabies and have passed a blood test). They will not be allowed to enter the UK for 4 months after the date of the vaccination.
- pet owners who need to travel to the UK at short notice will continue to have the option of voluntarily placing their pet in UK quarantine, where it will be required to undergo the necessary health treatments, such as being vaccinated and blood tested if required, before being released.
- the European Commission has come forward with proposals that will enable the UK and other tapeworm free countries to retain tapeworm controls with a treatment window of 1-5 days. There will be no mandatory tick treatment before pets enter the UK.

The proposed changes to the controls on rabies are proportionate to the disease risks involved and are scientifically justified. Since the UK Pet Travel Scheme was introduced in 2000, the likelihood of a human case of rabies in Europe has substantially reduced as a result of an effective and ongoing programme to reduce the disease in the domestic and wild animal populations of EU Member States, together with improvements in the accessibility to rabies vaccination and post-exposure treatment. There has been not one reported case of rabies in the EU associated with the legal movement of pets under the EU pet movement system since it was introduced in 2003, with many hundreds of thousands of pet movements having taken place during that time.

This reduction in the level of rabies across the EU is reflected in the findings of a quantitative risk assessment undertaken for Defra by the Animal Health and Veterinary Laboratories Agency. Their report, which has been peer reviewed, concluded that the risk of a rabies case in the UK will remain very low when we harmonise with the EU pet movement rules.

These revised rules will also deliver substantial benefits to pet owners, making it easier and cheaper for the people who travel from the UK with their pets (on average 100,000) each year. These changes will also provide UK citizens the same level of free movement with pet animals which other EU citizens are allowed.

We will continue to ensure that the UK maintains a robust level of protection against rabies, given the seriousness of the disease. We have robust plans in place to deal with rabies should it be detected. As part of our ongoing disease preparedness work we keep the rabies control strategy under constant review, and will be consulting with stakeholder organisations later this year to ensure our plans remain appropriate and proportionate. When the rules change on the 1 January 2012 we will be looking to ensure that every pet arriving in the UK will continue to be checked to ensure that it meets the EU requirements, regardless of which country it comes from, and we expect the private quarantine sector to retain a vital role in dealing with non-compliant animals. Stringent penalties remain in place for those that breach the law by smuggling animals into the country or by knowingly using false or misleading information/documentation.

Tick controls will no longer apply when the rules change on 1 January 2012. Although ticks which are capable of transmitting the disease Mediterranean Spotted Fever might enter the UK via pet movements, they could also enter the UK via other routes (for example on people or vehicles). Even then, the likelihood of ticks becoming established in the UK is negligible. We will continue to work with vets to encourage pet owners travelling abroad to treat their pets against ticks, as they do at present, as part of good pet ownership practice. Pet owners are advised to talk to their vets about the appropriate course of action for their animals when planning a trip abroad.

With respect to the tapeworm *Echinococcus multilocularis*, there is a strong scientific case for keeping controls in place to prevent its incursion into the UK. The Secretary of State explained in her written statement to Parliament last month that the European Commission were expected to come forward with proposals to enable the UK and other tapeworm free countries to retain tapeworm controls. The Commission have now adopted their proposal for a new delegated act to provide for tapeworm controls on dogs entering EU Member States that are currently assessed as free from *E. multilocularis*. The proposed treatment window is, as expected, 1-5 days. A copy of the delegated act is enclosed. The Commission's proposal will now be submitted for scrutiny to the European Parliament and Council – a procedure that will last about four months. At the end of this period, if no institution opposes, the new legislation would enter into force from 1 January 2012.

I would also like to briefly update the Committee on the Commission's plans, alongside the tapeworm delegated act, to adopt another delegated act to make a minor amendment to Annex Ib of the Regulation 998/2003. Annex Ib states that the anti-rabies vaccination may only be considered valid if the date of the anti-rabies vaccination does not precede the date of microchipping. However, the possibility that a pet animal could be tattooed rather than microchipped was omitted. Therefore the aim of the delegated act will be to add a reference to tattooing in Annex Ib of the Regulation. The UK has favoured microchipping over tattooing and our interpretation of the legislation was that microchipping would be the only permitted identification method as from 3 July 2011. The UK is therefore not overly supportive of this amendment.

