



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

This edition includes correspondence from 1 November 2012 – 8 May 2013

AGRICULTURE, FISHERIES, ENVIRONMENT AND ENERGY

(SUB-COMMITTEE D)

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ACCESS TO GENETIC RESOURCES (I4641/I2)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 7 November 2012.

We consider that the proposed harmonised EU approach to user compliance in order to implement the benefits sharing aspect of the Nagoya Protocol is justified and our initial view therefore is that the proposal does not breach the principle of subsidiarity. We would welcome further analysis from you on the issue of subsidiarity once complete.

You have concerns about the proposed EU database of trusted sources. We note the Commission's argument that it would add a focus on the quality of research material used and it would alleviate the need for those acquiring materials from collections to undertake all aspects of due diligence, thus reducing overall costs. How do you respond to the Commission's arguments in defence of the Union trust collections proposal?

Another concern that you raise is the question of whether the proposed Union platform on access needs to be established by means of a Regulation. As you support the concept of the platform, we would welcome clarity on why you have concerns about its establishment by a Regulation and how else you would choose to do so. On the same issue, it seems to us that the sharing of such information would have application and benefits beyond the EU and so we would welcome your views on whether such a Platform might more effectively be established at an international level, or at least with a wider membership?

Underpinning this entire discussion is the ability of administrations to monitor user compliance. Your EM lacked clarity on this matter. Are you confident that the UK and other administrations around the EU and globally will be able to monitor user compliance effectively? What efforts are being made to identify solutions?

Finally, we note that the Commission has proposed that best practice should be recognised and shared via an internet-based register. This seems like a sensible idea but we note that responsibility for accepting, rejecting and removing a method would be the responsibility of the European Commission. Do the Government consider that the Commission has sufficient resources to take on this responsibility? Have any UK stakeholders reacted to this aspect of the proposal at all?

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

8 November 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 8 November regarding the above proposal.

As requested, the Government will provide more information on subsidiarity in due course. We would, however, note that our concerns are with some specific aspects of the proposal and not with the general idea of an EU Regulation on Access and Benefit Sharing (ABS).

As regards the Commission's proposal to establish a system of trusted collections, we are aware that stakeholders have some concerns and are working with them to identify those concerns and find workable solutions. For example, there is concern that the proposal could create significant cost and administrative burdens for some organisations as it adopts and enshrines in EU legislation the practices of a particular body. Not all collections currently adhere to this body or its practices, which may mean that its adoption in the Commission's proposal could create disproportionate burdens for collections in some Member States where its use is less prevalent. The work we are undertaking with stakeholders will help us to determine the extent to which these concerns are valid.

A separate issue of concern is the role attributed to the Commission in removing trusted collections from the database. This power seems to be unnecessarily broad and insufficiently linked either to the remedial actions that it is proposed Member States should take or to evidence of non-compliance by a particular collection.

We are not supportive of the Commission's proposal for a Union Platform on Access. This is because:

- Access to genetic resources is a matter of national sovereignty for the Member States. We (and other Member States) have concerns that the introduction of a Union platform on access could be used by the Commission to assert competence in this area and require Member States to regulate access to their genetic resources;
- Only one EU Member State has expressed an interest in regulating access to its genetic resources. A harmonised approach to access is not therefore justified and this is recognised by the Commission;
- we are of the view that any such Platform or body could be better engaged in considering issues related to measures to support implementation of the Nagoya Protocol and of the EU Regulation, such as model contractual clauses, best practices and codes of conduct;
- Given that the platform would consist only of representatives from the Commission and the Member States, we do not see the value in establishing an additional body to the Committee envisaged in Article 11 of the Commission's proposal. That Committee would be equally able to consider the matters we identify in point (iii) above.
- If the platform were to involve a wider group of stakeholders this could well be established outside of any proposed regulation through a Council Decision for example, this could also serve to have a broader reach than actors from within the EU.

We would also note that the Nagoya Protocol already contains provisions related to exchange of information in its Article 14 (The ABS Clearing House Mechanism and Information Sharing); Article 19 (Model Contractual Clauses); and Article 20 (Codes of Conduct, Guidelines and Best Practices and/or Standards). Information exchange at international level will also take place through Meetings of the Parties to the Nagoya Protocol.

Monitoring user compliance is dealt with in Article 17 of the Nagoya Protocol. Whilst enforcement will certainly be challenging, particularly in the initial stages of implementation of the Protocol, we are of the view that the due diligence requirements set out in the Commission's proposals strike a good balance between the need to ensure user compliance whilst avoiding over-burdensome legislative requirements that could stifle research and development and consequently adversely impact economic development and growth. We would also note that the due diligence approach is being used by the Commission under the FLEGT (Forest Law and Environmental Governance in Trade) Regulation and we will carefully consider any lessons learnt from the implementation of that Regulation when developing our response to the ABS proposal.

We have not as yet received any feedback from stakeholders regarding the Commission's proposal for registration of best practices and are actively seeking input from them – including through a stakeholder meeting which will take place in December, before detailed discussion of the Commission's proposal commences in Brussels in early 2013. Our initial view is that there should be appropriate input from the Member States as to what constitutes best practice and that this could also be a function of the Union platform, if established or of the Article 11 Committee if it is not.

15 November 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 15 November on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 28 November 2012.

On the proposed system of trusted collections, we were pleased to read that you are working with stakeholders to identify concerns and find solutions. This is clearly essential. Above all, the impact on research and development must be positive, rather than detrimental, if the system is to be worthwhile.

We would agree that the power of the Commission to remove trusted collections from the database appears unnecessarily broad. We expect that you will pursue this issue with the Commission and would be interested to learn of any solutions that emerge. Clearly, it would seem sensible to involve experts in some way.

You provide a robust explanation of your position on a Union Platform on Access, which we accept and look forward to an update on once negotiations are under way.

On the final point, relating to best practices, our own understanding is that stakeholders are supportive and see this idea as very welcome in principle, while recognising that best practice for one institution or group may not work for another.

