



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 18 May 2010 to 25 November 2010.

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

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## AGRICULTURE AND FISHERIES COUNCIL: 27 SEPTEMBER 2010

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

In light of the Parliamentary recess, I am writing to you in place of the usual written statement with regard to September's Agriculture and Fisheries Council in Brussels, at which I represented the United Kingdom. Richard Lochhead also attended and spoke for the UK on the AOB item on the mackerel fishery.

There were five substantive agenda items – under agriculture only – and six AOB items including the fisheries item on mackerel.

On Genetically Modified Organisms (GMOs), the Presidency noted that Environment Ministers would continue to lead on GMO policy, whilst Agriculture Ministers would be involved in discussions. The Commission presented its proposal as a flexible way to give a firm legal footing to all Member States; no radical change was proposed to existing legislation and it would continue to assist Member States with cross-border cooperation through the European Coexistence Bureau. The Council Legal Services were working with the Commission in setting out the legal compatibility with WTO and internal market rules. Most Member States were in one of two camps, either opposing the fundamental reasoning behind the proposal (France, Germany, Czech Republic, Italy, Poland, Portugal, Bulgaria, Spain) on single market/WTO grounds or supporting wholeheartedly (Austria, Finland, Denmark, Lithuania, Greece, Romania, Latvia, Estonia, Netherlands) as a way of giving national discretion to resolve GMO policy difficulties. The UK did not ally itself with either camp, but reiterated questions about single market and WTO compatibility; noted that at present there was in practice an impasse on approval of GM seeds in the EU and emphasised that it would be important that any proposal helped secure a way through this. The Commission intends to publish its opinion on the wider impact of GMOs at the end of the year, agreeing with some Member States on the need for a revision to the methodology of approvals. The Presidency took note of the discussion, and said detailed consideration of the proposal would continue in the Ad Hoc Group on GM.

The Commission introduced its revised proposal for food distribution to the most deprived persons in the EU. The blocking minority (Denmark, UK, Netherlands, Czech Republic, Sweden, and Denmark) maintained its opposition on the grounds that it was inappropriate to continue to fund what was essentially a social measure via the CAP. Several other members, mainly beneficiaries of the existing scheme (Romania, Slovenia, Slovakia, Latvia, Finland, and Greece) intervened expressing their unhappiness with the inclusion of co-financing. A fuller Council debate is scheduled for October or November.

The Commission presented a report on the 2006 reform of the POSEI (Outermost regions) regulation and an accompanying legislative proposal. The latter would align the regulation with the new comitology provisions of the Lisbon treaty, as well as improving the functioning of the existing provisions concerning supply arrangements and production aid for the regions concerned. The Commission explained the delay in the adoption of the report was consequent on the need to assess fully the impact of trade liberalisation on banana producers in the outermost regions. France, Spain and Portugal (i.e., the only Member States with outermost regions) welcomed the proposal, France and Portugal, however, queried the legal base. The Presidency gave SCA a mandate to explore the proposal in detail.

The dairy market quarterly report was presented which noted that the sector had continued to strengthen. Milk prices were now up from 25 euro cents/kilo to 30 cents/kilo and both EU and world market prices were high. Prices for dairy commodities are considerably above intervention rates and both production (in sixteen Member States) and exports were increasing. Only the Netherlands and Denmark (both of whom were producing above quota) intervened to stress that a soft-landing was necessary for all Member States in view of quota expiration in 2015. The Presidency hoped its third iteration of Council Conclusions on the High Level Group Recommendations for dairy would be agreed. The Commission intended to submit a dairy package of legislation on contracts by the end of the year. The UK along with Denmark, Netherlands, and Sweden were unable to support and the Czech Republic abstained - all sharing concerns on the recommendation on competition rules and for pre-empting decisions on future elements of CAP reform. The UK urged the Council not to turn the clock backwards in terms of the market liberalisation of EU agriculture, even when conditions are tough for producers. The Presidency adopted the text as Presidency Conclusions.

The Commission underlined the importance of the mackerel fisheries to the EU fishing sector. Icelandic and Faroese action in setting of a unilateral quota for mackerel was unacceptable; the issue needed to be resolved to ensure that the stock was not endangered and that EU industry was not even worse off in future. A long-term and balanced but financially realistic result was needed which took into account the northwards movement of mackerel. The UK and all other Member States who intervened (Ireland, Spain, France, Denmark, Portugal, Netherlands, Germany and Sweden) shared the Commission's concerns. UK, Ireland, Germany and France rejected the suggestion of allowing Icelandic and Faroese access to EU waters as part of the possible compromise as this would be rewarding their irresponsible behaviour. There were divergent views on what should happen if the negotiations should fail, with the UK, Ireland, Portugal and Sweden prepared to look at the possibility of suspending the bilateral fisheries agreements. The UK also mentioned the possibility of other sanctions such as a ban on mackerel landings. In summing up, the Commission noted general support from Member States for it to negotiate an early solution. Coastal states discussions are scheduled for 12-24 October in London.

Latvia presented their request for faster action from the Commission to get authorisation to amend BSE monitoring programmes. They were supported by most other new Member States who are in the same position. The Commission responded that it would take action as a matter of urgency following the EFSA opinion to be published in December.

Both Greece and Poland presented papers calling for action to address high prices on cereals markets, which were having a negative impact on livestock production. The Commission confirmed its intention of releasing onto the market all remaining intervention stocks. It would not, however, reverse the trend of progressive modernisation of the CAP by increasing intervention prices.

Hungary presented its proposal for the extension of current temporary increased thresholds for agricultural state aids to end 2011. Poland, France, Slovenia, Romania, Slovakia and Ireland supported. The Commission said it was considering a revision to the Temporary Framework and would consult members.

Italy outlined its proposal to introduce a new marketing standard, with origin labelling, for processed tomato products, to protect against cheaper third country imports, particularly from China. This was supported by Portugal, France, Greece, Malta, Cyprus and Hungary. The Commission stated that this is a specific problem for the Italian market and that existing regulations for origin labels should provide enough assurances. The Presidency concluded that since there was no consensus at Council, it will return to this via discussions on the Quality Package.

6 October 2010

## AGRICULTURE: FOOD DISTRIBUTION TO THE MOST DEPRIVED PERSONS IN THE COMMUNITY (13435/10)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 20 October 2010.

We agree with you that the use of the Common Agricultural Policy as a legal base for the proposal is indeed highly questionable because the proposal expands the scheme beyond intervention stocks.

Furthermore, we consider that the proposal breaches the subsidiarity principle. While we see a case for the Union acting to decide how intervention stocks should be used, we do not see how the Union is better placed than Member States to organise the purchase of products from the market. Similarly, we see no compelling argument to suggest that the Union is more competent than Member States to ensure a food supply to its most deprived citizens. Moreover, there are other mechanisms within the Union, for example the Structural Funds, which address the issues of inequality and deprivation between Member States. The voluntary nature of the scheme is not, we consider, pertinent as the scheme is part-funded from the Union budget.

Accordingly, the House of Lords may adopt a Reasoned Opinion along the above lines in accordance with the Lisbon Treaty's Protocol on the Application of the Principles of Subsidiarity and Proportionality. We shall naturally inform you if, and when, a Reasoned Opinion is submitted.

You are clearly unhappy with the proposal. We would be interested to know to what extent your views are shared by other Member States and, against that background, how negotiations are progressing in Council.

We will retain the amended proposal under scrutiny.

20 October 2010

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

I am writing in response to your letter of 20 October which requested further clarification on Explanatory Memorandum 13435/10, regarding the distribution of food products to the most deprived persons in the Union.

You asked to what extent the Government's views are shared by other Member States and, against that background, how negotiations are progressing in Council. Currently, a small number of Member States share similar views to the UK and it appears that a blocking minority can be maintained. In addition, a number of other Member States are concerned that the funding of a social measure is being proposed from the agriculture budget. Other Member States that currently participate in the scheme do not support the inclusion of the co-financing provision.

The proposal was presented to the Agriculture and Fisheries Council in September and officials conducted a technical review of the proposal on 6 October. It is not clear at this stage how this dossier will be taken forward, but I will keep you updated on progress.

2 November 2010

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

Your letter of 2 November 2010 on the above proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 10 November 2010. We were grateful for the information that you provided about the positions being taken on the proposal by other Member States.

As you know, following the debate on 3 November, the House of Lords adopted a Reasoned Opinion in relation to this proposal, which has been submitted to the Presidents of the European institutions. We were interested to hear the views of the Government which were voiced in the debate by Oliver Henley.

We will retain the proposal under scrutiny, and will be pleased to be kept updated, as you intend.

11 November 2010

## ANIMAL PROTECTION: ANIMALS USED FOR SCIENTIFIC PURPOSES (15546/08)

### **Letter from Lynne Featherstone MP, Parliamentary Under-Secretary of State for Equalities, Government Equalities Office, to the Chairman**

I am writing to update you on developments concerning the proposed Directive of the European Parliament and of the Council on the protection of animals used for scientific purposes.

Following further negotiations between the Council, the European Parliament and the Commission in April 2010, the Council adopted its first reading position on 3 June 2010. I attach a copy [not printed] of the Communication from the Commission to the European Parliament concerning the Council's position at first reading (document 11260/10) and the final text (document 6106/1/10 REV 1).

The text is substantially the same as Document 17299/09 referred to in the government response provided on 7 January 2010 to the House of Lords EU Select Committee report except that provisions are now included relating to delegated and implementing acts introduced in the Lisbon Treaty by Articles 290 and 291. We expect this text to be agreed at second reading without further amendment and the new directive to be adopted in the autumn 2010.

On balance, we are satisfied that the revised text provides a sound and practical framework for the regulation of animal experimentation and testing in Europe and sets a benchmark for the rest of the world. It is generally well balanced, more flexible and less prescriptive than the Commission's proposal and will allow the UK to maintain its traditionally high standards of welfare and animal protection. At the same time it avoids unnecessary bureaucracy and may offer opportunities to reduce the current regulatory burden in some areas without harming animal welfare.

*1 July 2010*

### **Letter from Lynne Featherstone MP to the Chairman**

I am writing to update you on developments concerning the proposed Directive of the European Parliament and of the Council on the protection of animals used for scientific purposes.

In my letter of 1 July 2010, I reported that following further negotiations between the Council, the European Parliament and the Commission, in April 2010, the Council adopted its first reading position on 3 June 2010.

The attached communication of 10 September 2010 from the Council of the European Union (Document 13183/10) reports that the European Parliament approved the Council's first reading position at its plenary session on 8 September 2010 and that the text (as set out in document 6106/1/10 REV 1, attached [not printed]) is therefore deemed to have been adopted.

After signature by the President of the European Parliament, the President of the Council and Secretaries General of the two institutions, the text will be published in the Journal of the European Union and will enter into force twenty days later. The UK and other Member States will then have two years in which to transpose the provisions of the new directive into national legislation which must be implemented from 1 January 2013.

*27 September 2010*

## ANIMALS: HUMANE TRAPPING (12200/04)

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

Your predecessor's letter of 6 May 2010 about the proposed Directive on this subject was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 June 2010.

Mr Irranca-Davies explained that the Commission had received a report on the proposed trapping standards and was considering what the next steps should be, based on the report's contents. He said that discussions with Member States were likely to be revived.

While progress on this proposal has clearly been very slow, it is unfortunate that your Department has not kept us better informed about the developments that have taken place. We shall keep the proposal under scrutiny, but we look to Defra to provide more timely updates in future.

*1 July 2010*

## BIO-WASTE: FUTURE STEPS (9955/10)

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

Your Explanatory Memorandum of 14 June 2010 about this Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 7 July 2010.

We note that, while welcoming the Commission's analysis of bio-waste management in the EU, the Government do not believe that any further EU legislative measures are necessary to advance such management. We also note that the Government believe that the Communication is justified in accordance with the principle of subsidiarity, but that there could be issues of subsidiarity if the Commission were to bring forward proposals for the introduction of EU targets on waste prevention or on the biological treatment of bio-waste.

We agree with the Government's view on these matters. We are content to release the Communication from scrutiny, but we look to your Department to keep us informed of any further developments, and in particular if proposals come forward which raise subsidiarity concerns.

As to the position in the UK, we see that the staff working document accompanying the Communication includes a table showing that, in absolute terms, the UK sent the largest amount of bio-waste to landfill in 2008 (7.6 million tonnes), and that this is projected to fall by 75% (to 1.9 million tonnes) in 2020. The Explanatory Memorandum sets out the actions being taken in the UK to ensure the proper application of the "waste hierarchy" in national bio-waste management planning. If your Department provides further information about policy or legislative developments in this area in the EU, it would be helpful at the same time to be updated about these actions, given the scale of reduction in landfilling of bio-waste projected for the UK.

*8 July 2010*

## BLUEFIN TUNA: DOCUMENTATION PROGRAMME (12686/09)

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

I am writing to give you an update on the progress of the above proposal which is expected to be given agreement at a first reading. This has followed a number of informal contacts between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for a second reading and conciliation. This followed the European Parliament's Committee on Fisheries' proposal for a number of amendments to the proposed regulation.

I attach as an annex [not printed] the European Parliament's legislative resolution. It is expected that the Council should be able to approve the European Parliament's position so that the legislative wording can be adopted to fit accordingly.

*5 July 2010*

## CARBON LEAKAGE: BEYOND 20% GREENHOUSE GAS EMISSIONS REDUCTIONS (10230/10)

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee on 7 July 2010.

We also welcome this Communication which, as you indicate, provides useful background analysis as a basis for discussions among Member States.

You will be aware that we have consistently held the view that the European Union should not move beyond its 20% commitment unless other developed countries make similar commitments. We note that you take an alternative view, namely, that the EU should demonstrate leadership by moving to a 30% emissions reduction target by 2020, and we look forward to exploring this policy further in the coming months.

You refer to the danger that a reduction in allowances available under the Emission Trading System (ETS) might reduce revenues available to government. We would wish to clarify your economic analysis as, logically, a reduction in the allowances available should push up their price, and negate any impact of reduced volume. Second, the UK has long resisted any attempt to require Member States to spend money raised from the auctioning of allowances on climate change-related measures, and we supported this position in our December 2008 report on the revised ETS. In that report, we did, however, take the view that Member States should voluntarily invest “considerable funds in climate change-related measures – including R&D and demonstration projects, as well as adaptation measures”. We would welcome information on the Government’s approach to such investment.

The document is non-legislative and we are happy to clear it from scrutiny, but we look forward to continued dialogue with you and your Department as discussions move forward to Cancún in December.

*8 July 2010*

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

Thank you for your letter of 8 July in which you sought clarification on two issues in my Explanatory Memorandum on the above Commission Communication.

You queried the impact on Government revenue if the EU were to move to a 30% greenhouse gas reduction target. You are correct that, as the reduction in allowances available to auction would be proportionately smaller than the increase in the carbon price, we would expect overall auction revenue to rise compared to an EU 20% target. However, the Commission’s suggested approach of taking the whole 1.4Gt from the auction pot would result in lower auction revenue compared to a situation in which some of the set-aside allowances were taken from the free-allocation pot also. The Commission’s approach would also impact on other sources of revenue as a result of changes in other tax streams associated with slightly lower rates of growth. This would be a feature of any approach to delivering deeper reductions, and is not unique to the approach set out in the Commission’s Communication.