*18 July 2011*

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

Your letter of 18 July 2011, about Regulation (EC) 998/2003 on the animal health requirements applicable to the non-commercial movement of pet animals, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 7 September 2011. (I last wrote on this subject to your predecessor, Jim Fitzpatrick, on 7 April 2010, in relation to EM 11216/09.)

We were grateful for the update which you have provided on the changes being made to the rules on the movement of pet animals into the UK under the Pet Travel Scheme.

I do not require a response to this letter.

*8 September 2011*

**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 (FACCE-JPI), most recently in your letter of 6 April. I am pleased to update you further on recent developments.

As you are aware, 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 comprises of 20 countries from the EU as well as Switzerland, Israel and Turkey. BBSRC and Defra form the UK representation on the JPI Governing Board.

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. 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 which was published recently<sup>1</sup>. A copy is attached for your information [not printed]. The five core themes identified in this first version are being further developed by the Scientific Advisory Board for adoption by the Governing Board. This new version will be informed by a consultation across European stakeholders during 2011.

The remaining FACCE-JPI Governing Board meetings for 2011 are scheduled for 16 June (adoption of FACCE-JPI Pilot Action) and 17 November. Good links have been established with other JPIs and with global initiatives such as the Consultative Group on International Agriculture Research's Climate Change, Agriculture and Food Systems (CCAFFS) programme and the New Zealand-led Global Research Alliance on Agriculture Greenhouse Gases.

The FACCE-JPI Pilot Action will be a research-finding "call" through most of the participating countries to mobilise researchers currently funded to come together in a "Knowledge Hub" to integrate models of climate change and address uncertainties in climate change scenarios with regard to agriculture (crops, grassland and livestock) and economics and trade. Full details of the pilot action will be available on the FACCE-JPI website from July, and it is expected that the successful network will start in early 2012.

I am pleased to report that the €2m application to the Seventh Framework Programme for resourcing the JPI as a "Coordination and Support Action" (CSA) has been successful and is now under contract negotiation. Funds to BBSRC are expected to be in the region of €500k over three years which is supporting a full-time member of staff already appointed at BBSRC, and supporting the activities and meetings of the Scientific Advisory Board – the JPI work being led by BBSRC.

*21 June 2011*

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

Your letter of 21 June 2011 was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 6 July 2011.

We were pleased to learn from your letter that an application to the Seventh Framework Programme for €2million to resource the JPI has been successful, and that funding to the BBSRC is expected to be in the region of €500,000 over three years. We continue to see this initiative as of particular importance.

We note as well your statement that the JPI is looking forward to the conclusions of our inquiry into innovation in EU agriculture. The report of that inquiry is being published on 7 July, and I enclose a copy with this letter [not printed]. We are separately sending copies of the report to Professor Douglas Kell, BBSRC, and Madame Marion Guillou, INRA, whose evidence to the inquiry was of special interest to the Sub-Committee.

*6 July 2011*

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<sup>1</sup> <http://www.faccejpi.com/FACCE-JPI-Home/FACCE-JPI-News/Scientific-Research-Agenda>

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**

Thank you for your further letter of 10 March. Although you regarded that round of correspondence closed, I thought you would be interested to see the attached Impact Assessment (IA) that we have recently prepared.

I have attached the IA to this letter. Under the criteria now used to judge whether an IA is actually required I am advised that one is not actually necessary in this case, but I hope your Committee finds it helpful in assessing the impact of the measures contained in Regulation 470/2009. We will seek the further views of interest groups now that some of the measures contained in the legislation are taking effect, although, owing to the very general nature of the initiatives to improve the availability of veterinary medicinal products for food producing animals, we believe it will remain difficult for them to assess their impact accurately.

I will write to you again later in the year when the consultation is complete. There is a lot of activity planned by the Commission over the next two years in respect of other legislation affecting veterinary medicinal products. In the expectation that the position on the way forward will be clearer in the autumn I will also include an explanation of these changes.

*1 September 2011*

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

Your letter of 1 September 2011 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 14 September 2011.

We were grateful to receive the impact assessment that you have prepared. We welcome your offer to write to us again when you have completed your current consultation process with interested parties.