We note that you will be holding a stakeholder meeting in December. Information on your updated position further to that meeting and any additional intelligence from other Member States, as well as your analysis of subsidiarity concerns, would be welcome in due course.

We will retain the proposal under scrutiny.

30 November 2012

AGRICULTURAL PRODUCTS (8441/12)

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

Thank you for your letter dated 18 October 2012 asking for details of the distribution of the EU promotions budget by nation and sector. I am replying as Minister responsible.

The most practical way to answer the Committee's latest query is to provide you with copies of the Commission's programme approval notices from 2007 to 2011. These tables are issued twice a year and list, by Member State, products and target countries, successful applications for co-funding. Each programme's budget is shown followed by the European Community contribution, which is generally 50%. Up to and including 2011 there were two funding rounds: one covered Internal Market (IM) bids whilst the other covered Third Countries (3C).

I also enclose a summary spreadsheet [not printed] indicating the annual split between IM and 3C programmes. Please note that these figures will not mirror the outturn figures previously provided, because the annual approvals cover funding awards for programmes scheduled to run over a rolling period of three years, i.e. they do not solely relate to the expenditure for the year of approval. Also, new programmes generally start several months after they have been approved.

6 December 2012

Letter from the Chairman to David Heath MP

Your letter of 6 December 2012 on the above issue was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 12 December 2012.

The Committee is grateful for your informative reply, particularly the useful copies of the Commission's programme approval notices from 2007 to 2011. We would welcome your view on whether you consider the UK to be taking sufficient advantage of these schemes. Have any UK applications been turned down and, if so, why? If you judge there to be a lack of interest among UK stakeholders, why do you consider that to be so and how might increased interest be generated?

13 December 2012

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

Thank you for your letter of 13 December asking about the UK's participation in the EU Promotion scheme.

The EU regulations require that promotion measures should be co-funded with the Commission providing funding of up to 50% and the proposing organisation of at least 20% and up to 50% funding. There is also discretion for Member States to provide funding of up to 30%. When the regulations were originally negotiated the UK took the decision that no Government funds would be made available to support the scheme. However, there is provision for the proposing organisation and/or Member state contributions to be met by para-fiscal charges or compulsory contributions. Since UK applicants are required to provide the full 50% co-funding themselves, the majority of proposals, but not all, come from organisations with access to levy money.

In recent years the UK has had a fairly consistent success rate in the annual rounds for internal market bids as follows:

- Quality Meat Scotland
- Dairy Council (GB & NI)
- Horticultural Trade Association
- Milk Marketing Forum
- Agriculture & Horticulture Development Board/Potato Council (multi-Member State bid with Belgium and France)
- Sustain (representing UK organic sector); this campaign was not co-funded by levy money, but by contributions from interested organisations.
- In 2011 HCC (Meat Promotion Wales) received approval for its proposal to promote PGI Welsh Lamb in Germany, France, Italy and the UK.
- Following the 2011 E-coli crisis, the Commission held an emergency fruit and vegetable promotion round at the end of the summer. The British Leafy Salad Association (BLSA) was successful in its bid for a UK information programme, to promote the benefits of eating leafy salads.

A small number of our bids have been rejected, but this is not peculiar to the UK – it applies to all the 27 Member States who are submitting applications. Given the number of bids submitted by UK organisations, we have a relatively high success rate. However, the Commission has been tightening up its selection process and has made it clear that it will only accept well presented, coherent programmes emphasizing the quality, safety and nutritional benefits of European agri-produce. They are also discouraging Member States from putting forward proposals which just target their own country.

The UK has historically not had any applications for third country programmes, probably as a result of strict branding publicity restrictions which might deter UK organisations. However, this is something which the Commission has indicated it might look at in the reform of promotion measures to see whether these measures could be eased, although without allowing individual promotion of specific brands.

27 December 2012

Letter from the Chairman to David Heath MP

Your letter of 27 December 2012 on the above issue was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 16 January 2013.

The Committee is grateful for your informative reply, particularly regarding the UK's fairly consistent success rate in the annual rounds for internal market bids. We are pleased to note that the UK – compared to the over 26 Member States – has a relatively high success rate.

Please mark this strand of correspondence as closed.

17 January 2013

ALTERNATIVE METHODS TO ANIMAL TESTS IN THE FIELD OF COSMETICS (14354/11)

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

I am writing in reply to your letter of 18 January 2012 which in turn was in response to Edward Davey's of 8 December 2011 on the above mentioned report and in particular on the 2013 marketing deadline in the European cosmetic products safety legislation.

Your letter informed us that the 2009 Report would be kept under scrutiny by the Agriculture, Fisheries and Environment Sub Committee. I am now writing to you to inform you of the latest developments in this area.

At the time that Edward Davey last wrote we expected the European Commission to make a decision on whether or not to bring forward a legislative proposal on the 2013 marketing deadline in respect of cosmetics tested on animals. Any such proposal would have been the subject of a new Explanatory

Memorandum as your letter identified. However, the European Commission has since made clear that it will not be making a proposal in this area and that the full marketing ban will come into effect as foreseen by the Cosmetics Directive (76/768/EEC).

To this end, the European Commission has issued a Communication to the European Parliament and the Council on this matter and the need for the continuous development and validation of replacement test methods. The Communication and related documents (including the Impact Assessment can be found at:

http://ec.europa.eu/consumers/sectors/cosmetics/animal-testing/index_en.htm .)

14 March 2013

Letter from the Chairman to Jo Swinson MP

Your letter of 14 March 2013 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We are grateful for your helpful response regarding the status of the 2009 Report and progress from the European Commission. We have now received a new Explanatory Memorandum (EM) on the Communication you referred to in your letter, and so we will continue to scrutinise this area through the new EM (7762/13).

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

25 April 2013

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

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 April 2013.

We understand that this Communication is not a legislative proposal, but we would disagree that it inherently does not raise any subsidiarity issues without having any regard to the content of the document. When assessing any document from the Commission, we expect the Government to assess whether policy initiatives suggested might, if they were to come to fruition, breach the principle of subsidiarity. While that is not the position in this instance, we impress upon you the importance of assessing all Commission documents for potential breaches of subsidiarity, rather than purely legislative proposals.