You also asked for more information on the Government’s approach to investment in climate change related measures. We are seeking to deliver an effective climate and energy policy which moves the UK towards a low carbon economy. Although we have identified £85 million in savings, we expect DECC to spend over £150 million on low carbon technology this year. As you will be aware, the Government is currently undertaking a Spending Review to deliver its commitments on deficit reduction and public service reform. This will look comprehensively across the whole of Government expenditure, including spending on climate change, and will set out the Government’s future plans. Following the Spending Review, the Government will put forward detailed proposals on the creation of a Green Investment Bank to help the UK meet the low-carbon investment challenge. The Government is considering a wide range of options for the scope and structure of the Green Investment Bank. The options will be evaluated for effectiveness, fiscal affordability and transparency.

I look forward to continued constructive engagement with your committee.

*2 August 2010*

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

Your letter of 2 August relating to the above Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee on 6 October 2010.

As regards the impact on auction revenue of a move to the 30% reduction target, you acknowledge that the overall auction revenue would probably rise compared to a 20% target. You also assert that auction revenue would be lower compared to a situation in which some of the set-aside allowances were taken from the free-allocation pot. This we accept, but we wonder if the Commission could be persuaded to follow the latter course of action. By reducing the amount of free allowances available, presumably demand for auctioned allowances would increase and the carbon price should be pushed up. We would welcome your clarification of this matter and information as to how your discussions with the Commission on how an amended system would work in practice are proceeding (see paragraph 20 of your EM). Could you respond on this within the standard period of ten working days, please.

As regards investment in climate change-related measures, we were interested to learn of your plans for a Green Investment Bank, and we look forward to more information from you on the Bank following the Spending Review.

Over the next couple of months, we expect to be in regular dialogue with you as discussions move forward to Cancún in December.

*7 October 2010*

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

Thank you for your letter of 7 October regarding the above Communication.

You ask whether the Commission could be persuaded to follow a route whereby some of the set-aside is taken from the free allocation to industry and ask whether this would deliver an increased carbon price. We are keen to explore all options for a set-aside including setting-aside some of the free-allocation allowances, which would contribute towards delivering commitment set out in the coalition agreement to press the EU to move towards increased levels of auctioning. However, there is some uncertainty over how to deliver a tighter cap, and how to increase levels of auctioning within the framework of the existing ETS Directive. This will require continuing engagement with EU partners. Delivering increased levels of auctioning will not change the carbon price because the value of free allowances (which can be traded) is identical to those allowances sold at auction. It is the total supply of allowances in the system (i.e. the level of the cap) that will determine the carbon price, rather than the method of allocation.

You also asked for an update on discussions with our European partners. The Belgian Presidency has convened several working group meetings on moving beyond a 20% target, and have drafted a Presidency paper for discussion. This paper also formed the basis for discussion at the Environment Council on 14 October. Although the Commission has yet to issue a proposal, or provide much more detail on the practical aspects of delivering 30%, we have made some good progress in discussing some of the key principles. The detail of how an amended EU ETS would work in practice remains one of the most controversial elements of these discussions.

I will respond separately to your point on the Green Investment Bank following the Spending Review.

*19 October 2010*

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

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

Your Explanatory Memorandum (EM) on the above proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 10 November 2010.

Procedurally, this is an interesting proposal given that, as you note, this is one of the first recasts in the light of the amended comitology provisions contained in the Lisbon Treaty.

The decision as to whether delegated powers should apply depends on whether the applicable element of the proposal is deemed to be non-essential. As you make your detailed consideration of the amended comitology references, we would find it useful if you could tell us what criteria you are using to determine whether an element is non-essential.

We look forward also to hearing from you of any differences of opinion with the Commission in terms of the proposed procedure in each instance. In that context, we would specifically welcome your views on three points brought to our attention by the Polish Senate. They consider that the Commission has inappropriately proposed the delegated power procedure for: new Article 12(5) on Farm Advisory Services; new Article 45(a), 1(a) on rules on the eligibility and access to the single payment scheme in case of inheritance; and new Article 45(a), 3(a).

We will retain the proposal under scrutiny and we look forward to your comments on the above matters within ten working days.

*11 November 2010*

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

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

Your Explanatory Memorandum (EM) on the above report was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 20 October 2010.

We were particularly interested in the subject matter of the report against the background of the inquiry that we carried out in 2009, into the revision of the EU directive on the protection of animals used for scientific procedures. Evidence that we took for that inquiry touched on issues that are relevant to matters covered here.

We would be keen to hear from you on several points.

We note your statement that the situation for those end-points falling under the 2013 deadline of the marketing ban is critical, since no replacement alternatives are yet available. It is disappointing that this is the case, given the relative imminence of the deadline. Could you spell out in more detail what are likely to be the implications for those involved in the marketing of the cosmetic products concerned if replacement alternatives do not come forward in good time?

We also note your statement that the Commission has launched a call for the development of replacements to repeated dose systemic toxicity testing, with a budget of 25 million euros, which will attract matching funding from the cosmetics industry. Why can the industry not bear the full cost of developing alternatives in order to comply with an agreed deadline? Will the Commission funding serve in effect as assistance to cosmetic companies in a small number of EU Member States, rather than benefiting industry across the EU as a whole?

As regards acceptance and recognition of alternative methods at the international level, you note that EU discussions with the United States, Japan and China continue. Could you indicate what view the Government take of the effectiveness of these discussions and of any outcome that may have been achieved?

We look forward to your response to the above issues within ten days. We shall keep the report under scrutiny.

*20 October 2010*

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

I am writing in response to your letter of 20 October 2010 about the above mentioned report and your request for further information.

There will be a meeting between the European Commission and Member States on 8/9 November at which there will be an update on recent developments surrounding the issue of animal testing.

Under these circumstances I should much prefer to respond to your questions fully when I am in possession of the current information.

*26 October 2010*

## ECO-LABELLING SCHEMES FOR FISHERIES PRODUCTS (10822/05)

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

I am writing to bring you up to date with the latest developments on eco-labelling for fishery products.

The recent developments on eco-labelling have not been in direct response to the Commission's Communication but as a result of the ongoing implementation of EC Regulation No. 66/2010 on the EU Ecolabel (EM 12074/08 of 11 September 2008 refers) which was adopted in November 2009. This Regulation provided for the extension of the EU Ecolabel scheme to food and feed products, but only after the Commission has undertaken a feasibility study. The Regulation sets out that the feasibility study should pay particular attention to the impact of any EU Ecolabel criteria on food and feed

products, as well as exploring the feasibility of establishing reliable criteria covering environmental performance during the whole life cycle of such products, including the products of fishing and aquaculture.

The Commission has recently indicated that it will conduct further analysis on a sector by sector basis and will begin selecting contractors in October to carry out the studies. DG MARE informed Member States at a recent working group that the study on fishery and aquaculture products is expected to take four to six months and the results should be available in the summer of 2011.

*10 September 2010*

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

Your letter of 16 September relating to the Community's work on eco-labelling of fisheries products was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 6 October 2010.

We note that progress on the issue has been somewhat slow, but we acknowledge that it is a complex issue and we were therefore pleased to read that the Commission is tendering for a study on eco-labelling of fishery and aquaculture products. We would be grateful if you would keep us informed of further developments on this issue and, most notably, of the results of the study.

The 2005 Communication remains formally under scrutiny. It would be helpful if you could confirm its current status: is it in effect a dead letter in the light of the latest initiative?

*7 October 2010*

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

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

Your Explanatory Memorandum (EM) on the above proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 10 November 2010.

Procedurally, this is an interesting proposal given that, as you note, this is one of the first recasts in the light of the amended comitology provisions contained in the Lisbon Treaty.

The decision as to whether delegated powers should apply depends on whether the applicable element of the proposal is deemed to be non-essential. As you make your detailed consideration of the amended comitology references, we would find it useful if you could tell us what criteria you are using to determine whether an element is non-essential.

We look forward also to hearing from you of any differences of opinion with the Commission in terms of the proposed procedure in each instance. In that context, we would specifically welcome your views on various points brought to our attention by the Polish Senate. They consider that the Commission has inappropriately proposed the delegated power procedure for: revised Article 5(2); revised Article 5(6); new Articles 20a, 36a, 52a and 63a; and revised Article 71(5).

We will retain the proposal under scrutiny and we look forward to your comments on the above matters within ten working days.

*11 November 2010*

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

Thank you for your letter of 11 November 2010 concerning the proposed alignment of the rural development regulations with the amended comitology provisions of the Lisbon Treaty. You asked for information on: i) the criteria we are using to determine whether an element is non-essential; ii) each difference of opinion on the proposed procedure with the Commission; and iii) our views on the application of delegated acts to seven articles in the proposed regulations that the Polish Senate brought to your attention.

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

essential element would be the determination of the scope of the legislative act. We do not consider that any of the proposed delegations in the current proposal affect essential elements of the act.

On your second point, as required for the application of Article 290 of the Lisbon Treaty concerning delegated acts, the Commission has set out in the proposed regulations the objectives, content, scope and duration of the delegation of power. These were presented and discussed at a Council working group on 5 November. My officials submitted written comments after the meeting which highlighted where the UK has a difference of opinion on the proposed procedure. One such area concerns the duration of the power to the Commission to make delegated acts - we commented that this should be limited to the period of rural development programmes i.e. seven years. This would require an amendment of Article 91b(1) of the proposal. We also commented that the time period for the Council and European Parliament to object to a delegated act should be two months, extendable by a further two months. Both of these points have already been agreed for two other proposed regulations (Pets and Timber), and we consider that there should be consistency on these points across regulations.

Concerning the proposed application of delegated or implementing acts we submitted comments about Commission proposal 6 concerning Article 19(2) – Commission decisions on Member State proposed changes to rural development programmes; and proposal 27 concerning Article 69(4) – annual breakdowns by Member States of Community support for rural development. For delegated acts (Article 19(2)) the Rural Development Committee made up of Member States does not have a formal role to play, and therefore we proposed that the reference to it not assisting should be deleted. However, as there is a draft Common Understanding which sets out that the Commission will consult experts from Member States when drafting delegated acts, we proposed in our comments that such a statement is made in the recitals of the proposal.

Under the Lisbon Treaty, the Commission is required to adopt a new Regulation setting out the procedures for the adoption of implementing acts (Article 69(4) of this proposal). The Commission made a proposal for a new Regulation on 9 March 2010, which is still being discussed by the Council and the European Parliament. However we understand that the Rural Development Committee will have a role to play through an examination procedure (a mixture of the existing Management and Regulatory procedures). Therefore we proposed that the wording 'without the assistance of the Committee referred to in Article 91(c)' should be taken out. Alternatively, if the Commission considered the Committee would not usefully contribute, we proposed that the existing article be retained, i.e. that an implementing act was not applied.

Concerning the application of delegated acts to the seven articles highlighted by the Polish Senate:

5(2) – specific Union measures to ensure consistency of European Agricultural Fund for Rural Development assistance with other support instruments e.g. fisheries;

5(6) – specific exceptions to common market organisation funding rules;

20a – specific conditions for Axis 1 measures to improve the competitiveness of the agricultural and forestry sector. The eligibility criteria for each of the measures within the axis are set out in the regulations;

36a - specific conditions for Axis 2 measures to improve the environment and countryside. The eligibility criteria for each of the measures within the axis are set out in the regulations;

52a - specific conditions for Axis 3 measures concerning the quality of life in rural areas and diversification of the rural economy. The eligibility criteria for each of the measures within the axis are set out in the regulations;

63a – specific conditions for Axis 4 concerning Leader (local groups). The eligibility criteria for each of the measures within the axis are set out in the regulations; and

71(5) – specific conditions for the co-financing of interest rate subsidies and other financial engineering instruments;

We consider that the Commission has acted appropriately and is justified in its decision that delegated acts apply to these articles. This is because we consider that they supplement or amend – through specific conditions – the regulations, and that they are non-essential elements.

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

25 November 2010

## FARMERS: AID TO FARMERS IN AREAS WITH A NATURAL HANDICAP (8858/09)

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

The letter of 8 April 2010 from your predecessor was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 June 2010.

We have taken a close interest in proposals for better targeting of aid to farmers in Areas with Natural Handicaps (ANHs), as we made clear in our 2009 report on "The Review of the Less Favoured Areas Scheme". We have been particularly concerned about the need to ensure that the rules for designating ANHs must account for the UK's maritime climate, including the effect of excessive rainfall.

We note the statement in Mr Irranca-Davies' letter of 8 April that the mapping exercise to which the UK recently contributed has shown that application of the Commission's criteria for ANHs does not in fact capture those areas that are constrained because of the UK's maritime climate. The letter makes it clear that the UK's report to the Commission pointed out that the proposed biophysical criteria did not fully represent those that influence agricultural production or potential in some areas of the UK; and that the UK had therefore made a number of proposals for additional or alternative criteria, including one of Field Capacity Days.

We would reiterate our view of the importance of continuing to press for proper recognition of the constraints of the UK's maritime climate in the relevant criteria.

Your predecessor did not comment on the progress made by the other Member States in mapping their ANHs. We would be interested to learn how other Member States are progressing, and if there has been any discussion among Member States in addition to your own bilateral discussions with the Commission.

We look forward to hearing from you again as discussions with the Commission and Member States develop.

*1 July 2010*

## FISHERIES: IMPORTING PRODUCTS 2009-2014 (9896/10, 9900/10)

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

I am writing to inform you of recent policy developments concerning the above Explanatory Memorandum submitted jointly for scrutiny on 15 June. The Explanatory Memorandum was cleared from scrutiny by your Committee on 23 June.

The Explanatory Memorandum covered two related documents regarding renewed agreements between the EU and Iceland, Liechtenstein and Norway, and the EU and Norway, on financial mechanisms and additional protocols to the Agreements between the EU and Iceland and Norway concerning special provisions applicable to import into the EU of certain fish and fisheries products for the period 2009-2014.

On 26 July the General Affairs Council adopted a decision on the signing and provisional application of agreements with Iceland, Liechtenstein and Norway establishing a new mechanism for financial contributions from the three partner countries and a new Norwegian financial mechanism for the period 2009-2014.

The agreement includes a modification to the legal basis on which the financial mechanism is based so that Article 217 is now used rather than Article 207 as previously. This ensures that no precedent is set for future cohesion policy.

The agreement passed to Coreper on 20 July where the UK abstained on voting given that the proposals remained subject to a scrutiny reserve in the House of Commons. The Financial Mechanism and the Fish Protocols had been agreed at a meeting of the Working Party on European Free Trade Association (EFTA) on 15 July. As the EM had not cleared from scrutiny, the UK entered a parliamentary reservation to indicate that the UK was abstaining on the Decision as our Parliamentary Scrutiny Committees were not yet in a position to fully consider the proposal. The UK government however agrees with the principle and substance of the proposal.