*15 September 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**

We were grateful to you for coming to give evidence on the above document to a joint meeting on 15 June of our Agriculture, Fisheries and Environment Sub-Committee and our Internal Market, Energy and Transport Sub-Committee. The Sub-Committees found the session interesting and stimulating.

We will reflect on the evidence that you gave and write to you in due course. In the meantime, we are content to release the above Communication from scrutiny.

*16 June 2011*

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

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

I am writing in response to your letter of 31 March to provide an update on the negotiations relating to the alignment of the Single CMO Regulation to the Lisbon Treaty.

Defra officials have now concluded the series of Council Working Parties to carry out a technical examination of the Commission proposal. We can broadly support the Commission's suggested approach to the alignment exercise and the distinction made between delegated acts and implementing measures. However, there are a number of areas where Defra officials have raised concerns.

Firstly, as I set out in my letter of 18 March, Defra officials have argued that that the text should reflect the common understanding on delegated acts agreed by the EU institutions. This 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.

Officials have also argued that the essential elements of the provisions relating to controls and sanctions should be covered by the basic act, supplemented by implementing measures, given their sensitivity and the need for a uniform application across all Member States. There is also a need for the text to be improved in some areas to ensure that the objective, content and scope of the Commission's delegated powers are better defined. One such example relates to the lodging of securities. Officials have argued that the requirement to lodge a security should be covered by delegated acts, but the procedures for collecting it, including the amount to be lodged, should be covered by implementing measures. Some areas of the text would also benefit from improved drafting to aid clarity.

Defra officials have also carefully examined all instances in the draft text where the Commission proposes to adopt implementing measures without the assistance of the Committee. We are satisfied that these instances reflect current practice (i.e. no change of substance) and that they are limited to technical areas where the Commission has limited or no discretion. However, we have flagged to the Commission that acceptance of these provisions should not be seen as a precedent for the UK accepting any other such measures in the future.

Defra will continue to work with the Commission, Presidency and other Member States to secure the necessary improvements to the text. The next stage of the process will be to await the views of the European Parliament before further Working Parties are held under the Polish Presidency.

*5 July 2011*

#### **Letter from the Chairman to the Rt. Hon Jim Paice MP**

Your letter of 5 July 2011 about this proposal, replying to my letter of 31 March, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 13 July 2011.

It was helpful to receive the information which you have provided about the areas where, in the context of the alignment exercise, your view differs from that of the Commission. It clearly is important that the Government continue to work with the Commission and others to improve the text further. We will keep the proposal under scrutiny pending further updates from you.

*14 July 2011*

#### **SINGLE PAYMENT SCHEME (SPS): ISSUES TO BE ADDRESSED TO IMPROVE ITS SOUND FINANCIAL MANAGEMENT (12393/11)**

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

Your Explanatory Memorandum of 18 July 2011 about this report was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 14 September 2011.

We agree with you that, in this report, the European Court of Auditors (ECA) has set out a number of interesting conclusions and recommendations which should be borne in mind in the ongoing consideration of reform of the Common Agricultural Policy (CAP). We shall look to see how far the legislative proposals for CAP reform (which, we understand, will be published by the European Commission in mid-October) reflect the concerns identified by the ECA.

We note that one of the ECA's conclusions (reflected at paragraph 4(v) of your EM) is that one approach to achieving a more balanced distribution of aid between farmers would be to take account of specific circumstances of farms. It would be helpful if you could set out in more detail how this approach might work, and how the Government would view such an approach.

In your EM, you comment that consideration of the ECA's recommendations must take into account the need to introduce significant further simplification of the CAP. We do not dissent from the importance of avoiding complexity where possible; equally, we do not see simplification as a

paramount objective which should necessarily rule out changes that would strengthen the CAP's ability to deliver objectives such as integrating environmental protection more closely into agricultural policy.

We are content to release the report from scrutiny.

*15 September 2011*

### **Letter from the Rt. Hon Jim Paice MP to the Chairman**

Thank you for your letter of 15 September offering your observations on the European Court of Auditors' (ECA) Special Report on the Single Payment Scheme (SPS). You referred to one of the ECA conclusions – that an approach to achieving a more balanced distribution of aid between farmers would be to take account of the specific circumstances of farms – and asked if I could set out in more detail how this approach might work, and how the Government would view such an approach.