We note that the Government indicate strong support for the Commission's position, in line with the conclusion of the Commission's Impact Assessment. We are similarly supportive of this approach, particularly in regard to the increased focus on alternative methods to animal testing and greater international cooperation.

While we recognise that only the European Court of Justice can provide a legally binding interpretation of the scope of the 2013 marketing ban, the Commission has responsibility for overseeing its application. Uniform interpretation and implementation are critical, and we therefore support your intention to work with the Commission and other Member States to ensure a level playing field.

The cooperation of other Member States and their competent authorities will be pivotal to the success of the marketing ban. We would therefore be interested in any information that you may have on the level of agreement and support for the Commission's position among other Member States.

We are content to release this Communication from scrutiny, and look forward to your response within 10 working days.

25 April 2013

BALANCE OF COMPETENCES: CALL FOR EVIDENCE

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

I am writing to you regarding the Review of the Balance of Competences launched by the Foreign Secretary in July 2012. As part of the commitment in the Government's Coalition Agreement to examine the balance of competences between the United Kingdom and the European Union, the Department for Environment, Food and Rural Affairs (Defra) and the Food Standards Agency (FSA) are leading a review in the areas of animal health, animal welfare and food safety.

Defra and the FSA are launching call for evidence on 27 November as part of the Animal Health, Welfare and Food Safety review. Interested parties are invited to provide evidence with regard to political, economic, social and technological factors relating to this review. I am writing to extend an invitation to your Committee to present your submissions to the call for evidence (attached) [not printed] which sets out the scope of the report and includes a set of broad questions on which we ask contributors to focus. The deadline for submissions is 28 February 2013.

The Animal Health, Welfare and Food Safety report will be completed by June 2013 and will focus on the issues associated with protecting animal health, welfare and food safety. Maintaining a strong internal market whilst allowing sufficient national and local choice on issues such as how to deal with risk creates some challenges and tensions. A key question for this review will be whether the benefits to the UK of protecting the functioning of the internal market justify the high level of EU competence in this area.

My officials would be happy to arrange a meeting should you wish to discuss this matter further.

26 November 2012

BATTERIES AND ACCUMULATORS CONTAINING CADMIUM (8245/12)

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

You wrote to Greg Clark on 28 June 2012 noting that this proposal was not discussed at Council on 11 June and requesting a further update on this dossier once there was something substantive to report.

Your Committee is already aware of the slow progress on this dossier and I can confirm that nothing substantive happened during the Cypriot Presidency and the file was passed to the Irish Presidency. Finally on 20 March, the European Parliament Environment Committee (the EP Committee) agreed a series of amendments.

The EP Committee's amendments propose to:

- Agree the Commission's proposed end date of 31 December 2015 for the exemption of cadmium in cordless power tools from the scope of the batteries Directive
- Ensure that products legally placed on the market before that date can no longer be made available after three years.
- Use delegated acts rather than implementing powers, where powers are to be conferred onto the Commission
- Include a ban on button cells containing mercury, effective from December 2014
- Replace the text in Article 11 of the Directive with new text on removal of waste batteries and accumulators. The text places an emphasis on manufacturers designing products and providing instructions so that batteries can be removed either by independent professionals or end users.

Negotiations have now started between the Irish Presidency, the European Parliament and the Commission with a view to a first reading agreement. There will be two trilogue meetings, with the first scheduled for 23 April. The first trilogue is likely to concentrate on the date for the ending of the power tool cadmium exemption. Here, the UK, along with most other Member States, has

reiterated our preference for a longer transition period. The use of delegated act vs implementing acts. The UK is in line with most of the other Member States in generally opposing the use of delegated acts. However, we are continuing to keep the proposals for the use of delegated powers under review and will keep your committee informed as negotiations progress. On the button cell proposal the UK has reserved its position until we have more information on the consequences. On battery removability, there is a general feeling in Council that, with some modification, the proposal could be acceptable. This view is shared by industry.

24 April 2013

BEE HEALTH

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

We understand that the European Commission has presented a proposal through the comitology procedure to suspend three neonicotinoid insecticides for two years, which are thought to pose risks to bee health.

Furthermore, we understand that the proposal is likely to be adopted by the Commission as a qualified majority of Member States have not opposed the proposal, most recently at the Appeal Committee on 29 April 2013.

We would find it helpful if you could confirm the position with regard to that proposal and the position taken by the UK Government.

On a broader note, we understand that the Government are planning to publish a Bee Strategy. We would be grateful if you could inform us of what the key themes of that strategy are likely to be, and what parliamentary engagement on the Strategy is planned by the Government?

We look forward to your response in due course.

8 May 2013

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

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 January 2013.

We were extremely interested to read the Communication in the light of our report earlier this year, 'An Indispensable Resource: EU Freshwater Policy' [HL Paper 296-I], which was debated in the House of Lords on 5 December.

The Committee is concerned that your EM lacked analysis of the suggestions made by the Commission, although we were able to debate some of the issues with your colleague, Lord de Mauley, during the report's debate in the House of Lords.

We were pleased that many of the points made in our report were reflected in the Blueprint. Some interesting new points were raised by the Commission on which your views would be welcome: the development of guidance on ecological flow and water accounts; the establishment of a peer-review system through which river basin district authorities could submit their draft river basin management plans to review by other authorities; and the proposal for a regulatory instrument on the re-use of water for irrigation or industrial purposes. Lord de Mauley offered comment on a possible re-use instrument, and we observe that the recent Council Conclusions noted it with interest, but any additional analysis from you would be helpful, particularly whether the underlying issue that might be tackled by such an instrument is an issue of concern that has been raised with the Department.