6 August 2010

FISHERIES: PARTNERSHIP AGREEMENTS CONCLUDED BETWEEN THE EU AND  
THIRD COUNTRIES (13994/07)

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

I am writing further to your previous letter of 7 March 2008, in which you asked to be updated on developments regarding EM 13994/07.

The intention of the Proposal was to simplify the processes relating to changing and renewing fisheries partnership agreements. However this had repercussions in relation to competence of Council and for this reason it lacked support of Member States.

The Commission has withdrawn the Proposal entirely and has not indicated plans to re-draft and submit an alternative.

11 October 2010

FISHERIES: PARTNERSHIP AGREEMENT WITH SEYCHELLES (9553/10)

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

I am writing to advise you that this proposal recently went to Council and unfortunately it was not possible for the Committees to see this proposal before it was agreed.

The purpose of the proposal was to formally open negotiations with Seychelles for agreeing a fisheries partnership agreement. It is important that negotiations commence to allow uninterrupted fishing operations for Community vessels. The UK does not have fishing opportunities under this agreement, but we did not wish to inconvenience other vessel owners with an interest in the fishery and thus voted in favour of the proposal.

16 June 2010

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

Your letter of 16 June 2010 about this recommendation was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 June 2010.

We note your statement that it was not possible for the Committees to see this proposal before it was agreed at Council. While any override is regrettable, we understand the circumstances in this case, and for the record we confirm that we release the proposal from scrutiny.

More generally, we consider that questions remain about the effects of the EU's Fisheries Partnership Agreements, and we may return to this matter in the context of the CFP reform discussion.

I do not require a reply to this letter.

1 July 2010

FISHERIES: PARTNERSHIP AGREEMENT WITH THE DEMOCRATIC REPUBLIC OF SAO  
TOME E PRINCIPE (8329/10)

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

My predecessor wrote to you on 6 May to advise you that the above proposal went to Council during the election period. Therefore it was not possible for the Committees to see the proposal before it was agreed.

The letter advised you that the UK voted in favour of the proposal. However, after the letter was sent the decision was made to abstain from voting, to avoid resorting to the use of the Scrutiny Reserve Resolution.

*25 May 2010*

#### FISHERIES: PARTNERSHIP AGREEMENT WITH THE FEDERATED STATES OF MICRONESIA (8174/10)

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

My predecessor wrote to you on 6 May to advise you that the above proposal went to Council during the election period. Therefore it was not possible for the Committees to see the proposal before it was agreed.

The letter advised you that the UK voted in favour of the proposal. However, after the letter was sent the decision was made to abstain from voting, to avoid resorting to the use of the Scrutiny Reserve Resolution.

*25 May 2010*

#### FISHERIES: REFORM OF THE COMMON FISHERIES POLICY (8977/09)

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

I am writing in reply to your letter to my predecessor of 24 March, to give you an update on the progress of our thinking on reform of the Common Fisheries Policy (CFP), and to address some of the specific points you raised. Before describing the detail of our position in talks with other Member States and European institutions, I would like to emphasise my commitment to genuine, fundamental reform of the CFP.

The reform of the CFP provides a crucial opportunity to overhaul the way in which fisheries are managed in the EU, and the UK has a key role to play in leading this reform. We share the Commission's ambition for radical reform to achieve healthy fish stocks, a prosperous fishing industry and a healthy marine environment. We must do this in a way that overcomes the serious failings of the current CFP, removing ineffective micro-management and enabling those closest to fisheries to plan for the long term and take responsibility for sustainable fishing operations.

First, we must get rid of unnecessary and over-detailed regulation, with genuinely simplified and decentralised decision-making. We need to move away from the current centralised system that attempts to micro-manage fishermen's daily activities. Any changes must be compatible with the Treaties, but a more rational approach can be maintained within this framework. We want to see day-to-day management devolved to those closest to the fisheries, including fishermen themselves, and I believe that national initiatives such as our Marine and Coastal Access Act can play a complementary role in taking more national and local steps to achieving healthy, productive seas. Science and other evidence must also play a central, and transparent, role in every stage of this process. The reform process needs to achieve this without creating another layer of unnecessary bureaucracy.

Second, the reform process needs to replace the rigidity of our current quota and effort management rules. The current inflexible system is producing high levels of discards; an inability to see beyond the short-term; and ever-increasing bureaucracy. A way must be found to manage mixed fisheries more imaginatively, and fishermen must be helped to take responsibility for good fisheries management.

This means giving fishermen greater ownership of their own destiny. We are in favour of granting them a clearer entitlement to fish: perhaps through a system of credits or user rights that would enable them to plan for the longer term and manage their fishing opportunities more flexibly. Such a system must not undermine the benefits of Relative Stability by transferring rights between Member States, but should allow fishermen to voluntarily transfer rights among themselves within a single Member State.

Third, we recognise the social and cultural importance of fishing, particularly to more remote coastal

communities that may need help to adapt and innovate. This can be done within a single CFP regime which can provide safeguards, for example to help small fishing businesses adapt and prosper, to protect some sectors of the industry from predatory competitors, or to help with the transition to new management systems. We do not therefore see a case for fleet differentiation and we are concerned that arbitrary definitions for differentiation will prove unworkable and only encourage perverse incentives, or “threshold effects” which we have seen under the current system.

Fourth, CFP reform must reduce discards. Key to achieving this must be a binding obligation on Member States to account for all the discards made by their fleet. We have to be held to account for the amount of fish our vessels take from the sea, not for the amount that is actually landed. A reformed CFP must provide the incentives and regulatory framework to enable us to catch less but land more. The UK’s trials of a “catch quota” approach is testing the effectiveness of moving away from existing landing-based quota limits that encourage the economic and environmental waste of discards.

Fifth, we must also have greater integration of fisheries with other marine policies. Fisheries has tended to be seen as somehow separate from what else goes on in our seas. With increasing and competing pressure for the use of maritime resources, for example for renewable energy, the CFP needs to be aligned with other marine objectives, particularly those in the Marine Strategy Framework Directive.

I am also keen that CFP reform should help improve global fisheries management, for example through the EU’s Fisheries Partnership Agreements, building capacity for improved fisheries management and enforcement in a way consistent with wider development aims, rather than simply exporting overcapacity to developing countries.

I hope this covers the points on CFP Reform you had raised earlier and provides you with a useful update on the UK’s position on CFP reform. Additionally, you asked how the use of new technologies can be used to improve data collection. There are a number of initiatives the UK has taken to improve data collection. For example, the new Control Regulation (Council Regulation EC No 1224/2009) extends the requirements of the existing vessel monitoring system (VMS) to apply to vessels over 12 metres from 15 metres as of 1 January 2012. This includes a requirement for vessels of this length to have electronic logbooks on board. We are currently considering whether or not to go beyond this and make VMS and/or e-logbooks compulsory for all UK vessels over 10 metres. Other data collection initiatives required under the new Control Regulation include a requirement to submit electronic submission of sales notes and for under 10 metre vessels to complete monthly catch returns.

The European Commission has committed to submit a draft legislative proposal to the European Council and Parliament during 2011. A great deal of detailed policy development and negotiation at the European level lays ahead, with EU conferences and workshops on reform scheduled for the autumn, while my officials will be working behind the scenes with the Commission to influence their thinking. I will ensure that you are kept up to date with progress as talks continue.

*31 August 2010*

## FISHERIES: RESOURCES IN THE SOUTH PACIFIC OCEAN (8658/10)

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

I am writing to advise you that this proposal will be going to Council shortly for adoption. Unfortunately it will be voted on before the Committees will reconvene following the election.

The proposal asks Member States to endorse the Commission’s signature for the creation of the new South Pacific Regional Fisheries Management Organisation. As a strong supporter of the concept of Regional Fisheries Management Organisations (RFMOs) and their role in managing fisheries resources on coastal waters and on the high seas, it is important that we demonstrate our commitment to the improvement of existing RFMOs and the establishment of new ones by supporting this proposal, which will help to improve the management of fisheries resources in the South Pacific. Therefore we plan to vote in favour of the proposal.

*9 June 2010*

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

Your letter of 9 June 2010 about this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 June 2010.

You explained that this proposal would go to Council before the scrutiny committees would be reconvened. For the record, we confirm that we release the proposal from scrutiny, but I would stress that we would in general hope that the timing for the handling of business by the EU would be arranged to help avoid scrutiny overrides.

I do not require a reply to this letter.

*1 July 2010*

### **FISHERIES: WESTERN STOCK OF ATLANTIC HORSE MACKEREL (9003/09)**

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

I am writing to update you on the progress with negotiations on this dossier. Sub-Committee D (Environment and Agriculture) last considered this dossier on 7 April 2010, and you wrote at that time to my predecessor to indicate that you would be holding the proposal under scrutiny pending further progress and indications of the likely shape and timing of any agreement.

As noted by the Committee at that time, the discussions at Working Group level and considerations within the European Parliament have mainly been related to making appropriate administrative adjustments to reflect the entry into force of the Lisbon Treaty. This essentially means, as currently drafted, agreeing the decision framework for the long-term management approach under co-decision, while providing an appropriate mechanism within that framework to incorporate essential elements of the annual TAC calculation adjustments. This is one of the earliest fisheries dossiers, post Lisbon Treaty adoption, to be subject to agreement of the appropriate legal base to apply in such cases, so it is important to get this right as other long-term management plans are in the pipeline.

In working group discussions, however, France felt that the proper legal base for adoption should enable reserving the power to make relevant TAC changes solely to the Council, and Spain felt that the adaptation of measures at Article 10 should reflect this. A summary of this, and Member States' positions, are included in the attached Annex. We believe, however, that the French and Spanish arguments stem simply from a desire to retain maximum flexibility for Ministers at Council. If the entire Regulation were to be adopted with sole power granted to Council, not only would this be challenged by the European Parliament, but in principle the complete set of harvesting rules would be 'up for grabs' to be adjusted in Council every year, potentially compromising the long-term management approach. We believe, therefore, that there is an important principle at stake here, not only for this dossier, but for the future development of similar multi-annual proposals, and in the wider context of CFP reform.

We would prefer to see the basic structure agreed under full co-decision at the outset. This does not, however, imply being tied into following a rigid plan without the necessary scope for adjustment – there is an appropriate mechanism in this proposal for annual adjustments within limited defined criteria, on the basis of updated scientific advice, and there are review arrangements. The outcome we envisage by adopting via the appropriate legal base will serve to protect the decision framework, while curtailing the negative short term focus of the existing annual negotiation process which, as we have seen, often leads to harvesting levels significantly above those recommended in the scientific advice.

UK permanent representatives (UKREP) were fully prepared to take a robust stance on this at a recent meeting to resolve these issues, which took place on 14 July. The Presidency concluded that it was not persuaded to make fundamental changes to the proposal, but simply remitted this back to the Working Group to consider whether there might be potential drafting changes that would minimise Member States' apparent political concerns without fundamentally altering the legal structure. We believe, therefore, that the essential principles we have identified will be maintained as currently drafted, and any successful changes should not fundamentally affect the central issue of the appropriate legal base to apply. We will be open to limited drafting changes to ease the political concerns without compromising the long term management structure and principles.

The next step after exploring and agreeing any such drafting changes will be to return the proposal to the European Parliament for agreement – which could mean it being identified as an "A" point for rapid adoption at any Council in the near future.

21 July 2010

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

Your letter of 21 July 2010 relating to this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 28 July 2010.

We are grateful for the information provided. We are content to release the proposal from scrutiny and we look forward to hearing from you again on the outcome of discussions between Member States and with the European Parliament.

We would underline that any delegation of power under Article 290(2) TFEU should be accompanied by an explicit definition of the objectives, content, scope and duration of the delegation.

28 July 2010

**FISHING: ANNUAL REPORT FROM THE COMMISSION ON SUSTAINABLE FISHING  
(6952/10)**

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

I am writing in response to Lord Roper's letter of 8 April 2010 on the above report, which requested a copy of the report for 2009 once submitted. The report and associated technical annexes are enclosed with this letter [not printed].

Lord Roper asked for details on the reasons for any lateness in the report's submission – the report was due on 1 May 2010 but was not submitted to the Commission until 25 May. You will see from the report that it is a highly technical document and its production requires a significant degree of resources. The 2009 report includes several new analyses in addition to those included in the 2008 version. It is the need to ensure the accuracy of these analyses that led to the delays in finalising and submitting the report. Although unfortunate, we do not believe the late submission of the report will cause any problems for the UK, and recent communication with the Commission suggests the reports from a number of other Member States remain outstanding.

With regard to the issue of a potential debate at Council, while we do not envisage a specific discussion on the report, there will be a number of opportunities in the coming weeks to discuss the issues it raises in the context of the end-year negotiations and the debate about CFP Reform. I will use these to put forward the UK position, and I will stress the urgency of the need for reform to address the imbalances identified. The Scrutiny Committees will be kept fully informed of these discussions.

14 June 2010

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

Your letter of 14 June 2010 on the above subject was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 7 July 2010.

We are grateful for your response, which gave reasons for the delay in submitting this year's report to the Commission, as also for a copy of the comprehensive report.

While we consider this series of correspondence closed, we will also take this issue forward in consideration of CFP reform and discussions on the 2011 fishing opportunities.

8 July 2010

**FISHING: EU VESSELS FOR CERTAIN DEEP-SEA FISHING STOCK (14628/10)**

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

Your Explanatory Memorandum (EM) on the above proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 10 November 2010.

We agree with you that Total Allowable Catches (TACs) should not in principle be based on average landings. The overall precautionary approach followed by the Commission and supported by you is, however, welcome given the particularly vulnerable state of these stocks.

We were interested to read in the Commission proposal that scientists consistently advise that the best management tool in deep-sea fisheries would be limitations on fishing effort. You do not refer to effort management in your EM. While it is not included in the text of the Regulation, we would nevertheless welcome your views on the role of effort limitations in managing deep-sea fish stocks.

Closely linked to effort management is the issue of discard reduction. The Commission indicates that it is studying the possibility of earmarking financial means for projects that intend to reduce by-catch in deep-sea fisheries in 2011. According to the Commission, once the levels of inevitable by-catch are established, those could be translated into by-catch quotas. You recognise that further scientific research to drive selectivity measures is required. Could you please expand on your preferred options for pushing forward work to reduce discards in deep-sea fishing?

While the proposal is satisfactory from a UK perspective, we suspect that it may prove contentious with other Member States. We are content to release it from scrutiny but would request that you address the above issues and inform the Committee of the stance taken by other Member States.

We would appreciate a response to this letter within ten working days.

*11 November 2010*

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

Thank you for your letter of 11 November to Jim Paice following consideration of the above Explanatory Memorandum by the Agriculture, Fisheries and Environment Sub-Committee. I am replying as Minister responsible for this policy area and am grateful for the prompt attention this dossier has received in the Committees of both Houses. This has enabled the scrutiny process to be completed in readiness for potential adoption of this proposal at November Council.