In this conclusion, the ECA is referring to its observation that the distribution of SPS aid is characterised by the fact that the major part goes to a small number of large beneficiaries, while the large majority of beneficiaries each receive only a limited amount. It recommends this may be addressed by further modulation of payments, by capping higher individual payments, or by taking into consideration the specific circumstances of farms. It is not clear what the ECA means by “the specific circumstances of farms” in this context, so it is difficult to say how it thinks such an approach might work.

In its reply to the ECA report, the Commission states that the issue of redistribution of direct support between farmers and Member States will be addressed in the considerations on the future Common Agricultural Policy (CAP). In its Communication on the future of the CAP, the Commission suggests a capping of high support amounts, and the possibility of granting specific support to small farmers.

The UK Government has made clear, in its response to the Commission Communication, that it does not support the redistribution of support in such ways. The CAP should encourage greater competitiveness, including by consolidation, which capping would discourage. UK agriculture has undergone much structural change in the development of successful farming businesses. We would be concerned if measures were introduced that would prevent these sorts of natural structural processes from happening, as they make an important contribution to developing economies across EU Member States.

Similarly, a minimum level of direct payment for small farms – however defined – would provide a perverse incentive to such farms to remain small and would impede consolidation, which is one potential route to competitiveness, or it would encourage artificial re-structuring, which is administratively burdensome.

*8 October 2011*

## **SIXTH COMMUNITY ENVIRONMENT ACTION PROGRAMME: FINAL ASSESSMENT (13683/11)**

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

The Explanatory Memorandum (EM) of 15 September 2011 about this Communication, signed by your predecessor, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 12 October 2011.

The assessment of the impact of the Sixth Environment Action Programme (EAP) offered in the Communication gives a mixed picture. On the one hand, it is clear that the Sixth EAP has served to highlight significant challenges; on the other, as the EU's record on biodiversity makes clear, action has sometimes fallen short of rhetoric. We agree that it will be important to ensure that a Seventh EAP has greater impact: tying it into realistic and achievable targets and timetables will be critical.

The statement in the EM that there are no direct policy impacts from this assessment surprises us, and seems to imply that your Department sees no need to respond to the analysis. Given that the Commission highlights shortcomings in implementation of existing legislation, including in the area of waste, we would like to see an explanation from you of the Government's plans to improve its own implementation of EU environmental legislation, and of how it will work with other Member States to share best practice.

Despite the impression left by the EM, we doubt that the Government are simply waiting for the Commission to come forward with a proposal for a new EAP; we would expect that you are seeking to influence it before publication. We would ask you, therefore, to let us know more about your thinking on what should be set out in the new Programme. You will know that we are currently conducting an inquiry into EU freshwater policy, and since this is an area which likely to be prominent in the next EAP, your thoughts on the overall policy framework likely to be set by the new Programme would be of considerable interest.

We are content to release the Communication from scrutiny, but we look forward to seeing your reply to this letter by the end of this month.

*13 October 2011*

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

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

Your letter of 23 May 2011, replying to my letter of 16 May about a Communication from the Commission about EU participation in the Sixth Ministerial Conference on the Protection of Forests in Europe, was considered by our Agriculture, Fisheries and Environment Sub-Committee at a meeting on 15 June.

We note that the decision on the Commission's participation in the non-legally binding decision on "Forests 2020" was adopted as an A point at the Agriculture Council on 17 May. This was of course a scrutiny override and, in accordance with the scrutiny reserve resolution, we look to you to explain your reasons for agreeing the decision while the matter was still subject to scrutiny.

You explain that the two other issues (the Commission's participation in a legally binding decision, and Member States' participation in a legally binding decision) were referred back to COREPER for further work.

Your officials have subsequently said that, at COREPER, the UK secured sufficient safeguards on language in the decisions that the Government were able to agree to them. They have explained that one of these was a Council Decision, while the other was a Decision of Member States meeting within the Council. In these cases as well, the Government's agreement constituted a scrutiny override, and we look for an explanation of your reasons for allowing this.