In your EM on dossier 16571/12 (the Commission's Report on the River Basin Management Plans), the Government are dismissive of the Commission's analysis, which was critical of the UK in several ways – but most notable was its criticism of the cost-recovery mechanism in the UK. As you will be aware, we expressed concern in our report that the cost of water does not always reflect its scarcity. Your dismissal of the Commission's analysis would imply that the Government are content that all users across the UK are charged the appropriate costs for their use of water resources, including

environmental and resource costs. We would be grateful for confirmation that this is your view and that of the Devolved Administrations, and we would welcome detail from several river basins in the UK that demonstrate effective cost assessment and subsequent charging in line with Article 9 of the Water Framework Directive.

Several of the proposed initiatives require the development of guidance through the Common Implementation Strategy (CIS). In your response to our report, you noted that the Government are active participants in the CIS and that the process already includes a wide range of non-governmental organisations in its work. Are you confident that the CIS has the capacity to deliver the new work, such as guidance on ecological flow and water accounts?

In our report, we spent some time exploring the concept of payment for ecosystem services. This was referred to in passing by the Commission in its Blueprint. Do you see potential for further development of the notion at EU level? Furthermore, could you please provide an update on the state of the action plan on payment for ecosystem services to which you referred in your written response to paragraph 213 of our report?

An important element of the Blueprint relates to better implementation and enforcement. Do you have confidence that gaps such as these and others identified by the Commission can be filled within a relatively quick timescale?

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

10 January 2013

Letter from Richard Benyon MP to the Chairman

Thank you for your letter of 10 January regarding the Explanatory Memorandum above, which was considered by the Agriculture, Fisheries, Environment and Energy Sub-Committee on 9 January 2013.

In response to the queries raised in your letter; we support the development of guidance on ecological flow and water accounts and any new research that feeds into it. In the UK we have well developed methods for determining environmental flows based on the best evidence and have extensive monitoring networks to support this. Developing guidance for countries which may not have the same data as us will be beneficial for them. We also collect extensive abstraction and other data comparable to water accounts processes. We continue to seek improvements to our approaches. Hence we should be in a good position to support the development of and be able to follow such guidance. However we would want to ensure that any guidance is suitably flexible and non-prescriptive, recognising our current methods and understanding, so it does not create barriers to application of our current methods or increase costs.

The recommendation to establish a peer review system through which river basin district authorities could submit their draft river basin management plans, for review by other authorities, has some merits in our opinion but should be voluntary to ensure it doesn't become an overly bureaucratic process. Currently the Commission undertakes a compliance assessment of River Basin Management Plans. The results of the first assessment were published in November 2012, nearly three years after we published our plans. This is a complicated and detailed process, which takes a large amount of time and resource by all involved and to add an additional review process we believe would possibly bring the planning process to a halt. The foundations of the recommendation, which are built upon ensuring consistency in approaches, learning from each other and to encourage further cooperation in a transboundary context, we believe can all be addressed without a formal review process.

With regards to the proposal for a regulatory instrument on the re-use of water for irrigation or industrial purposes, the issue of effluent reuse has been raised by the Water Companies under the Red Tape Challenge as the issues around permitting can be complicated. The government supports the reuse of effluent where appropriate but it is important to recognise that there are wider issues than only the standards relating to the intended use. For example in some cases waste water effluent makes up a large proportion of river flows and reuse could have impacts on ecology, fisheries, navigation and water available for other uses. We recognise that single standards across Europe could help promote reuse particularly where public perception plays a part in the resistance to such schemes. However, it is difficult to comment on the Commission's proposals until we have seen them.

In response to your comments regarding my EM on dossier I6571/12, the remarks about the quality of the report were not intended to dismiss it as a whole but to inform the scrutiny committee that there are issues arising from it, that are still to be raised during bilateral meetings that the

Commission intends to hold with Member States this year. This therefore impacts on our ability to comment further at this stage. Those remarks should not be seen as a rejection of the Committee's concerns about the level of cost recovery since the Commission's report addressed different matters, some of which are the subject of infringement proceedings against a number of Member States (not including the UK) on the application of Article 9.

The key criticism of the report related not to the cost of water, but to the scope of the definition of water services. The Government's view is that the correct interpretation of Article 9 which requires Member States to take account of the principle of recovery of the costs of water services, including environmental and resource costs is that it includes water supply and wastewater collection and treatment, but the Commission thinks it should be wider. Water services are defined in Article 2 of the Water Framework Directive as "...all services which provide, for households, public institutions or any economic activity: (a) abstraction, impoundment, storage, treatment and distribution of surface water or groundwater. (b) waste-water collection and treatment facilities which subsequently discharge into surface water". "Water use" is defined more broadly but it is to water services that Article 9 applies. Environmental and resource costs of these services are internalised into these services through the investment they make to prevent and remediate environmental damage and the costs recovered through charges to customers.

All water undertakers charge their customers based on prices that are agreed by Ofwat as the efficient costs of supplying their services. These costs take into account abstraction costs, including the environmental improvement unit charge that is levied to address unsustainable abstractions. They also take account of the water companies' business plans which set out the investment in their water supply and waste water networks required to meet their statutory duties. Ofwat's price determinations, which set the total amount of revenue that water companies can obtain through charges to customers, must take account of the statutory water resources planning processes and ensure the costs apportioned to customers account for the fulfilment of all legal obligations.

Further information on the economic analysis of water use undertaken for the first set of River Basin Management Plans is for each River Basin District in England, is available at the following web address (Annex K) www.environment-agency.gov.uk/wfd. As water is a devolved matter, it would not be appropriate for me to comment on the position within other administrations.

With regards to your comment on the capacity of the Common Implementation Strategy, we believe that it has the long-term capacity and capability to deliver the new work derived as a result of the Blueprint, but would question the current timetable for delivery. The next phase of the CIS commences in April this year and the Commission's ambition is for the majority of the products proposed in the Blueprint to be completed ahead of the second cycle River Basin Management Plans being published in 2015. We believe that this is too ambitious because we are already in the process of developing the second cycle plans and it will be extremely difficult to take account of any products/guidance etc produced under the CIS structure after the middle of next year. We are therefore in the process of discussing with the Commission and other Member States what the priority areas are that must be completed ahead of the publication of the draft River Basin Management Plans in 2014 and what other areas can be developed on a longer timescale.