Turning to the very pertinent points you set out in your letter, you asked for our views on the role of effort limitations in managing deep-sea stocks. While important, the fixing of fishing opportunities featured in the above proposal is indeed only one facet of the management regime for deep sea fisheries. As most of these are in practice mixed fisheries where fishing activities are generally poor in terms of selectivity, we agree with the scientific advice that related effort restrictions should be the key management tool.

Due to shared international interests in deep sea fisheries in relevant areas, an overall level of effort is set on an annual basis, in convention with the North East Atlantic Fishery Commission (NEAFC), as a percentage of the level of effort deployed in the reference year 2003. This reference year level initially served to prevent further expansion of the fisheries. With subsequent reductions that effort level now stands at 65 per cent of the original reference year total, and NEAFC are recommending this lower level is maintained until 2012, when it will be reviewed for future years.

The overall level of effort is administered through fishing permits issued to vessels fishing for deep sea species, under the deep sea access regime set out in Council Regulation (EC) No 2347/2002. This access regime is currently being reviewed, under a process initiated earlier this year by means of a consultation and reflection document issued by the Commission. This was sent to Member States and others, to gather views before issuing a formal proposal for further discussion, which should happen in the coming months.

The Commission's intention is to examine the regime 'in all its parts', including a better definition of the fleets involved – as a clearer picture including details of vessel size and power, by metier, is needed. On levels of effort in particular, suggested improvements on the current reporting structure will in all probability include requirements for data collection by kW days, and by metier, rather than aggregated returns. In addition to our original detailed written response, we have made our UK position on this review clear – that we recognise the importance of closely co-ordinating the full set of management measures, and we therefore look forward to seeing the Commission's detailed proposals for consideration.

Discard reduction in deep sea fisheries will continue to be linked to the setting of appropriate effort levels in the absence of, or pending, selectivity improvements. As you are aware, the UK's priority is to minimise fisheries discards, and we are undertaking a wide range of initiatives to reduce them. Discards, of course, occur for a number of different reasons and solutions will depend on the characteristics of each fishery. We have primarily focused on improving the selectivity of our commercial fisheries with the largest discarding problems, as well as advocating spatial/seasonal

measures to prevent discards (high grading ban) and reduce unwanted catches (real time closures etc.).

Discards of deep-water species are a considerable concern as they can be substantial in trawl fisheries, and because almost all discards die due to being brought up from the deep. Selectivity measures related to gear and other technical specifications (mesh size and minimum size regulations, separator panels etc.) are unlikely to be effective, because almost all deep-water species lack a mucus covering and are therefore vulnerable to damage by trawl meshes.

The only exception is deep-water sharks, in that most have a tough abrasive skin. These sharks are of similar size and shape to other commercially important species taken in trawl fisheries e.g. blue ling. Mesh size regulations etc. are unlikely to be helpful conservation measures for most deep-water fish species.

On sharks in particular, however, the Commission commented in Working Group that related discussions with the industry have indicated certain gear types (e.g. non-steel long lines) could reduce by-catch. If so, this would provide another step towards meeting the aims of the shark plan of action (SPOA). We are therefore supportive of the Commission bringing forward related proposals, which will underpin our own commitment to working collaboratively on such issues. Ultimately, we believe the avoidance of sharks being caught in the first place is a more desirable primary objective than setting by-catch Total Allowable Catches (TACs).

The current Common Fisheries Policy (CFP) provides fishermen with little incentive not to discard. We are currently gathering the necessary evidence to fundamentally reform the CFP to change this. The UK has been trialling an alternative management system in the North Sea cod fishery, based on fully documented catch quotas. This system is a different way to manage quota fisheries. It provides fishermen with an incentive to optimise what they catch rather than what they land to port. It shows potential to significantly improve scientific data on catches, and help reduce discards and stock mortality. We plan to extend the North Sea trials in 2011 and in the future we will consider the applicability of catch quotas in other UK fisheries.

However, we are continuing to build on our understanding of the scale of discarding across EU and UK fisheries, and recognise that limited data is available on the discarding of deep-water species. A relevant EU-funded project 'DEEPFISHMAN' should help develop a renewed management framework for deep sea species. This is a three year project that has just got underway. The project will – in 2011/12 – attempt to map available discard information to determine spatial/seasonal variability. If this variability exists, this will inform consideration of encounter protocols, discard/by-catch thresholds and move on-rules (and possibly closed areas if appropriate) similar to those currently used by Regional Fisheries Management Organisations (RFMOs) to afford protection to vulnerable marine ecosystems (VMEs).

You also asked for a summary of Member States' positions in relation to the deep sea TAC & quotas proposal. The following sums up the salient topics of discussion in the lead up to Council for adoption:

#### ZERO TACS

The proposal features two sets of continuing zero TACs: for deep sea sharks; and orange roughy. Estonia, Spain, France, Portugal and Lithuania believe that for deep sea sharks, a small by-catch should be provided, to reflect inevitable low-level capture and discard. The UK and Sweden share concerns on the discards aspect, but we advocate evaluation of alternatives (e.g. improving selectivity in mixed fisheries, or improved management approach). The Commission considers evidence is needed to show deep sea shark by-catches are unavoidable. Estonia and Spain believe TACs for all by-catch species only generate discards in mixed fisheries, and suggest allowable by-catch levels instead. Sweden wants the zero TACs strengthened with specific prohibitions on fishing for, retention on board, transshipment and landing of relevant species.

#### INCLUSIONS IN DEEP SEA SPECIES CATEGORY

France have questioned whether blue ling and black scabbard-fish should continue to be treated as deep sea species, as they are not typical (i.e. they are less long lived and more fertile). Our UK view is that they are nevertheless 'true' deep sea species, and should have TACs set accordingly, in line with the scientific advice. Spain, Portugal and France have questioned the addition of four deep sea shark species to the list of those subject to the zero TAC, but our UK view is that those added are already categorised as deep sea species in related legislation, and inclusion under the zero TAC reflects their recognised vulnerability. The Commission has expressed the same view.

## REQUESTS FOR FLEXIBILITY BETWEEN MANAGEMENT AREAS

Spain and France want to retain an 8 per cent quota flexibility between the two sets of TAC management areas for roundnose grenadier being realigned (see below). They also want similar flexibility for red seabream, between VI, VII & VIII, and X, and Portugal want to retain current provision for red seabream TAC areas to allow fishing for 10 per cent of 2012 quota in December 2011. Spain and France also wish to see flexibility for forkbeard between the two sets of TAC management areas V, VI & VII, and VIII & IX.

## ROUNDNOSE GRENADEER TAC MANAGEMENT AREA CHANGE

The proposal features a re-organisation of the TAC areas for roundnose grenadier (moving XIIIb to combine with Vb, VI & VII), to bring the management areas into alignment with scientific advice on stocks. France, Spain and Portugal have asked for the status quo to be maintained, although France has suggested they will accept a sub-area TAC for XIIIb as an alternative. The UK and Germany have expressed support for the change as drafted. We can also support the suggestion for a sub-area TAC for XIIIb, however, as we have advocated similar for blue ling (under areas for blue ling to be dealt with under the main TAC & Quota proposal in December), and having a similar approach within this sub-area for both would provide a consistent management approach.

Following anticipated agreement of the proposal on deep sea species TACs & quotas at November Council, therefore, we expect further developments on this subject to be in the pipeline – most imminently the review of the Deep Sea Access Regime – and await these with interest.

22 November 2010

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

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 30 June 2010.

Like you, we support the ambition of moving towards the 2015 MSY target. We note your caveat that the economic impact on fishing communities of rapidly reducing fishing rates should be fully considered. This policy reflects the continued tension within the CFP between environmental objectives on the one hand and socio-economic objectives on the other. Looking towards the 2011 TACs, we would appreciate clarification on how you will ensure that the economic impact on fishing communities of rapidly reducing fishing rates is fully considered. We would also encourage positive incentives to encourage movement away from the fishing industry into alternative industries.

As in past years, we agree with the Government that simply applying the “use it or lose it” principle in order to set TACs for stocks for which stock numbers nor scientific advice are available is simplistic. It is regrettable that ICES and the Commission have still not identified appropriate methodology. We would be grateful for information on how you intend to push this issue forward before agreeing fishing opportunities for 2011.

You did not comment in your EM on the Commission’s suggestion that management of TACs concerning only one Member State could be devolved to that Member State. We would be interested in your view on this suggestion and clarification as to whether the suggestion might apply to the UK in any way.

Various discard-reduction initiatives are being undertaken in 2010 and will, according to the Communication, be subject to review by the Commission. Distinct from the Commission’s review, we would welcome your own analysis of the progress made to reduce discards.

Your predecessor, Huw Irranca-Davies MP, supported the idea of involving Parliamentary committees in this process at an early stage. We note that the ICES advice is due later in the summer and we would therefore welcome a commitment from you to write back to the Committee once that advice is available to offer an update on the Government’s position.

We are content to release the Communication from scrutiny. As regards the issues raised above, we would welcome comment from you in a reply within 10 days; beyond that, we look forward to receiving relevant further information in good time to allow an effective dialogue before the December Fisheries Council.

1 July 2010

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

As the majority of scientific advice on fish stocks within the EU was published by the International Council for the Exploration of the Sea (ICES) on 30 June I thought it would be an appropriate time to update you on this dossier.

ICES' Advisory Committee (ACOM) has produced the first (and most substantive) instalment of its annual advice - which will shortly be considered by the Commission's Scientific, Technical and Economic Committee for Fisheries (STECF) and will subsequently form the basis of the Commission's Total Allowable Catch (TAC) proposals for next year.

This advice covers most EU fish stocks, although that for certain pelagic species (e.g. mackerel) will not be available until October (at which time there may also be updates for other stocks, reflecting further scientific analysis undertaken in the interim). We do not therefore expect the Commission's formal proposals to appear until late October/early November.

The current advice will need to be considered in the context of the Commission's Annual Policy Statement on the setting of TACs and quotas for 2011. This year, for the first time, the advice is designed specifically to deliver EU commitments under the World Summit on Sustainable Development (WSSD) agreement - to move the exploitation of the various stocks to Maximum Sustainable Yield (MSY) levels by 2015. The assumption is that this will be achieved in five equal steps.

For many, though not all, of the stocks covered, the situation is similar to last year, with stocks below recommended levels and reduced or poor recruitment (young fish entering the fishery) an ongoing feature. There are therefore a significant number of key UK stocks for which the advice is for further cuts in catches or effort. These include: North Sea cod, haddock, whiting and saithe; Irish Sea cod, haddock, whiting and sole; and West of Scotland cod, haddock and whiting. The forthcoming discussions with industry, and subsequent negotiations within the EU and with third countries are likely to prove challenging.

#### **NORTH SEA**

The advice is that the cod spawning stock biomass (SSB) increased again slightly in 2009, but the rate of progress was slower than expected and the SSB remains below the limit biomass (Blim) – the level at which there is a high risk of stock collapse. ICES has identified some uncertainty in the assessment, but application of the existing management (cod recovery) plan would suggest a TAC cut of 20% and a 15% effort cut. This prospect will be greeted with dismay by the industry and is likely to strengthen calls to seek an early exit from the Cod Recovery Plan (which has 18 months to run and provides for continuing cuts in the number of days vessels can spend at sea). Officials will be examining with Cefas scientists, the reasons for the poorer than anticipated prognosis. As a jointly managed stock however, this will be subject to discussions with Norway. Any change in the North Sea cod TAC will be duplicated in the Eastern English Channel as the two stocks are equivalent.

The advice for haddock is that the stock remains well above the precautionary biomass (Bpa), although this perception is largely influenced by the more abundant 1999 year-class, whose contribution to the stock diminishes over time. Fishing mortality remains close to the Maximum Sustainable Yield (MSY) level. Following the existing EU/Norway management plan would suggest a small cut in the TAC of around 5%.

The science for whiting combines the North Sea and Eastern Channel areas and is highly uncertain. Despite the high catch levels experienced by parts of the UK fleet this year, ICES considers the spawning stock as a whole still to be close to its lowest level since 1990, although slightly improved on last year. However, fishing mortality is stable and there have been good recruitments in 2008 and 2009. Applying the rules in the Commission's Policy Statement would nonetheless require a cut of 15%.

The position on plaice is good. The stock is considered to be healthy at well above the precautionary biomass (Bpa) and exploited at close to MSY. Under the EU management plan, this would suggest an increase of 15%.

For saithe (also covering the West of Scotland), ICES' assessment is that it is being harvested sustainably at close to MSY and that the SSB is above the precautionary limit, but in order to keep mortality in check, the EU/Norway management plan would suggest a 13% cut.

The Commission has asked Member States to consider future management of Nephrops on a Functional Unit basis (sub-units within the North Sea). The picture for these units is, according to ICES, mixed but the net result suggests a 9% cut.

For sole, fishing mortality is estimated to be somewhere between the precautionary limit and MSY, with the Spawning Stock Biomass around the precautionary level. The EU management plan would suggest a cut of 4%. However, to move further towards MSY would suggest a larger cut of 12%.

There are no precautionary parameters for Northern Monkfish (also covering the West of Scotland), but on the basis of a changing perception of the stock abundance, a cut of 15% is advised.

The latest ICES advice has dramatically raised the estimate of the herring spawning stock, suggesting an increase of 126%. However, this will be tempered by the EU/Norway management plan to a 15% rise.

#### WEST OF SCOTLAND

For cod, fishing catches and discards remain high, with the SSB below the limit reference point (Blim). Low recruitment is also a feature. ICES therefore recommends a zero catch. However, the management (cod recovery) plan would require a 25% cut in TAC and effort.

Although fishing mortality of haddock is close to MSY, the spawning stock is below Blim. ICES therefore advises a severe cut of 65%, although this may be tempered by the Commission's Policy Statement to 25%.

For Nephrops the advice is again provided on a Functional Unit basis, but in overall terms the need to move a reasonable step of the way to MSY, would suggest a cut of 26%. This may be tempered by the Policy Statement to a cut of 15%.

The stock of herring is fluctuating, but at a low level and is being exploited at below MSY. The existing EU management plan would suggest an 8% cut.

#### IRISH SEA

The stock of cod is considered as having reduced reproductive capacity and being harvested unsustainably – and again the advice is for a zero catch. The management (cod recovery) plan would however suggest the cut is limited to 25% (and be combined with a 25% cut in effort).

The state of the haddock stock is uncertain. While trends suggest the spawning element has decreased, recent recruitments are above average and should mean the SSB stabilising. Application of the Policy Statement implies a cut of 15%.

Another positive, plaice is estimated to be at full reproductive capacity and being harvested sustainably with an increasing spawning stock. The Policy Statement would suggest a 15% increase.

Sole though is in a less comfortable position, with a spawning stock below Blim and fishing mortality below the desired MSY level. To reach MSY implies a 40% cut, but the Policy Statement would limit this to 20%.