We would ask you to reply within the next ten working days.

*27 June 2011*

### **Letter from the Rt. Hon Jim Paice MP to the Chairman**

Thank you for your letter of 27 June. I am pleased to have the opportunity to explain the reason for the scrutiny overrides, further to my letter of 23 May.

There were two elements to the Oslo Conference and two distinct Decisions to be adopted in relation to these elements. The first was a continuation of the voluntary cooperation and information exchange which has been the basis of Forest Europe since 1990. The other element was the Decision on whether to start negotiations on a Legally Binding Agreement (LBA) on forests in Europe.

The first scrutiny override you refer to was on the Commission's participation in discussions on Forest Europe's voluntary track. This was a routine and non-controversial decision which authorised the Commission to participate in these discussions during the Oslo conference. We supported this Decision and voted in favour.

The other issues you refer to, regarding the Commission and Member States' participation in negotiations on a LBA, were more complicated. The need to override scrutiny was a result of the speed at which developments occurred, the inter-linked nature of the two Decisions, and the political dimension of the discussions.

The United Kingdom had argued that the two Decisions – one on the Commission's participation and the other on Member State participation in the LBA negotiations – should be treated as a single package; the inter-related nature of competences meant it would be difficult to have different participation arrangements.

You correctly state that these Decisions were referred back to COREPER for further work. The UK had opposed both Decisions, on the grounds that we were not convinced of the merit of a LBA on

Forests in Europe and feared that it may detract from policy coherence, and require costly and time-consuming negotiations. We were supported by Sweden and the Netherlands in this position. However, although the Decision on Member State participation needed consensus to be approved, the Decision on EU (Commission) participation could have been passed by Qualified Majority Voting (QMV) and we did not have sufficient support to block agreement.

Opposing consensus on Member State participation could have resulted in a situation where the Commission, by QMV, was able to reach agreement to negotiate an LBA on behalf of the EU, but where the Presidency, in the absence of consensus, was unable to participate. We wished to avoid this situation and were able to gain agreement by all Member States that the two Decisions should be treated as a single package. There was a considerable desire to maintain a common EU position and to address the concerns the UK, Sweden and Netherlands had raised. Several discussions took place in COREPER, therefore, and the result was a set of Negotiating Directives, attached to the two Decisions, guiding the participation of the EU (Commission) and its Member States (Presidency) in the negotiations. These included the UK's concerns about ensuring an LBA provides added value and policy coherence, and say that any agreement should not entail an increased administrative burden or excessive additional costs. Furthermore, there is agreement that any LBA should, in principle, be funded on a voluntary basis. The extent to which these factors have been addressed will need to be taken into consideration in due course, in deciding whether to sign and conclude an LBA.

We were not in a position to change our opposition to the two Decisions, and vote in support of the amended versions, until these safeguards had been agreed. Agreement was reached at COREPER on 8 June, and the Decisions were approved by Council on 10 June, ahead of the opening of the Oslo Conference on 14 June.

The short timescale and the rapid development of the Decisions, coupled with the Parliamentary recess, meant it was not possible to come back to the Committee to get agreement to the change in position. However, I trust that you will understand the reasons for our position and that we were able to gain significant safeguards as a result.

*11 July 2011*

#### **Letter from the Chairman to the Rt. Hon Jim Paice MP**

Your letter of 11 July 2011, replying to my letter of 27 June about this Communication and the Decisions agreed at the Oslo Conference, was considered by our Agriculture, Fisheries and Environment Sub-Committee at a meeting on 7 September.

We note your explanation of the reasons for agreeing the Decisions while the matters were still subject to scrutiny. While scrutiny overrides may on occasions be unavoidable, we look to the Government to seek as far as possible to avoid them. However, in this particular instance, we now regard the correspondence as closed.

*8 September 2011*

#### **SOIL: SOIL PROTECTION DIRECTIVE (13388/06, 13401/06)**

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

I am writing in response to your letter of 1 July 2010, where you asked for an update on progress of any significant developments on the Soil Framework Directive

There have been no formal negotiations on the proposed Soil Framework Directive under the Belgian or Hungarian Presidencies and the blocking minority remains in place.