The concept of payment for ecosystems services was referred to in passing in the Blueprint, although we understand that the Commission is still considering how and if they need to do something to take it forward. The Natural Environment White Paper published in June 2011 made a number of commitments in relation to payments for ecosystem services (PES) including: publishing an action plan to expand schemes after undertaking a full assessment of the challenges and barriers; introducing a new research fund targeted at these schemes; and publishing a best practice guide for designing them. We are planning to publish both the best practice guidance and the PES action plan jointly in spring 2013.

As for your query on the level of confidence we have that the issues identified by the Commission can be addressed quickly, as I have mentioned above, the Commission has an ambitious timetable for delivering the actions within the Blueprint ahead of the publication of the second cycle plans, which we do not think is feasible. However, in regards to the specific point about ensuring better implementation and enforcement, it is difficult to see at this stage how these issues can be resolved quickly given the number of outstanding infringement proceedings in place across the EU dealing with the implementation of the EU freshwater legislative framework.

21 January 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 21 January on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 January.

Thank you for your detailed reply.

On the issue of the development of guidance on ecological flow and water accounting, we are unclear as to whether ecological flow and environmental flow, to which you refer, are analogous. It is our understanding that the Environment Agency currently takes account of environmental constraints for freshwater through modelling of Environmental Flow Indicators (EFIs), which estimate the likely amount of water needed to sustain the ecology of a river. These, however, do not constitute a quantitative assessment of the functioning or health of freshwater ecosystems. To do so, would require further research. On that basis, we would observe that while work thus far in the UK is welcome, and could helpfully be shared with other Member States, it would be unwise for the UK to be complacent. Your confirmation that the Department is considering what further work needs to be undertaken in this area would be welcome.

As for water accounting, we are aware that alternative methodologies have already been proposed by the UN and by the European Environment Agency. Presumably, the development of guidance by the Water Framework Directive's Common Implementation Strategy is likely to reflect the EEA recommendations. Has Defra been advised at all on the type of data that needs to be collected in order to meet the requirements of the system envisaged by the EEA?

In relation to the possible regulatory instrument on the re-use of water for irrigation of industrial purposes, we note that you will await legislative proposals from the Commission. We find this passive approach very surprising. Should the Government have a view, we are confident that the Commission would be interested to hear it and it may be the case that the Government are able to influence the Commission's approach more effectively in that way than simply awaiting the proposals. In this light, we would re-iterate our request for a position, setting out what you would like to see in such a proposal and explaining how you will be working with the Commission and other Member States to deliver a favourable outcome for the UK. Alternatively, if you conclude that a legislative instrument is not the most effective tool, we would suggest that you convey that view to the Commission at the earliest possible opportunity.

In terms of your consultation process, it seemed from the Commission's explanation of the issue that the farming community may have a particular stake and, as you point out, there are environmental considerations. You may therefore wish to consult more widely than solely with the water companies.

We note your comments in relation to water recovery and that you dispute the scope of the definition of water services. You indicate that environmental and resources costs are internalised into the services to which you accept that the definition applies. Can we interpret from this that you are content that the full environmental cost of water is reflected in prices charged by water companies in the UK? It was our understanding that this issue is the subject of working group involving the Department, the Environment Agency and Ofwat, which would imply at least some outstanding concerns. You indicate that you will be holding bilateral meetings with the Commission. We look forward to an update on the outcome of those discussions in due course.

We similarly look forward to publication of your best practice guidance and action plan on Payment for Ecosystem Services in the Spring. This will hopefully be work that is of interest to the Commission and other Member States.

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

31 January 2013

Letter from the Rt. Richard Benyon MP to the Chairman

Thank you for your letter dated 31 January. I apologise for the delay to my response and hope this letter addresses the Committee's points. With regards to ecological and environmental flow, the terms are analogous and I do not believe we are being complacent in our approach to further work on EFIs. They have been integrated into our approach to water management for some years and I believe there are very few member states that currently utilise them. We have played a key role in discussions on EFIs under the Blueprint, given our experience, and will continue to do so once the Commission and member states have agreed the programme of activity under the Common Implementation Strategy (CIS) to develop EFIs further. Separately the Environment Agency is

reviewing the state of the evidence base underpinning our EFIs following the current investigations under the WFD and will consider what further research is necessary.

Similarly we have been closely engaged in the work on water accounting, although at this stage it is unclear how the work on this will be taken forward under the CIS process. I therefore can't confirm at this stage what types of data will be required as there are a number of ways of approaching this, which need to be discussed further with the Commission and member states.

As for the potential regulatory instrument on water re-use, I did not mean to suggest in my previous correspondence that we were being passive in our approach. At this stage we have not formed a position on the potential legislative instrument and the Commission are still considering whether a legislative instrument is the right forward. The Commission has not come forward with a specific proposal and we believe work on this is unlikely to commence before 2014/15 due to resource constraints within the Commission. When discussions do commence on this topic we will play a full part in helping scope out whether an instrument is actually required and if so, what its overall purpose would be.

It is also important to point out that I my officials undertake a lot of consultation with all stakeholders, not just with the water companies. Water is essential to life and every person and business relies on it: therefore our consultation processes that a broad spectrum of views are considered in any engagement activity.

With regards to the Committee's point on ensuring the environmental cost of water is fully recovered in prices charged by water companies, within England the price of water is set by Ofwat taking account of the investment required to maintain a sustainable supply/demand balance. This is identified through the water resources management planning (WRMP) process which requires water companies to produce rolling 25 year plans. In appraising the options for meeting their supply/demand balance, the companies must reflect the economic, social and environmental costs of their proposals. In addition to this, water abstraction is regulated through the abstraction licensing regime, for which the Environment Agency sets charges. The Water White Paper set out the Government's plans for reform of the abstraction licensing regime to make it more adaptable and allow more effective sharing of water resources.

We're also planning to publish the best practice guidance and action plan on Payment for Ecosystem Services in May and will be sharing this with the Commission and Member States.