Again there is a significant variation in the state of the various Nephrops Functional Unit stocks. The net effect suggests a 22% cut. This TAC includes the Irish Sea (west) stock that is of greatest concern to the Northern Irish fleet and the assessment for this stock is more positive than last year, recommending catches of 9,500 tonnes. The Commission has instigated discussions on managing the stocks separately and we will, with Northern Irish colleagues, be looking carefully at this issue in the coming months.

No detailed assessment for herring, but trend analysis coupled with acoustic survey data suggest the spawning stock is close to its highest level in 17 years. The Policy Statement would imply a 15% increase.

#### OTHER STOCKS

The state of the Celtic Sea cod stock is uncertain, but the indications are total mortality is very high. ICES therefore advise significant reductions in catches and effort. This would translate into a 15% cut under the Commission's Policy Statement.

The Western Channel sole stock situation has improved. It is being fished at MSY, with the spawning stock just below target. The management plan would suggest a 15% increase. This will be welcome news in the South West (particularly Brixham).

The Southern megrim stock is stable, but ICES recommends reductions in catches and effort to keep within precautionary limits. This would suggest a cut in TAC of 15%.

There are no precautionary reference points for the Southern anglerfish stock (consisting of two species), but biomass trends are up on the back of improved recruitments. ICES suggests future

catches should be set to avoid any increase in effort. This would suggest no change for one species (*L. Piscatorius*) and a 15% increase for the other (*L. Budegassa*).

#### DEEP SEA SPECIES

The advice for these species is consistent with the general principle that directed fisheries should not be permitted for the most vulnerable stocks e.g. Blue ling and Orange roughy, and for other stocks e.g. Roundnose grenadier, Black scabbardfish, Greater Forkbeard and Tusk, catches and effort should be severely constrained unless and until it is proved that fisheries on them are sustainable in the long-term.

#### NEXT STEPS

Prior to the release of this advice, I raised at June Council the need to ensure that we focus on moving towards our MSY commitments under the World Summit on Sustainable Development, while avoiding the risk of jeopardising the financial viability of UK and EU fleets; the need to develop a more rational process for managing fish stocks under scientific uncertainty; and I stressed the importance of developing on steps taken this year to reduce discards through our catch quota trials.

This is obviously the start of the process that leads to the setting of next year's quota levels and I will be considering the advice carefully. Discussions are unlikely to begin in earnest at the EU level until later in the summer. In the interim the Government will be consulting with the industry and wider interest on the approach to those negotiations. I will write again later in the year to provide an update on how things are progressing.

*15 July 2010*

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

Thank you for your letter of 1 July 2010, in which you raised a number of questions concerning Explanatory Memorandum 9888/10 and the Government's approach to the forthcoming autumn fisheries negotiations.

You asked for clarification on how the economic impact of rapidly reducing fishing rates can be considered in the move towards Maximum Sustainable Yield (MSY). As you highlight, there is always tension between the long-term ambition of moving towards lower fishing mortalities and the immediate issue of short term catching opportunities, reductions in which have a direct impact on fishing communities. I am mindful of the need to strike a balance that ensures the recovery of fish stocks and the short term viability of the fishing industry.

MSY has been the objective for a number of stocks under management plans (e.g. North Sea Haddock and Plaice) and has delivered benefit to the fisheries concerned in terms of stability of catching opportunities. However, key to that success is that both the right direction and the right pace of progress is achieved, particularly where, as can be the case where there are mixed fisheries or multi-species interactions, the appropriate MSY level is not well defined. In these circumstances it is important we focus on moving in the right direction to ensure the necessary long-term sustainability, whilst avoiding the risk of jeopardising the economic viability of UK and EU fleets.

More generally, in order to inform the UK position for autumn negotiations, I will be consulting the fishing industry and processing sector on the likely impact of changes to available quotas and effort, based on the suggestions in the scientific advice. These consultations will inform discussions with Devolved Ministers on the UK's priorities for the upcoming negotiations. After these discussions I intend to send the Committee an Impact Assessment which will detail the UK negotiating position.

You have asked for information on how we intend to approach the setting of Total Allowable Catches (TACs) under uncertainty. This is particularly relevant where the Commission continues to propose TACs based on recent average landings, and it is clear that the absence of adequate data to support robust scientific assessments is a problem for an increasing number of EU stocks.

In the short term, we will be continuing to oppose a 'use it or lose it' policy in these circumstances. We will also be seeking to work constructively with the Commission and other Member States in order to develop a more rational basis for decision-making based on what knowledge is available on the stocks. The International Council for the Exploration of the Sea (ICES) has asked our own scientific advisors, Cefas, to undertake a scientific analysis of another set of decision making rules (proposed by the Commission) which are based on trends in stock status. We will be looking to review the results of that process in due course and considering whether it provides a more suitable solution when dealing with incomplete information.

In the long term I believe that we should be trying even harder to tap into the wealth of experience found within the fishing industry and to make better use of scientific data produced under initiatives like the UK's Fisheries Science Partnerships, in order that decisions are made on sound evidence.

You have asked about the Commission's proposal to devolve responsibility for the management of stocks exploited by a single Member State to that Member State. Currently there are few stocks which are fished exclusively by one Member State: in the UK this would apply only to Clyde Herring. However, steps to devolve fisheries management are welcomed and a key priority for the UK under CFP reform. In this context we have sought an explanation of exactly what the Commission has in mind and whether the intention would be to apply the same principle to those stocks where a single Member State has a high majority share, or to stocks shared by only two or three Member States (or for all stocks where the decisions are taken by only those Member States who have fishing opportunities). I would be happy to keep the Committee informed on this point.

You also sought an update on the discard initiatives undertaken by the UK in 2010. Work is progressing well on the joint UK and Danish initiative to trial fully documented catch quotas to reduce discards. During last year's fisheries negotiations the UK, Denmark and Germany were successful in securing an additional 5% North Sea cod quota (653 tonnes), to facilitate trials of fully documented catch quotas. The aim of the project is to assess the feasibility of having catch-based quotas, rather than traditional landings quotas. This includes testing full catch documentation using a Remote Electronic Monitoring (REM) system, which uses cameras to verify catches and discards.

Under fully documented catch quotas the fishermen are provided a higher quota, but the responsibility is put on them to maximise the value of their catches. This can be achieved by fishermen managing how (e.g. more selective gears), when and where they fish. Ultimately the overall mortality on the fish stocks does not increase due to the avoidance of discards. However, once their quota for cod is exhausted they must cease fishing.

The UK scheme was set up in May 2010 in the North Sea. We had a large amount of interest from the industry wanting to participate in the scheme, and a total of 27 vessels were selected for the pilot (six English and 21 Scottish). Denmark is also operating a similar sized pilot this year, but the German pilot did not go ahead because only one German vessel was interested.

Initial observations from the REM technology are promising. Preliminary analysis is taking place at present and we are due to receive an interim report in September. This report will indicate how successful the system has been at reducing cod discards and inform our decisions on whether to expand the trials in 2011, with more vessels and on a wider variety of species. The results will also inform the CFP reform debate on the wider application of catch quotas. I would be happy to send the Committee a copy of the interim report once available.

Finally, you asked that I write once the scientific advice is available to provide the Committee with an update. You will hopefully have received a separate letter including this information, and I look forward to engaging with the Committee in the coming months as progress is made on developing the UK position for the negotiations.

*15 July 2010*

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

Your letters of 15 July 2010 relating to the above Communication were considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 28 July 2010.

We are grateful for your comprehensive response to my letter of 1 July, and we very much welcome the update that you have offered so soon after publication of scientific advice on the majority of stocks.

You kindly offered to keep us informed about discussion with the Commission on devolved responsibility for management of stocks and to send us a copy of the interim report on the discard reduction trial. We would wish to accept your offers in both instances.

We look forward also to receipt of your Impact Assessment detailing the UK negotiating position once established and to engaging with you in the coming months as progress is made on developing the UK position.

*28 July 2010*

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

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

Your Explanatory Memorandum of 13 October 2010 about this proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 27 October 2010.

Your EM makes no reference to the Food Standards Agency (FSA). Is it the case that the allocation of policy responsibilities within Government means that the FSA has no interest in this proposal? While your EM explains that a likely consequence of the proposal will be to prevent claims of "no added sugar" appearing on labels, it says nothing about labelling information on the actual level of sugar in fruit juices. Could you let us know what the current position is on this practice, and whether it would be affected by this proposal? We would welcome a reply on these points within ten working days.

We note your view that, in its current form, the proposal represents a good deal for both UK industry and consumers. However, we also note that you intend to carry out consultation with interested parties on the proposal, in order to prepare an impact assessment.

You state that the proposal is consistent with the principle of subsidiarity. We agree but would remind you that it is essential in all instances that Government EMs include a supporting analysis, and it is particularly crucial in this instance as the Treaty of Lisbon's Reasoned Opinion procedure applies. Could you therefore outline your reasoning and ensure that all EMs from your Department meet this requirement in future?

For the moment, therefore, we shall keep the proposal under scrutiny, while we await further information from you at a later date on the results of consultation and on the assessment of the proposal's impact.

*28 October 2010*

GENETICALLY MODIFIED CROPS

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

Your Explanatory Memorandum (EM) on the above documents was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 28 July 2010.

We appreciate that you submitted your EM prior to completion of your policy analysis in order that we could consider the legislative proposal before our summer recess. In that light, we will await a Supplementary EM (SEM) from you before taking a position on the policy implications; we understand that this SEM should be submitted by the end of September of this year.

On the issue of the legislative proposal's compliance with the principle of subsidiarity, we share your view that it is compliant. We note, however, the complexity of the issue and would wish to emphasise our particular concern over arrangements for co-existence of GM and conventional crops.

We look forward to your SEM and do not require a response to this letter.

*28 July 2010*

GMES: EUROPEAN EARTH OBSERVATION PROGRAMME (10285/09)

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

I am writing in response to Lord Roper's letter of 25 March 2010 to my predecessor, and to advise you that negotiations on the proposed regulation have now reached a successful conclusion.

Since the last update to the Committee on 15 March, negotiations have continued in the Research Working Party, which has discussed and amended the proposal over seven meetings. This concluded with the Working Party on 19 April 2010 which achieved a large measure of agreement on the text. On 21 April 2010, the Permanent Representatives Committee discussed the text and gave orientations to the Presidency about resolving the final outstanding issues with the European

Parliament. On 28 April 2010, the Presidency took part in informal consultations with the Chairman of the ITRE Committee, Mr. Reul MEP, the Rapporteur, Mr. Glante MEP, and representatives of the ITRE Committee, as well as with representatives of the Commission. This resulted in a compromise text.

The Government has participated actively in the negotiations to resolve the main concerns on the original text, and to avoid proposed amendments that were unwelcome to the UK. Specifically regarding the issues identified in the Explanatory Memorandum the following outcomes have been achieved:

- A data policy that aims for free and open access, without mandating that all products and series must be free at the point of use, has been agreed.
- Wording implying potentially open-ended commitments for Member States to contribute to GMES has been modified and an appropriate partnership approach defined.
- Satisfactory budgets and funding mechanisms for the atmosphere and marine services have been secured via FP7.
- The scope of information services for security applications has been maintained within previously agreed bounds, and a Security Board established to advise on security of data and systems within GMES has been established.

In addition we have succeeded in strengthening the role of users in the programme through creation of a new Users' Forum and agreed satisfactory wording regarding future budgets for the GMES programme.

Final agreement is expected to be made later in the summer.

*24 June 2010*

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

Your letter of 24 June 2010 was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 7 July.

We were pleased to read your statement that negotiations on the proposal have reached a successful conclusion. We note that the UK Government's participation in the negotiations has helped to resolve the main concerns on the original text, and to avoid proposed amendments that were unwelcome to the UK.

We are content to clear the proposal from scrutiny.

*8 July 2010*

### **GOTHENBURG PROTOCOL**

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

Your predecessor's letter of 30 March 2010 about this mandate was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 June 2010.

Mr Fitzpatrick explained that the UK accepted that the EU had competence in the policy areas covered by the Gothenburg Protocol and did not dispute the need to give the Commission a mandate. He said that a limited mandate had been agreed tying the Commission to negotiating in accordance with existing legislation and with agreed EU positions. For reasons of confidentiality, the mandate documents themselves have not been deposited for scrutiny.

It was helpful to receive this information. We look forward to receiving a further update in due course.

*1 July 2010*

## GREEN INVESTMENT BANK

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

For previous correspondence please refer to: CARBON LEAKAGE: BEYOND 20% GREENHOUSE GAS EMISSIONS REDUCTIONS (10230/10), dated 7 October 2010.

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

In your letter of 7 October you expressed interest in plans for the Green Investment Bank (GIB) and asked for further details following the Spending Review.

We are pleased with the outcome of a commitment of £1 billion of Government funding to initially capitalise the new institution, and that this will be supplemented by additional significant proceeds from the sale of Government owned assets. In the toughest Spending Review in some 65 years, this level of funding represents the Government's strong commitment to the success of the GIB.

DECC will continue to work closely with BIS as the lead Department on the GIB in this next phase of work to complete detailed design and market testing work by Spring 2011.

The investment mandate will be set in the next phase of work. It will be broad enough to be able to respond to future challenges. The GIB will have an explicit mandate to tackle risk that the market currently cannot adequately finance. It will look to catalyse further private sector investment and facilitate the entrance of new types of investor into green infrastructure, so that the impact on the finance gap for low carbon investment is many times the scale of the public contribution.

I trust that you will remain engaged in the progress on the GIB. I am certain that my colleague, the Business Secretary Vince Cable, will be happy to help should you have further questions.

*28 October 2010*

## GREEN PAPER: PREPARING FORESTS FOR CLIMATE CHANGE (7060/10)

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

Your letter of 8 April 2010 indicated that the Committee would be interested in the Government response to the questions posed in the Green Paper and confirmed that the Committee would retain the Green Paper under scrutiny while awaiting this information. I have therefore attached a copy of the final Government response to the Green Paper [not printed].

While the Green Paper offers a fair assessment of the general situation for forests and addresses key challenges facing forests in the future, it fails to highlight sufficiently the diverse nature of forests and forestry across the EU, including diverse ownership and governance structures. Although the Green Paper highlights the role of forests in climate change we agree it fails to consider the links between agriculture and forestry in adapting to climate change. At the same time it also fails to recognise that considerable work is already being undertaken at a national level in relation to climate change adaptation and mitigation.

The UK response welcomes the opportunity the Green Paper provides, emphasising the principle of subsidiarity and the need to respect the attribution of competence on forests between the EU and Member States. The response also underlines that forest protection is an integral part of sustainable forest management, which provides the framework to balance the economic, environmental and social functions that forests deliver.

Our response also recognises that forests and forestry have an impact on and are impacted by a broad spectrum of sectors, including agriculture, and that this requires a coherent approach, currently provided by the EU Forestry Strategy and EU Forest Action Plan. Underlining that action at the EU level should complement and add value to Member States' national level activities, initiatives and programmes, by facilitating co-ordination, sharing information and developing best practice.

The Council Conclusions on the Green Paper agreed in 11th June Environment Council, also attached [not printed], reflect many of the points made in the UK's response and are an initial reaction to the Green Paper from the Council to set the scene whilst the Commission's consultation is ongoing.