However, informal discussions on technical aspects of the Directive have been taking place to make improvements to the text where possible.

These technical discussions may result in formal negotiations re-starting under the forthcoming Polish or Danish Presidencies and I will keep you informed of any developments.

*10 June 2011*

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

Your letter of 10 June 2011 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 22 June 2011.

We note your statement that, while there have been no formal negotiations on the proposed Soil Framework Directive under the Belgian or Hungarian Presidencies, informal discussions on technical aspects of the Directive have been taking place. We welcome your undertaking to keep us informed of any developments under the forthcoming Polish or Danish Presidencies. We continue to have a close interest in this policy area.

23 June 2011

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

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

In your letter of 31 March, following correspondence concerning the Report from the Commission on the Thematic Strategy on the Prevention and Recycling of Waste, you wrote that the Agriculture, Fisheries and Environment Sub-Committee would welcome further details of the Government's Review of Waste Policies when available. I am sure you will have seen that the Review was published on 14 June.

The Waste Review looked at the steps we need to take if we are to move beyond a throwaway society towards a zero waste economy, in which we prevent waste wherever possible, then reuse and recycle – and throw away only as a last resort. How we deal with our waste is also important for a range of broader concerns such as material security, energy, climate change and environmental protection.

While good progress has been made over the last decade we can and must go further and faster. If we do, we will see the benefits not only in a healthier natural environment and reduced impacts on climate change, but also in the competitiveness of our businesses through better resource efficiency and innovation, helping to create a new, green economy.

The Waste Review includes a range of commitments designed to move waste more quickly up the waste hierarchy, away from disposal in landfill. Waste prevention is placed as the priority, followed by re-use, recycling and recovery. This includes commitments to:

- Work with business on a range of measures to prevent waste occurring wherever possible, ahead of developing a full Waste Prevention Programme by December 2013;
- Explore the potential for new voluntary responsibility deals to drive waste prevention and recycling, including in the hospitality sector and with the waste management industry, and for direct mail, textiles, and construction waste;
- Launch a grant funding scheme for innovative reward and recognition schemes, which could give people incentives to deal with waste appropriately;
- Encourage councils to sign new Recycling and Waste Services Commitments, setting out the principles they will follow in delivering waste services to households and businesses;
- Provide technical support to councils and businesses who want to see recycling-on-the-go schemes grow;
- Consult on the case for increased recovery targets for packaging waste, in time for a final decision in the 2012 Budget; and
- Consult on introducing a restriction on the landfilling of wood waste and review the case for introducing landfill restrictions on other materials, including textiles and biodegradable waste.

Alongside the Waste Review, I am also publishing an Anaerobic Digestion Strategy. Anaerobic Digestion (AD) offers a local, environmentally sound option for waste management which helps us divert waste from landfill, reduce greenhouse gas emissions and produce renewable energy which could be used to power our homes and vehicles. During the past six months, we have been working closely with industry to identify the key barriers to uptake of anaerobic digestion and to agree an ambitious programme of work to help overcome these barriers.

The Strategy and related Action Plan are the result of this work. Each action has a named lead organisation and all have committed to drive the work forward. The Strategy is the first and key step

to enabling a thriving AD industry to grow in England over the next few years, delivering new green jobs as well as new green energy.

*12 July 2011*

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

Your letter of 12 July, replying to my letter of 31 March 2011 about this Report, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 7 September 2011.

It was helpful to receive the information that you provided about the Government's review of waste policies, which was published on 14 June. We shall continue to take an interest in the progress made with the commitments that you mention.

We note that among those commitments is an intention to explore the potential for new voluntary responsibility deals to drive waste prevention and recycling. In this context, we would draw attention to the report on "Behaviour Change" which the Science and Technology Committee of this House published on 19 July (HL Paper 179). In particular, that report voiced doubts about the effectiveness of voluntary agreements with commercial organisations, notably where there are potential conflicts of interest; and the Committee called on the Government to specify clearly what they want businesses to do based on the evidence about how to change behaviour, and to ensure that voluntary agreements are rigorously and independently evaluated against measurable outcomes. You will wish to consider the relevance of these findings to policy development in the area of waste.

*8 September 2011*