2 May 2013

COD STOCKS (13745/12)

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

Your letter of 27 October on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 7 November 2012.

You have responded helpfully to our queries in relation to effort management, discards, consultation and the positions of the Devolved Administrations.

We will retain this proposal under scrutiny and would welcome an update on the progress of negotiations in due course.

8 November 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter of 8 November in which the Committee indicated that it would welcome updates about the progress of negotiations on the amendment of the Cod Recovery Plan. The purpose of this letter is to notify you of a development which affects the UK priority to secure an effort freeze for 2013.

The year on year reductions in effort under the Cod Recovery Plan have failed to achieve the objective of protecting cod stocks, and are seriously threatening the future viability of the fishing fleet around the UK. It has therefore been a longstanding UK priority to secure an effort freeze. The Cod

Recovery Plan has been proven to be flawed and we have been calling on the Commission to urgently bring forward amending proposals for nearly two years.

Our key objective from any amendment is to remove automatic annual reductions in effort from the cod plan and maintain them at 2012 levels. As stated previously the Government therefore welcomes the general direction of the Commission's recently published amendment which addresses many of our concerns. However, we were very disappointed that it took so long to bring forward the proposals and was too late to secure agreement before the new effort year starts on 1 February 2013. Now that it has been published we are also frustrated that it is blocked in Council due to concerns over the appropriate legal base for certain elements of the proposal.

The Presidency has therefore initiated a proposal to effect an effort freeze for 2013 at the December Council by removing two articles from the proposed amendment and placing them into a new Council Regulation. The two articles relate to the setting of quota and effort. Council Legal Services have advised that this is legal under Article 43(3) of the Lisbon Treaty. In order for this to be in place ahead of December Council it will need to be agreed rapidly and may go to Coreper as early as the 30 November. The remainder of the proposal would continue to proceed through the ordinary legislative procedure.

Given that an effort freeze is vital to the recovery of cod stocks and to maintaining the viability of the UK fleet, I do not believe the UK should stand in the way of the Presidency's proposal. In the absence of a Commission alternative, it appears to be our only realistic option of clearly securing an effort freeze for 2013. This does not mean I have changed my mind on the inter-institutional legal base dispute, where I remain open-minded over possible solutions, but I cannot justify the further damage to the cod stocks and fleet from another effort reduction.

The Commission does not support this approach and have questioned its validity. This means that any Council agreement will have to be reached by unanimity given Commission opposition. Indications from working group are that this is achievable. The issue may also be viewed critically by the European Parliament as it removes a central element of the amendment to the cod recovery plan from the co-decision process. However, whilst I recognise the risks associated with this way forward I consider there is no alternative in order to secure the UK priority of an effort freeze for 2013.

At any Coreper discussion, we will not be opposing the Presidency proposal, although we will maintain our scrutiny reserve, given this dossier has not yet cleared scrutiny. However, given the urgency and importance of agreeing the proposal, should scrutiny clearance not be forthcoming prior to its consideration at Council, I am hereby giving you notice that I may need to override scrutiny in order to ensure the proposal can be agreed.

28 November 2012

Letter from Richard Benyon MP to the Chairman

I am writing to update you on the progress of negotiations since my letter of 28 November. The Agriculture and Fisheries Council (18 – 20 December) considered the final version of the Presidency proposal for a new Council regulation, and voted unanimously to adopt the amendments.

The initial Presidency proposal was shared with the Committee on 7 December 2012. The final version has been the subject of ongoing change and negotiation between the Presidency, Commission and all Member States meaning regrettable, there was no formally published versions that we could present the Committee with for consideration.

However, I am pleased that agreement has now been reached on the proposal and confirm that I entered a UK vote in favour. Under the Presidency proposal two articles have been removed from the amendment to the cod recovery plan proposed by the Commission and have been placed into a new Council regulation. The two articles relate to the setting of quota and effort. The remainder of the proposal will continue to proceed through the ordinary legislative procedure.

This regulation secures the UK's longstanding number one priority – the ability to stop automatic annual reductions in effort from the cod recovery plan. The TAC and quota negotiations, which I will be updating on separately, then went on to agree to freeze effort at 2012 levels. A freeze in effort reductions is vital to the recovery of cod stocks and to maintaining the viability of the UK fleet. It means that fishermen will have the time to fish in areas where they will avoid unwanted catches and hence significantly reduce their discards.

Following an amendment proposed by Denmark, the new Council regulation will also enable the Council to make decisions on the North Sea cod TAC, another top priority for the UK. The amendment is a very welcome development, following the important decisions we took in June to end

discarding under a reformed Common Fisheries Policy. Any automatic reduction would only have led to increased discards, given the recovering cod stock and likely increases in the TACs for other North Sea species. The UK is now in a strong position to negotiate a rollover of the North Sea cod TAC in EU/Norway negotiations which recommence on 16 January 2013.

I regret that there was not enough time for the Committee to clear the dossier, nor that we were able to share the Presidency proposal for formal consideration, but I assume you can agree with me that the decisions taken at the Council were for the benefit of UK fishermen and the sustainability of the cod stocks.

31 December 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 31 December on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 16 January 2013.

Thank you for your letter informing us that the Agriculture and Fisheries Council (18-20 December) voted unanimously to adopt the amendments of the final version of the Presidency proposal for a new Council Regulation. We note that this was required as agreement on the broader amendments to be adopted by the European Parliament and Council could not be reached before the start of the new effort year in February.

We will continue to retain the proposal 13745/12 under scrutiny and would welcome an update on the progress of this proposal in due course.

17 January 2013

COMMON AGRICULTURAL POLICY: AMENDMENT (14314/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 31 October 2012.

We broadly agree with your approach this amendment. You argue that, in order to introduce the new transparency rules as soon as possible, this ought to be presented as an amendment to the current financing Regulation. We would suggest that it should be possible to amend both the current and future Regulations.

We note your concerns about the “small farmer” exemption, but the Commission appears to claim in the proposal that this is required by the CJEU judgement. We would welcome your views on that point.