*8 July 2010*

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

The Minister has asked me to send you a copy of the final response as promised in his letter of 8 July. The response has not changed from the draft version attached to that letter. The Minister would of course be happy to provide any further information you might require when you have considered the final response.

*26 July 2010*

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

Your letter of 8 July 2010, with which you enclosed a copy of the Government's response to the Green Paper, has been considered by our Agriculture, Fisheries and Environment Sub-Committee.

In the light of the inquiry which that Sub-Committee has carried out into the Green Paper, I have now written to Commissioner Potočník to make our response to that document. I enclose a copy of my letter to Mr Potočník.

In our response we recommend that the Commission should work with Member States to identify the various economic mechanisms used across the EU to encourage the development of forestry, and to develop a full economic assessment of the viability of promoting significant additional afforestation. Evidence to our inquiry has left us in no doubt that such a process could well produce information which would be relevant to forestry policy in the UK. We would be interested to hear from you whether the Government have looked at forestry-related economic mechanisms applied elsewhere and, if so, what conclusions may have been drawn.

*28 July 2010*

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

Thank you for your letter of 28 July, enclosing a copy of your letter to Mr Potočník outlining the Agriculture, Fisheries and Environment Sub-Committee's response to the Commission's Green Paper. This asked whether the Government has looked at forestry-related economic mechanisms applied elsewhere and, if so, what conclusions may have been drawn from such an exercise.

While officials monitor forestry-related economic mechanisms elsewhere (and particularly in other EU Member States) on an ongoing basis, there has been no systematic study of the type you suggest. As you know, forestry policy within the UK is devolved and each Administration's approach to forestry-related economic mechanisms will focus on the delivery of forestry in relation to their own specific circumstances and priorities. Although we haven't undertaken a formal assessment, we are aware of the approaches taken in other countries and, with the diverse nature of forestry in Europe, Member States will select the most appropriate measures from the Rural Development Regulations (RDRs) to best suit their policy needs.

The European Commission has supported afforestation schemes since the 1990s through a number of mechanisms, most recently through consecutive RDRs. All of these mechanisms have been the subject of some form of evaluation which could provide a useful basis for considering the viability of existing mechanisms to promote additional afforestation.

The work of the Ad Hoc Working Group on Climate Change and Forestry established under the Standing Forestry Committee by the European Commission in March 2009 is also relevant. In support of the work of this Group the Forestry Commission has co-ordinated a report that focuses on the financial incentives and measures implemented across the EU to target the adaptive and mitigative potential of trees and forests in response to climate change. The final report will be submitted to the Group at their final meeting later this month. This will also provide useful information for both the European Commission and Member States on the potential of trees and forests to contribute to their response to climate change.

*8 September 2010*

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

Your letter of 8 September 2010, in reply to mine of 28 July, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 6 October.

We note that the Forestry Commission has co-ordinated a report on financial incentives relating to the potential of forests to mitigate, and adapt to, climate change, and that this was to be submitted to the relevant ad hoc working group of the European Commission by the end of September.

We would find it helpful if you could let us know whether the Commission and other Member States intend to draw on this report in their policy development. In particular, given that primary responsibility in this area rests with Member States, we would welcome an indication from you of whether the Government see anything in the report that points to changes in forestry-related policy in the UK.

*7 October 2010*

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

Thank you for your letter of 7 October on Explanatory Memorandum 7060/10. You asked for further information on the Forestry Commission co-ordinated report relating to the potential of forests to mitigate and adapt to climate change, including the role of financial incentives.

The report has been submitted to and agreed by the European Commission's Ad Hoc Working Group on Climate Change and Forestry. Participants in the group have indicated the value of the exercise, the opportunity to share information, and have indicated their intention to share this with colleagues more widely. The European Commission has put the report on the Agenda of the Standing Forestry Committee on Friday 15 October, where it will be presented to a wider audience of Member States and Directorates within the European Commission, providing them with the opportunity to draw on it in future policy development.

From a UK perspective, the report reinforces the conclusions of the Read Report and the approaches we are taking to forests and climate change in the UK.

*14 October 2010*

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

Your letter of 14 October 2010, in reply to mine of 7 October, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 27 October.

You explained the way in which the European Commission and other Member States might draw on the report on financial incentives relating to the potential of forests to mitigate, and adapt to, climate change, co-ordinated by the Forestry Commission; and you said that the report reinforced the conclusions in the Read Report on "Combating Climate Change - a role for UK forests" (which was prepared at the Forestry Commission's behest).

We are aware that, in the announcement about public bodies on 14 October, your Department made it clear that the Government would set out a strategic approach to forestry in England later in the autumn, when the Secretary of State would consult widely on proposals for reform of the Forestry Commission. We would like to invite you to give evidence to the Agriculture Sub-Committee about the reform proposals and about their implications for the role of the Forestry Commission - in the future development of forestry policy in this country, and in the EU more widely, above all in relation to adaptation to climate change. We would also welcome the opportunity to explore the issues of financial incentives with you further.

The Clerk to the Sub-Committee will be in touch with your Parliamentary Clerk to follow up this invitation.

*28 October 2010*

### **INQUIRY INTO INNOVATION IN EU AGRICULTURE**

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

The EU Committee, through its Agriculture, Fisheries and Environment Sub-Committee, has launched an inquiry into innovation in EU agriculture. I enclose a copy of the call for evidence which we are sending out today, and which gives more information about the inquiry.

We would welcome it if your Department wished to offer evidence, and the committee secretariat is in touch with your officials about this. We aim to produce an inquiry report during the first half of next year, with a view to contributing to the development of policy on innovation in EU agriculture by the Government and by the EU institutions over the next few years. The inquiry will build on some of the findings of our report on "Adaptation to climate change: EU agriculture and forestry" which was published in March of this year, and will be relevant to discussions on the future of the Common

Agricultural Policy, which may be expected to intensify later this year when the European Commission publishes its expected Communication.

*28 July 2010*

## INTERNATIONAL ORGANISATION OF VINE AND WINE: NEGOTIATIONS ON THE TERMS AND CONDITIONS FOR ACCESSION (13934/08)

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

I would like to take this opportunity to update the Committee on progress with the above dossier, following on from the Committee's correspondence of 26 November 2008.

Following presentation of the dossier to the Agriculture Council late in 2008, the Commission's negotiating proposal was considered in detail at two Council Working Groups (CWG) early in 2009. The majority of Member States – many of whom are OIV members in their own right – expressed concerns over a general lack of clarity about how a coordinated view between the Commission and Member States on OIV proposals would be reached; lack of EU financing; and the potential that EU bloc membership would destabilise the OIV.

Although the UK supported the mandate, the overwhelmingly negative response from the CWG sent a clear signal that, without significant changes, the Commission would be unlikely to gain a negotiating mandate from the Council. To date the Commission has not come forward with a revised proposal, and we understand that the dossier has been put on hold, with the possibility of re-presenting an adapted version in the future.

In response to your further question on whether the UK would seek to join the OIV in its own right, our preferred position is to await any further developments with the Commission proposals. However we will keep the matter under review.

*14 September 2010*

## POLLUTION: INDUSTRIAL EMISSIONS (5088/08)

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

I write further to my predecessor's correspondence of 17 March 2010, which informed you of the adoption on 15 February 2010 of the European Council's position on the proposed Directive on industrial emissions (integrated pollution prevention and control) (recast). I am writing to update you on progress.

In early May, the European Parliament Environment Committee voted through a package of 76 proposed amendments to the Council position. These formed the basis of informal "trilogue" discussions between the Council, the European Parliament and the European Commission, with the aim of exploring the possibility of an agreement at second reading.

At the third of these meetings, on 16 June, negotiators for the European Parliament and the Council arrived at a smaller package of amendments that would be put to both institutions as a basis for agreement. The European Parliament is due to vote on this package at the plenary session during the week beginning 4 July 2010. If endorsed by the European Parliament, the Council will aim to agree to this package in the autumn. In this case, we expect the Directive to enter into force towards the end of 2010.

The UK fully supported the Council position and the amendments proposed as part of the package mentioned above make few significant changes to it. In particular, the main concessions secured by the UK in Council, including on large combustion plants and the role of best available techniques (BAT) in permitting, have been largely maintained. The Government can therefore fully accept the package of amendments. I append [not printed] to this letter a tabulation of the more significant changes, some of which provide quite helpful clarification.

I shall write to you again in early July when the outcome of the European Parliament's vote is known.

*28 June 2010*

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

Your letter of 28 June 2010 was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 7 July.

We were grateful to receive this update on the recent “trilogue” discussions about this recast Directive, and we welcome your offer to write again in the light of the European Parliament’s vote in July.

*8 July 2010*

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

Thank you for your letter dated 8 July, in reply to mine of 28 June in which I told you of the “trilogue” discussions about this proposal and the impending vote in the European Parliament.

I am pleased to inform you that on 7 July the Parliament voted overwhelmingly in favour of the package of amendments which had been agreed between negotiators at the last trilogue. After final polishing by “jurists/linguists”, the text will go to the European Council this autumn, as anticipated in my previous letter.

*20 July 2010*

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

Further to my letter dated 20 July, I am pleased to inform you that the European Council approved on 8 November the text of the industrial emissions Directive which was accepted by the European Parliament on 7 July, thus concluding the co-decision process which began with the European Commission’s proposal in December 2007. The Directive is expected to be published in the Official Journal within the next two weeks or so and will enter force 20 days thereafter.

*20 November 2010*

## **POST COPENHAGEN: ACTING NOW TO REINVIGORATE GLOBAL ACTION ON CLIMATE CHANGE (14868/10, 7438/10)**

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

I write in response to your letter of 7 April regarding the Explanatory Memorandum (EM) on the above Communication, and I apologise for the delay in replying. Your Clerks advised my officials that a reply could be sent after the General Election and as you will appreciate it has taken some time since to establish a Government position on this issue.

You note in your letter that you share the view, as set out in conclusions adopted by Environment and European Council in March, that any move to a 30% emissions reduction should be linked to the efforts made by others. The Government believes that it is in the EU’s economic interest to move to a 30% target without waiting for further offers of cuts from other countries, in order to maintain the EU’s competitiveness in the growing low-carbon market.

You requested clarification of the Government’s position in respect of ‘appropriate measures’ to address carbon leakage and the application of carbon tariffs to imports from energy-intensive sectors, in light of Environment Council conclusions exploring this issue in the context of an EU move to a 30% emissions reduction target.

The EU ETS Directive states that measures to address carbon leakage should be reviewed, following an international climate agreement, and cites either revised levels of free allocation or border adjustment mechanisms (carbon tariffs) as possible alternatives to the existing provisions in the Directive (i.e. 100% free allocation based on efficiency benchmarks). While the list of alternative measures cited in the Directive is not exhaustive, discussion to date has focussed on free allocation and border adjustment mechanisms as a means of tackling carbon leakage.

We believe that border adjustment mechanisms (BAMs) are an unhelpful way to address carbon leakage because they risk having protectionist undertones – as reflected in developing country/emerging economy reactions to the BAMs provisions agreed on in the Waxman-Markey Bill in the US. Border adjustment mechanisms are also very complex to administer, with costs for government, business and consumers. This could be further complicated where exports originate

from a country using less carbon-intensive technology, as such countries may seek 'tax credits', creating even more complications to global trade.

The best way to address carbon leakage would be a robust international climate agreement. This would create a level playing field for industry and therefore mitigate the risk. In the interim, we support the proportionate free allocation of allowances as this gives relief to sectors most at risk of carbon leakage, without raising barriers to international trade.

As you will be aware, the Commission adopted on 26 May Communication 10230/10: Analysis of options to move beyond 20% greenhouse gas emissions reductions and assessing the risk of carbon leakage, on which DECC submitted an EM on 16 June. Conclusions were adopted on the Communication by Environment Council on 11 June and subsequently by European Council on 17 June, which take note of the Communication and stress the need for further analysis and examination of the wide range of issues it raises.

You also asked for the Government's view on the suggestion that the 'Team EU' approach which failed in Copenhagen may require an alternative approach before Cancún. Whilst Copenhagen did not meet all of the EU's expectations, we do not believe that this outcome relates to issues of competence. The 'Team EU' approach, where the best negotiators from each Member State lead the negotiations, allows the EU to be well-resourced and to draw on its best talent. In order to improve its performance in the negotiations, we believe the EU needs instead to adopt clearer positions well ahead of key meetings and be better at explaining these to other countries in the negotiations, in particular developing countries.

I hope that this letter answers the Committee's outstanding questions on this EM and I apologise once again for the delay in responding.

*12 August 2010*

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

Your letter of 12 August 2010, replying to my letter of 7 April about the above Communication, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 6 October.

We note your statement that the Government believe that it is in the EU's economic interest to move to a 30% emissions reduction target without waiting for further offers of cuts from other countries. You will know that this is not the view that we have previously expressed. It is clearly the case that the achievability of a higher target is affected by changes in economic conditions, and it would be helpful if you could offer further information about the implications of economic conditions both currently, and over the coming years, for a 2020 target of a 30% reduction. We would also be interested to learn whether the UK intends to press ahead with a 30% reduction target unilaterally should it fail to gain sufficient support from EU partners for the proposed joint increase.

We also note your comments about the "Team EU" approach. In my earlier letter, I referred to the EU's marginalisation in Copenhagen, and to the views expressed by some that this resulted from a lack of clear leadership. You mention steps that the EU should take to improve its performance in the negotiations – timely adoption of clear positions, and better explanation of positions to other negotiating countries. We remain concerned about this issue and would be interested to hear your view on whether these steps are being implemented, and whether you are confident that this approach will mean a properly effective performance in Cancún.

I would be grateful to receive a reply to this letter within the standard deadline of ten working days.

*7 October 2010*

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

I write in response to your letter of 7 October regarding the Explanatory Memorandum (EM) on the above Communication. You asked for information on the implications of economic conditions for meeting a 2020 EU target of 30% emissions reductions; the UK's position on whether to press ahead unilaterally with this target in the absence of sufficient support from EU partners; and our view on whether the steps required for the EU to be more effective in the international negotiations are in fact being implemented. I address each of these issues in turn below.

To begin with the impact of economic conditions on the achievability of a higher target, the evidence shows that the recent economic downturn has lowered the cost of meeting existing and future climate change targets, while at the same time reducing the benefits of such targets which were previously agreed at EU level. Raising the targets can therefore ensure that the additional benefits of

climate change policy can be realised, while ensuring the overall costs of tackling climate change are kept relatively low.

The recession has brought about a significant reduction in Business As Usual (BAU) emissions (emissions in the absence of climate change policy), which has in turn significantly reduced the costs of meeting the existing climate change targets. Provisional estimates suggest that greenhouse gas emissions in the UK were down 8.6% in 2009 (9.8% for CO<sub>2</sub> and 1.9% for non-CO<sub>2</sub>), while verified emissions fell by 11% in the European Union Emissions Trading Scheme (EU ETS) for 2009 compared to the previous year.

While we anticipate a recovery in industrial output in years to come, we (along with market experts) still expect a permanent lowering of future emissions as a result of the recession; estimates based on Bloomberg's European Carbon Market model show current forecasts of BAU emissions are 10% lower in 2020 than if the EU had experienced constant economic growth instead of the recent economic downturn.

This reduction in BAU emissions means that substantially less abatement or 'effort' is required across the EU to meet the existing targets; installations in the EU ETS are now required to undertake only 3.5 GtCO<sub>2</sub> of abatement or project credit purchases across phases II and III of the EU ETS (2008-20), compared to 7 GtCO<sub>2</sub> in a world with steady economic growth.

As a result of these developments, the European Commission recently revised the estimated costs in 2020 of meeting the Climate and Energy Package (a 20% target) down to €48bn, from its pre-recession estimate of €70bn; a reduction of some €22bn. The Commission now estimates that a 30% target will cost the EU €81 bn in 2020, only €11bn (less than 0.1% of EU GDP) more than the costs of the EU achieving its 20% target.

Furthermore, these costs do not take into account the potential benefits of moving to a tighter EU emission reduction target, including improved air quality (estimated to be as much as €10bn - €15bn a year), improved energy security and green growth opportunities across the EU.

At the same time as the economic situation has reduced the cost of meeting the current target, it has also reduced the benefits of the policies introduced in order to deliver this target in sending a price signal for low-carbon investment. The reduction in 'effort' in the EU ETS described above has translated into a significant reduction in the carbon price, which fell from a high of over €30/tCO<sub>2</sub> in July 2008 to a current price of around €15/tCO<sub>2</sub>. The carbon market is one of our key policy drivers to low-carbon investment in both the UK and the EU, and the current carbon price is clearly insufficient to deliver the low-carbon investment required to decarbonise our economy. Such decarbonisation, particularly for our power sector, is a necessity if we are to meet our long-term climate change targets and best position the UK to be competitive in a future low-carbon global economy.

In addition to incentivising changes to power sector infrastructure, the carbon price signal and associated emission reduction targets also drive innovation throughout the economy, encouraging greater private sector investment in Research and Development and deployment of low-carbon technologies. Without a strong target and carbon price signal, we risk losing this innovation or place the burden of funding on the public sector, which is clearly challenging given the current budget deficits across the EU at this time.

The Government believes it to be in the EU's economic interest to move to a 30% emissions reduction target without waiting for further offers of cuts from other countries, and that this forward-leaning position can help unlock ambitious global action on climate change.

In relation to your question as to whether the UK would press ahead unilaterally with a 30% target, we consider that it is important that the EU moves together on climate change, particularly with regard to the EU Emissions Trading System. Over the last few months the EU has made good progress at working level in preparing for a move to 30% by discussing the policy mechanisms that would be required to deliver that target, and a paper on this topic was presented to Ministers by the Belgian Presidency at the recent Environment Council which I attended. We must continue to build on this progress in the coming months and persuade our EU counterparts that it is right to move to 30%. We welcomed the announcement last month by the Danish Prime Minister that Denmark also supports an EU move to 30%.

Lastly, you asked for my view on whether the steps the EU should take to improve its performance in the international negotiations are being implemented, and whether I am confident that this approach will mean a properly effective performance in Cancun. At the recent Environment Council, where the EU's position for Cancun was agreed, I pushed for clarity of messaging on the EU's position with respect to a second commitment period of the Kyoto Protocol, which is a key issue in the negotiations especially for developing countries. The UK will also be pushing for a clear reiteration of this position at European Council at the end of this month. In addition, the EU is heeding the message

from developing countries that it will be crucial to demonstrate progress on delivering on our fast-start finance commitments at Cancun, and is preparing to present a report which will demonstrate the new and additional climate finance the EU has delivered. The EU has a good story to tell here and I am working with colleagues to ensure that we tell it well.

Although the prospects for Cancun remain challenging, communicating the EU's position on key issues in this way will improve our chances of securing the outcome we are aiming for.

*2 November 2010*

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

Your Explanatory Memorandum (EM 14868/10) on the above report was considered by our Agriculture, Fisheries and Environment Sub-Committee on 10 November 2010.

We agree with you that the report gives useful insight into the progress towards achieving the Kyoto objectives being made by Member States. As you point out, however, more recent data about emissions in 2009 are now available, reflecting the impact of economic recession. We are happy to clear the document from scrutiny.

Your letter of 2 November 2010 about international climate change policy (flowing from our scrutiny of the Communication: 7438/10) was also considered by the Sub-Committee on 10 November. We welcome the information that you have provided about the impact of the economic recession on emissions, and we note with interest the points that you make about the implications for the ease with which reduction targets already agreed, or which may be proposed, can be achieved.

We were interested to learn about the efforts that you report to gain support among other Member States for a 2020 target of a 30% reduction in greenhouse gases. Much has changed in the two years since we completed our inquiry into the revision of the EU's Emissions Trading System, when we endorsed the target then agreed in the EU of a 20% reduction. We will be reviewing our position on this key issue; we will of course take account of any further updates you send us on the views of other Member States and, indeed, other countries outside the EU.

We also note what you say in your latest letter about the prospects for an effective performance by the EU in the negotiations at Cancun. Those negotiations will begin at the end of this month. We trust that the EU will take a clear and robust line at Cancun, and we would wish to hear further from you in due course about your view of whether the EU's approach is improved by learning lessons from the experience of Copenhagen in 2009.

*11 November 2010*

#### **RADIOACTIVE WASTE AND SPENT FUEL MANAGEMENT (12939/08)**

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

The Lords Select Committee on the European Union wrote to DEFRA on 16 October 2008 to request further information on EM 12939/08, which DEFRA had submitted. I understand that this outstanding action has only very recently been identified and transferred to DECC, which now has responsibility for the policy area.

The Committee asked for further information on the positions of the Devolved Administrations, in particular that of the Northern Ireland Executive, on the management of radioactive waste. Following consultation, the UK Government and the devolved administrations for Wales and Northern Ireland have set out a policy for managing higher activity radioactive waste in the long-term through geological disposal, coupled with safe and secure interim storage and on-going research and development to support its optimised implementation. While England and Wales have a legacy of long-lived, higher-activity radioactive waste, Northern Ireland has no nuclear facilities and therefore no such legacy requiring disposal. Northern Ireland officials continue to be engaged in the policy process however, acknowledging that it is in the best interests of Northern Ireland that the UK's legacy of higher activity, longer-lived wastes is managed in the safest and most appropriate manner achievable.

However, the Scottish Government does not accept that geological disposal is the right way forward for Scotland and in June 2007 set out its policy for the long term management of higher activity radioactive wastes. A copy of the statement, made to the Scottish Parliament on 25 June 2007, is enclosed [not printed]. The Scottish Government has recently consulted on a Detailed Statement of

Policy for its Higher Activity Radioactive Waste and expects to publish the final Policy in the Autumn 2010.

The policy for low-level radioactive waste is the same across the UK, as set out in the White Paper "Policy for the Long Term Management of Solid Low Level Radioactive Waste in the United Kingdom", of 26th March 2007.

The Committee also asked for an account of whether, and if so how, other Member States' positions have changed since 2004, when the 'nuclear package' of Directives was rejected by the Council. As a result of the UK's and other Member States' strong opposition and rejection of the proposed 'nuclear package', the various elements of the package have been split up and are being put forward as separate issues for consideration by Member States. Council Directive 2009/71/EURATOM was adopted on 25th June 2009 and establishes a Community framework for the nuclear safety of nuclear installations. The Directive came into force in July 2009 and will be implemented by the UK within the July 2011 deadline.

Council Conclusions on the safe management of spent fuel and radioactive waste were adopted in November 2009. The scope and content of a proposed EC Directive are currently being considered by the European Nuclear Safety Group (ENSREG) at the request of the Commission. As a member of ENSREG, the UK, in consultation with the devolved administrations and regulators has been heavily involved in the development of recommendations to the Commission. The approach taken by ENSREG is to base the proposal on the existing principles of the International Atomic Energy Agency's Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management. A formal draft Commission proposal is expected by the Autumn of this year.

On the request for clarification on the types of measures that the UK would consider to infringe national sovereignty on nuclear safety, I understand that the issue on European Atomic Energy Community competence in the field of nuclear safety was addressed in a response dated 15th June 2009 to the Chairman of the European Scrutiny Committee and copied to the Chairman of the Select Committee on the European Union.

I hope that this letter answers the Committee's outstanding questions on EM 12939/08.

*27 May 2010*

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

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

Your Explanatory Memorandum of 18 June 2010 was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 June 2010.

On 30 March of this year, the Committee published the report of its inquiry into "Adapting to climate change: EU agriculture and forestry". Evidence from the European Commission included reference to this joint programming initiative (JPI), and formed part of the background to the Committee's finding that the EU had an important role in identifying gaps in research and encouraging Member States to plug them.

We are pleased that, in co-operation with France's INRA, the BBSRC is playing a leading role in the JPI which is the subject of this recommendation. We are keen to be kept informed of progress, and in particular we would ask you to ensure that we see the strategic science vision on priority EU-level activities when it is produced early in 2011. Meanwhile, we are content to release the document from scrutiny.

In its March 2010 report, the Committee made clear its view that the UK's capacity in agricultural research needs to be strengthened in order to inform policy and adaptation to climate change more effectively. I hope that, with your colleagues in Defra and elsewhere, you will bear this recommendation in mind in looking at research capacity more generally, recognising as well the significant economic benefits that can result from research.

*1 July 2010*

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

I am writing in connection with the above Explanatory Memorandum. You cleared this as not legally or politically important and asked to be kept abreast of developments with this Joint Programming

Initiative (JPI) on agriculture, food security and climate change. I am pleased to update you on recent developments.

The Biotechnology and Biological Sciences Research Council (BBSRC) is the joint lead in this JPI with the leading French agricultural research centre INRA.

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

BBSRC hosted the second meeting of the JPI's Scientific Advisory Board (SAB) on 16 September in London. At this meeting the SAB further defined its scope and vision document, and confirmed five core themes which were presented to the Governing Board on 21 September in Paris.

- Integrated food security under climate change, based on an integrated food systems perspective: modelling, benchmarking and policy research perspective;
- Sustainable intensification of agricultural systems under current and future climate and resource availability;
- Optimizing trade-offs between agricultural production and the preservation and utilization of biodiversity, ecosystem goods and services;
- Adaptation to climate change throughout the whole food chain, including market repercussions; and
- Mitigation of N<sub>2</sub>O and CH<sub>4</sub> emissions by the agriculture and forestry sector, carbon sequestration and reducing greenhouse gas emissions associated with indirect land use change.

The Governing Board also formally adopted Switzerland and Belgium as partner countries, bringing the number of participating countries up to 22.

They also adopted a draft proposal to FP7 for resource for the secretariat which will be submitted to the European Commission in October. This will request resource to: establish a formal secretariat function to the JPI; develop mapping activities (of which the EU Committee's report is an important component); develop interactions with global initiatives; and consult on the developing strategic research agenda.

I also attach [not printed] a presentation given recently to GPC, the high-level group on joint programming, which provides more detail on this initiative.

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

*15 October 2010*

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

Your letter of 15 October 2010 was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 27 October 2010.

We were pleased to receive the further information about the progress of this initiative, in the light of the meeting on 16 September of the JPI's Scientific Advisory Board. We note the core themes confirmed at that meeting. We were struck by the absence of any explicit reference to animal welfare, although this may be an element of the research envisaged into the theme of the sustainable intensification of agricultural systems.

We remain of the view that this initiative is of particular interest in the context of our current inquiry into innovation in EU agriculture. At official level, we are in touch with the BBSRC about the possibility of receiving direct input from that organisation. However, we would welcome any further updates that you may yourself wish to provide to us as the initiative progresses, including your view of any wider implications that the Government may see for research efforts in relation to the future challenges for the agricultural sector.

*28 October 2010*

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

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

Your predecessor's letter of 13 April 2010 about these proposals was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 30 June 2010.

Mr Irranca-Davies explained that, while the UK agreed that EU action could help to ensure soil protection, the Government considered that the Directive proposed would impose unnecessary burdens. He also described the approaches being made by the Department to engage constructively in EU discussion of the issues concerned.

We shall keep these documents under scrutiny and would ask that you keep us informed of significant developments in any discussions under the Belgian Presidency.

*1 July 2010*

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

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

Thank you for your letter of 10 December 2008 following the Committee's consideration of the above Explanatory Memorandum. You will be aware from my predecessor's letter of 2 December 2008 that this proposal was brought forward sooner than had been expected, due to an additionally scheduled Agriculture Council at the end of November 2008. Therefore it was necessary for the Government to override the Scrutiny Reserve Resolution and vote in favour of the proposal.

We believe that the import arrangements for sugar under the Sugar Protocol were of considerable financial benefit to the ACP countries for many years as they were able to benefit from high EU sugar price levels. These have tended to be substantially above the world sugar price which would otherwise have represented the option available to the producers in either their domestic market or some alternative export markets; at times the EU prices have been as much as four times world price levels. Such high price levels were unsustainable in the EU and were one of the main drivers for the EU sugar reform. This included a phased 36% reduction in the EU reference price (and corresponding price for ACP imports). Current market conditions mean that world sugar prices exceed the EU's reference price by around 26%. However, if sugar prices revert to historic levels, the EU's reforms will mean that ACP countries will no longer be able to rely on a preferential price margin when exporting sugar to the EU. It was in this knowledge that a transitional assistance programme for the affected ACP countries, known as the Accompanying Measures for Sugar Protocol (AMSP) countries, was negotiated in parallel with the reforms.

At this time, the success of the AMSP programme can only be approximated on the basis of disbursement figures. As of April 2009, of the €350.8 million allocated for 2006-2008, approximately 30.7% (€101.8 million) has been disbursed. However, results vary greatly from country to country, with only two countries having disbursed more than 50% of allocated funds (Mauritius and Jamaica, who have disbursed 53.2% and 55.6% respectively). On the other hand, eight countries have disbursed less than 10% of their allocated funds (Barbados, Belize, Congo, Fiji, Mozambique, Swaziland, Trinidad and Tobago, and Zambia).

In preparation for the second phase of the AMSP, recipient governments will submit disbursement plans to the EU Commission incorporating lessons learned from the 2007-2010 period. DFID officials are in contact with the relevant Commission services in Brussels, and DFID regional offices, and will continue to monitor the disbursement situation.

In the four years of the sugar restructuring scheme, a total of 5.8 million tonnes of quota was renounced. This was very close to the initial 6 million tonnes objective of the Commission. The Commission declared this a success and did not impose a further uncompensated cut for the remaining 0.2 million tonnes (please see the Annex to this letter for a detailed breakdown by year and country) [not printed]. The reforms saw the end of production in five EU Member States and major production-quota reductions of between 44.6% and 74% of nationally allocated quotas in a further six EU Member States. All the other sugar-producing EU Member States also contributed to the process of quota reduction, giving up between 4.1% and 24% of national beet production quotas. As a consequence, EU sugar production is concentrated in the seven Member States with the highest sugar yields, with these countries accounting for 70% of EU sugar production.