Finally, we note that the proposal would require the information to be made available on one single website per Member State. Are you content that this would be consistent with the UK’s constitutional framework of devolved governance?

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

1 November 2012

Letter from David Heath MP to the Chairman

Thank you for your letter dated 1 November on the above proposal.

You asked about the Commission’s claim that the “small farmers” exemption is required by the CJEU judgement. You are right that the Commission are relying on the judgement as a basis for including an exemption for beneficiaries whose aid does not exceed the small farmers’ threshold (these are not necessarily just “small farmers” as defined by the draft Direct Payment regulations but for ease of reference I will use this term). However, I do not read anything in the judgement that amounts to a requirement for such a threshold as such. Indeed, I think recital (70) of this proposal is a reasonable summary of the concerns expressed in the judgement when it says:

“... the [CJEU] declared invalid point (8b) of Article 42 and Article 44a of Regulation (EC) No 1290/2005 and Commission Regulation (EC) No 259/2008 in so far as, with regard to natural persons benefiting from the European agricultural funds, those provisions impose an obligation to publish personal data relating to each beneficiary without drawing a distinction based on relevant criteria such as the periods during which those persons have received such aid, the frequency of such aid or the nature an amount thereof.”

In my view, that does not lead to the conclusion that the CJEU is of the view that small farmers, however defined, should remain anonymous.

The Commission goes on to say, in recital (70f) of the proposal, that:

“Following the extensive analysis and the consultation with stakeholders it appeared that in order to reinforce the effectiveness of such publication and to limit the interference with the beneficiaries’ rights, a threshold should be set up as regards the amount of aid received below which the name of the beneficiary should not be published.”

Again, I do not think this indicates that the proposal to exempt small farmers stems from an explicit requirement in the judgement.

In light of the above, I do not accept the Commission’s conclusion that the judgement requires them to propose anonymising the data relating to small farmers. As explained in the EM, I can see no reason to treat small farmers as a special case, when the balance to be struck between transparency and privacy applies equally across the whole range of recipients of CAP funds.

You also asked whether the proposal to require the information to be made available on a single website is consistent with the UK’s constitutional framework of devolved governance. In this regard, the proposal is not inviting any change from the current situation as it was originally framed in Regulation (EC) No 1290/2005 and which has applied since 2008. Data for the whole of the UK is published on a single website as required. However, the Paying Agency making each payment is identified, and we do not aggregate payments made to a single farm business by different Paying Agencies, so the devolved aspect is quite clear.

You also note that the EM indicates that we would argue for the revised CAP transparency provision to be introduced more quickly, via an amendment to the current CAP financing regulation (1290/2005). However, having seen reports of the initial discussion of the proposal in the European Parliament’s agriculture committee, we do not now think this would be a realistic change to pursue. Our initial position was based on the assumption that the proposal would not be controversial, whereas the wide range of opinions expressed MEPs suggests it is indeed likely to be controversial and would therefore take some time to agree even if it were separated from the CAP reform package. We therefore see no advantage in arguing for a different route by which to introduce the provision.

12 November 2012

Letter from the Chairman to David Heath MP

Your letter of 12 November on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 21 November 2012.

The Committee is grateful for elaborating on your views with regard to concerns about the “small farmer” exemption. We note that although the Commission are relying on the judgment as a basis for including an exemption for beneficiaries whose aid does not exceed the small farmers’ threshold, you do not believe anything in the judgment amounts to a requirement for such a threshold as such. We also note that you do not accept the Commission’s conclusion that the judgment requires them to propose anonymising the data.

We are also grateful for the clarification of your position on single websites for Member States, noting that it is consistent with the UK’s constitutional framework of devolved governance.

Finally, regarding the quick introduction of the revised CAP transparency provision, the Committee notes that after seeing reports of the initial discussion of the proposal, the Government have decided that this would not be a realistic change to pursue.

Please mark this strand of correspondence as closed. We look forward to updates on this issue in the wider context of CAP negotiations.

22 November 2012

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

I am writing to you in advance of the Cypriot Presidency's planned partial General Approach (PGA) for the CAP Reform negotiations at November Agriculture Council (28-29 November). The details are still unclear on how the Presidency plans to manage the Council; and, of course, it will follow hot on the heels of the November European Council discussion on the EU's Multiannual Financial Framework (MFF).

Based on the limited information we do have, I believe it will be necessary to seek a scrutiny waiver from both Parliamentary EU Committees. Given the uncertainties, I am sure the Committees will recognise that whilst I am committed to advancing the positions set out in this letter, there will need to be some flexibility in the final position that the UK takes at Council.

I would also like to take this opportunity to update you on the progress of the CAP Reform proposals in the European Parliament (Annex B) [not printed] which in some cases is positive but in many areas is of real concern. We are seriously concerned with the draft European Parliament Report on the Single Common Market Organisation (sCMO) Regulation, which advocates a big step backwards from the market-orientated progress achieved by past Reforms.

My key aim for the negotiations remains to reduce CAP expenditure and increase wherever possible its value for money by:

- increasing the resilience, market orientation and international competitiveness of EU agriculture;
- improving CAP's capacity to deliver environmental outcomes; and
- simplifying CAP for farmers and authorities.

In many areas achieving this will require seeking maximum Member State and regional flexibility so that each part of the UK can make choices on how measures are applied, rather than suffer imposed mandatory approaches which may be inappropriate for both our industry and natural environment.

The Presidency has provided limited explanation of what we can expect as part of the PGA. Indeed, the Presidency text on which they want a PGA may not be available until a few days before the Agriculture Council. Also there is the possibility that securing a PGA will spill over to the December Agriculture Council. With these uncertainties in mind we are working on the assumption that the CAP items in the Heading 2 Negotiating Box of the MFF will not be touched as they are part of the EU Budget negotiations taking place the week before November Agriculture Council. The CAP items in the Heading 2 Negotiating box are:

- CAP budget;
- The option to transfer funds from Pillar 1 to Pillar 2;
- reallocation of direct payments among Member States;
- proposals on "Greening";
- capping payments to large beneficiaries;
- Crisis Reserve;
- Financial discipline.