In the UK, British Sugar relinquished 13.5% (165,000 tonnes) of their quota. They closed and demolished under the scheme their factory at York. At the same time the factory at Alscott was closed outside of the scheme. With the closure of these factories, production was focused at British Sugar's remaining four sites.

British Sugar purchased a controlling interest in Illovo Sugar in South Africa and is developing refining capacity in Cadiz. Earlier this year they agreed a new Inter-Professional Agreement with the NFU establishing a sound contractual basis to take UK industry forward.

The success of the Restructuring Scheme will leave the EU sugar industry on a much more sustainable footing for the future. Production at the lower price levels will be more closely matched to consumption, with production no longer leading to a structural surplus. Overall, however, I feel it remains a little too soon to make a full assessment of the impact of the reforms on competition in the EU sugar sector and on whether further reform can be anticipated. It is also really too early to comment on intra-EU trade in sugar since the reforms. However, early indications are that there is increased competition, with producers now selling increasingly into other Member State markets. We will have a better understanding of the effects of the reforms once an economic evaluation is completed. Our Economics Department have invited expressions of interest for a study to be undertaken next year.

You will also be interested to know that our Statistics section has been working on a report on the recent changes on the area of sugar beet in England. This report is due for publication at the end of August. I will arrange for a copy to be forwarded to you once it is available.

Finally, I should say that at this stage that it is unclear whether further reforms of the EU sugar sector will be incorporated into the upcoming reform of the Common Agricultural Policy.

*9 August 2010*

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

Your letter of 9 August 2010, replying to mine of 10 December 2008, was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 6 October. We were grateful for the information that you provided, but we would like to follow up on the issue of the effect on ACP countries.

You refer to the transitional assistance programme for the affected ACP countries, known as the Accompanying Measures for Sugar Protocol (AMSP) countries, and you say that the success of the AMSP programme can currently only be approximated on the basis of disbursement figures. You explain that, at April 2009, of the €350.8 million allocated for 2006-2008, approximately 30.7% (€101.8 million) has been disbursed (with wide variations from country to country). It would be helpful if you could provide further information on why such a low proportion of the allocated funds were disbursed in the period concerned. I would be grateful to receive a reply on this within the standard period of ten working days.

You also state that recipient governments are to submit disbursement plans to the European Commission incorporating lessons learned from the 2007-2010 period. Once those plans have been submitted and considered, we would welcome information from you on the lessons learnt.

*7 October 2010*

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

Thank you for your letter of 7 October regarding Explanatory Memorandum 14122/08, replying to my letter of 9 August. You asked for more information on the effect on ACP countries and in particular if the Accompanying Measures for Sugar Protocol (AMSP) countries was judged a success. You were concerned about low disbursement rates in this programme as well requesting information on the lessons learnt from the 2007-2010 period. My officials have been in contact with colleagues in the Department for International Development for relevant figures, so that I may reply to you, and I apologise for the short delay this has caused in replying.

Defra has now received the updated disbursement figures from the European Commission on disbursement rates from 2006 to 2009. They are set out in Table I below:

Table I. Percentage of allocated funds paid to total AMSP countries for the period 2006-2010.

	Percentage
2006	84

2007	70
2008	32
2009	20

Source: European Commission and HMG calculations.

As can be noted, there is a significant lag in disbursing funds. The UK government has consistently pushed the European Commission to improve its project management in order to disburse funds quickly when they are most needed. We are currently awaiting detailed responses from the Commission as to the reasons for this continued low disbursement.

Annual actions plans for AMSP countries for 2010 are currently being released by the European Commission. The UK government has so far provided comments on the annual plans of Barbados, Belize, Guyana, Jamaica and St. Kitts and Nevis. The overall comment is that targets are not realistic and will result in low disbursement.

Once all of the annual action plans have been released and we have received an explanation from the European Commission as to the reasons for low disbursement and how it has incorporated lessons learnt into future programming, we will share this information with the Select Committee.

*10 November 2010*

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

Your letter of 10 November 2010, replying to mine of 7 October, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 24 November.

The further information which you have provided about the rates of disbursement of funds under the transitional assistance programme (to AMSP countries) strengthens our concern about the effectiveness of this programme. We would urge you (and your colleagues in the Department for International Development) to press the European Commission to provide an early explanation of the reasons for the low disbursement rates. We shall of course be keen to hear from you about this explanation.

In addition to the views of the European Commission and the UK Government, we would be interested to know what views have been expressed by the governments of the AMSP countries themselves, about their experience of the programme. Could you let us know what has been done in this respect, what those governments have said, and how their comments are being taken into account in assessing the programme? I would be grateful to receive a reply on this within the standard period of ten working days.

*25 November 2010*

#### **THE TSE ROADMAP 2: TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES FOR 2010-2015 (12380/10)**

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 6 October 2010.

This is a very important subject for both animal and public health. We agree with the Commission that legislation should be based on the best available science, and it is clearly of paramount importance that public health be protected.

It is very disappointing that the Government have not taken a substantive view on the content of the Communication, despite the fact that the UK is the Member State that has been most affected by the required TSE measures thus far, and might therefore benefit from an easing of the provisions. We would thus ask that you provide us with your view, and how you intend to work with the Commission in taking these issues forward.

One particular issue that we are aware has been the subject of discussion for some time is the ban on feeding fishmeal to ruminants. We would welcome information on where that issue currently stands in terms of both public policy and scientific evidence.

Similarly, the Commission proposes that scrapie eradication measures ought to be brought into line with the latest scientific knowledge. Could you, please, apprise us of the current state of that knowledge.

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

*7 October 2010*

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

Thank you for your letter of 7 October about Explanatory Memorandum (EM) 12380/10 of 3 August 2010 on the European Commission's TSE Roadmap 2.

As explained in the EM, Defra and the Food Standards Agency planned to consult on the TSE Roadmap 2. I wanted to await the results of the consultation before confirming the Government's substantive view. The informal consultation closed on 25 August 2010. It informed the Government's policy on the TSE Roadmap 2 and its response to a questionnaire from the Belgian Presidency on Member States' priorities. I attach a copy [not printed] of the UK's response which makes it clear that comments were subject to a scrutiny reserve. The Presidency is now finalising draft Council conclusions for possible adoption at the Agriculture and Fisheries Council in November.

The Government supports a risk-based, proportionate approach that eliminates any unnecessary burdens. The changes to TSE measures envisaged in the TSE Roadmap 2 depend largely on other factors, in particular supportive scientific advice from the European Food Safety Authority (EFSA). We expect a number of relevant EFSA opinions in the next six months and I look forward to the Commission bringing forward new legislative proposals under the TSE Roadmap 2 in 2011.

You asked specifically about fishmeal and scrapie. Fishmeal is a valuable source of protein and minerals in feed. It is not considered to be a TSE risk and improved test performance has increased the ability to detect traces of contamination of fishmeal with meat and bone meal. We consider that the current situation, in which the EU does not allow a tolerance of even traces of fishmeal in adult ruminant feed, but in which it has approved the use of fishmeal in milk replacer for young ruminants, to be anomalous and disproportionate.

Both classical scrapie and atypical scrapie have been present for a number of years and neither disease is known to pose a risk to human health. There is increasing evidence that atypical scrapie is poorly contagious, if at all. Both diseases occur at a low prevalence in the UK. We would like to see more proportionate controls on scrapie but future EU policy will depend on EFSA opinions and on the EU Court's judgement in a legal case brought by France against the Commission.

*18 October 2010*

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

Your letter of 18 October in relation to the above Communication was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 3 November 2010.

We are grateful for your comprehensive response but would welcome clarification on one further issue, namely, the involvement of the Food Standards Agency. We would like to know to what extent the Agency has been involved in consultations on the Roadmap, and also what role the Agency will play in implementation of actions agreed under the Roadmap.

We look forward to your response to the above issues within ten days.

*5 November 2010*

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

Thank you for your further letter of 5 November about Explanatory Memorandum 12380/10 of 3 August 2010 on the European Commission's TSE Roadmap 2.

The informal public consultation referred to in my letter of 18 October, was carried out jointly by Defra and the Food Standards Agency (FSA). Further details are available on Defra's website at <http://www.defra.gov.uk/corporate/consult/tse-roadmap/index.htm> and on the FSA's website at <http://food.gov.uk/news/newsarchive/2010/jul/tse>. The Government's response to the questionnaire from the Belgian Presidency on priorities arising from the TSE Roadmap 2 was prepared jointly by Defra and the FSA.

The FSA will provide advice to Ministers on the food safety implications of the Commission's detailed proposals arising from the TSE Roadmap 2. The FSA is also responsible for implementing any changes to controls on specified risk material (SRM) such as brain and spinal cord.

*16 November 2010*

## TIMBER AND TIMBER PRODUCTS (14482/08)

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

I would like to update you on progress made towards the agreement of an EU Regulation laying down the obligations of operators who place timber and timber products on the market – commonly called the timber Due Diligence Regulation. The Regulation aims to tackle the illegal timber trade by requiring operators first placing timber on the EU market to exercise due diligence to ensure that the timber has been legally harvested in the country of origin.

The European Council reached a common first reading position on 28 January of this year. The UK, Belgium, Denmark and Spain abstained from the vote on the grounds that it did not prohibit illegal timber from entering our market, and the Netherlands voted against. The dossier went forward to European Parliament, who adopted their amendments at Committee on 4 May.

Officials from the Commission, the European Parliament and the European Council negotiated a compromise agreement in June, and the European Parliament voted in favour of this agreement on 7 July. The document (which has not yet been made public) will be tidied up by lawyer linguists, before it is adopted in Council by Ministers after the summer recess.

This will give us a strong second reading deal which will prevent illegal timber from entering the EU market. The compromise position was reached following the inclusion of a prohibition on the first placing of illegal timber on the market – a UK priority. It also includes a traceability requirement for businesses down the supply chain that will allow enforcement agencies to track illegal timber back to the first placer and identify any weak entry points. Member States must put appropriate enforcement measures in place.

We are committed to formalising this agreement in the autumn and to implementing this measure in the UK by the end of 2012 to fulfil our objective of eliminating illegal timber from our market.

*16 July 2010*

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

Your letter of 16 July 2010 about this proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 28 July 2010.

We were grateful for the update that you have provided about the progress of negotiations on the proposal, and welcome the fact that the latest compromise agreement meets the UK's concern about a prohibition on the first placing of illegal timber on the market.

In earlier correspondence, your predecessor at Defra told us that a second major political issue was an exemption for small operators. It would be helpful if you could also update us on developments on this issue; we are content to hear from you on this by the end of September of this year.

*28 July 2010*

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

Thank you for your letter of 28 July in which you ask for an update on the political issue of exemptions for small operators. As highlighted in correspondence with my predecessor at Defra, the United Kingdom was opposed to the inclusion of an exemption for small domestic producers and operators, on the grounds that such an exemption would weaken the Regulation. The exemption was proposed by a number of Member States who were concerned about the impact of the Regulation on their domestic producers and operators. However, the United Kingdom, along with several other Member States, maintained that such concerns were unwarranted as European producers will only be required to comply with existing national legislation.

Text outlining a small operator exemption was subsequently removed from the Regulation. The informally agreed text allows Member States, with Commission assistance as appropriate, to provide

technical assistance and guidance to operators, taking into account the situation of small and medium-sized enterprises, in order to facilitate compliance with the Regulation.

I would also like to take this opportunity to provide an update on the progress of the Regulation, which as you know was agreed by the European Parliament on 7 July following the negotiation of a compromise agreement between the European Parliament, Council and Commission. Article 294(7) of the Treaty on the Functioning of the European Union requires the Commission to deliver an opinion on the amendments proposed by the European Parliament at second reading and amend its proposal accordingly. The most significant of these amendments for the UK was the inclusion of a prohibition of the first placing of illegal timber on the EU market, for which the UK lobbied hard. The UK was able to accept all of the Parliament's additional amendments, which relate to monitoring organisations, risk assessment criteria and the obligations of internal traders in relation to traceability provisions. The text of the Regulation is now being finalised by lawyer linguists, and is likely to be formally agreed at a Council of Ministers in October.

*2 October 2010*

## UN ENVIRONMENT PROGRAMME (UNEP): MERCURY (14390/10)

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

Your Explanatory Memorandum (EM) on the above draft Recommendation was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 3 November.

We note your concern that the Commission is seeking to negotiate in areas over which it has limited competence. You do not explain your concern about the implications of the Commission taking the lead, and we would therefore be grateful if you could explain this more fully.

We would accept that the Commission's approach should be treated with caution, but the rationale, namely the need for coherence in negotiation, cannot be ignored. Have you an alternative approach in mind which would ensure that the need for such coherence was met?

Agreement will need to be reached in Council on this Recommendation and we would therefore welcome information on the balance of debate among Member States and your assessment of the prospects for agreement. We will retain the draft Recommendation under scrutiny and look forward to your response within ten working days.

*4 November 2010*

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

Thank you for your letter of 4 November seeking further advice on the Explanatory Memorandum on the above draft recommendation which was considered by the Agriculture, Fisheries and Environment Sub-Committee at its meeting on 3 November.

You have asked for an explanation regarding our concerns about the Commission taking the lead on behalf of the EU in all matters in international negotiations. In the field of the environment there is a significant degree of Member State competence. We believe that it is necessary, both on institutional and procedural grounds and on political and strategic grounds, to ensure that the ability of Member States to act within their own competence externally is not undermined. This is because Member States have a significant contribution to make and have the right to do so. Much of the subject matter is very important to the UK's aims on environment and sustainable development, particularly in the field of climate change and biodiversity. Once external powers are conceded, it will be very difficult to repatriate them, since what happens in one forum is often cited as a precedent elsewhere, leading to the real risk that Member States are sidelined in important international fora such as these.

I note your concern about the need for coherence in negotiation, but for those areas which are not included in a mandate to the Commission I am satisfied that coherence is maintained by the common view, which incorporates the position of all Member States and the Commission, being presented through the rotating Presidency. An effective team approach is invariably employed, with the Member States and Commission agreeing on the best experts for the roles in these areas. Such arrangements were used to best effect in the recent biodiversity meetings in Nagoya where some issues were covered by an EU mandate and others were not, and I believe these will serve us well in the above negotiations also.

*17 November 2010*

**Letter from the Chairman to Lord Henley**

Your letter of 17 November on the above draft Recommendation, replying to my letter of 4 November, was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting on 24 November.

In the light of the further information that you have provided about your concern that the Commission is seeking to negotiate in areas over which it has limited competence, and about the prospects for coherence in negotiations, we are content to release the draft Recommendation from scrutiny.

*25 November 2010*

**WASTE SCRAP METAL (15453/10)**

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

Your Explanatory Memorandum of 10 November 2010 about this proposal was considered by our Sub-Committee on Agriculture, Fisheries and Environment at its meeting on 24 November 2010.

We are content to release the proposal from scrutiny.

*25 November 2010*