We will of course update you if we receive more information on the Presidency's plans for the PGA should it be fundamentally different to what we have outlined here.

Issues in the MFF aside, we have developed positions on the CAP Reform proposals that the Presidency may seek Qualified Majorities for. Set out below are the UK lines on the key proposals that will be of main interest to the Committee. Annex A [not printed] contains details on other technical elements of the CAP proposals which, while important, particularly to farming and environmental interests, may be of secondary interest to the Committee.

Overall, it is important to leave flexibility to take account of changes that might arise from other negotiations that impact on the rural development fund as well as the other three CAP Reform Regulations, for example the ongoing discussions on the Structural Funds, the Common Strategic Framework and the Multiannual Financial Framework itself. We will therefore be pressing for the

Presidency to clarify in the public presentation of any partial General Approach that “nothing is agreed until everything is agreed”, as well as securing any necessary caveats in relation to the MFF negotiations.

DIRECT PAYMENTS REGULATION

There remain substantial issues of interest to the UK that are not yet in a state where I would wish to agree to them.

Greening is in the MFF Negotiating Box but the detail will likely fall to Agriculture Council negotiations. Given the proximity to the European Council and the divided opinion amongst Member States in Agriculture Council on the right approach, I would hope that Greening is excluded from the PGA. However, there is a risk that it may be included and as a key part of the CAP proposals, we may need to take a position on it in November to support the UK objective of improving CAP’s capacity to deliver environmental outcomes. Greening represents an opportunity to increase the value for money of Pillar I spending. However, there is a long way to go in improving the Commission’s proposals before that is the case. I want to secure flexibility for Member States and regions, to implement meaningful and environmentally beneficial measures suitable to their own unique circumstances, whilst ensuring a degree of equivalence between Member States activities is obtained. I will also argue for any penalties for non-compliance with Greening to apply only to the Greening payment itself, and not, as the Commission proposes, potentially to the rest of a farm’s Pillar I payment.

Capping payments to large beneficiaries is similarly in the MFF Negotiating Box but should it fall to Agriculture Council to determine whether it remains then I will firmly maintain the line that the proposal should be deleted on principle and due to the excessive complications associated with it.

The Commission has proposed under internal convergence the move from historic to area based direct payments within Member States and Regions. While it is encouraging that Member States agree that the continued link of subsidies to historic production levels cannot be justified, there remain substantial differences between them as to the mechanism, scale and rate of internal convergence. In England we have already moved to area based flat rate payments but this is not the case within the Devolved Administrations. I will therefore continue to press for full convergence within the next financial perspective but seek sufficient flexibility to allow Member States and regions to determine the most appropriate method to achieve this.

In previous CAP reforms we have phased out coupled payments for specific commodities. This Reform package, however, makes no further progress; many Member States want even more scope to couple funding to levels of production and to more sectors. I am firmly opposed to this but also realistic about the prospects of achieving anything better than the Commission’s proposal. I will continue to argue against anything which is more generous either in terms of sectors where coupling is allowed, or the volume of coupled payments, than the Commission’s original proposal.

The Commission’s active farmer proposal would have required us to assess the economic status of every applicant for direct payments. Negotiations have so far moved the debate towards the concept of a negative list of types of business (airports etc) which might be regarded a priori as unlikely to be genuinely engaged in agriculture. I shall continue to argue for an optional approach, because there is no good reason to exclude any particular business structure from farming.

I have sought additional flexibility for England to continue to use its existing entitlements, should this prove to be beneficial to implementation and we are happy that the Presidency text allows for this. To address concerns, particularly within the Devolved Administrations, regarding bringing in additional land and concerns relating to tenancy arrangements, I am also seeking further flexibility in the qualifying year for granting new entitlements and an option for Administrations to base the allocation of entitlements on past status as a producer, which is wanted by Northern Ireland.

RURAL DEVELOPMENT REGULATION

The Commission’s proposed Rural Development Regulation was strong in encouraging Member States to take a strategic approach to secure the three objectives of delivering a healthy rural environment, a competitive agriculture sector and strong rural communities. Significantly, this reform placed great emphasis on the role of innovation and I am very happy to welcome this in view of the Government’s wider growth agenda. However, it did not significantly improve simplification for either administrators or beneficiaries and included a few elements, such as the Income Stabilisation Tool, which we could not support as they are not appropriate for the rural development fund.

Although rural development generally offers excellent value for money, especially compared with direct payments, there are changes that could be made to improve this further. I am concerned that the trend in Council discussions and in European Parliament amendments has been to reduce the value for money. A key objective in the negotiations will be to ensure value for money is improved. Our concerns related to some specific measures are outlined below and also in Annex A [not printed].

The Income Stabilisation Tool, although voluntary for Member States to adopt, is something I continue to oppose. The letter the previous Minister of State sent to you on 10 May this year sets out in more detail the reasons the UK is opposed to it and I share that view. It is potentially very expensive, administratively burdensome and unwarranted given the existence of direct payments and market management measures elsewhere in the CAP and for these reasons it is an inappropriate addition to the Rural Development Regulation. I will continue to oppose it, unless changes can be made which resolve my concerns.

The Commission's proposal for afforestation of agricultural land removed the ability to compensate for 'loss of income and income foregone'. Compensating for income foregone is vital if we are to incentivise farmers to give their land over to forestry and thereby secure the significant environmental benefits that afforestation can provide. There is agreement from the majority of Member States that income foregone should be included. This is also an important issue for the Devolved Administrations. As such I will continue to oppose the Commission's attempt to remove this important part of the payment. The European Parliament's amendments do not allow for income foregone to be paid, and therefore I consider it important for this to be secured by the Council.

The UK government has argued that a minimum spend on measures which provide the greatest environmental benefit is an effective method of ensuring public money is spent in the most appropriate way. I suggest that we are flexible as to what proportion it should be set at and which measures it should include, as long as it is clear that it will deliver, at the least, a continuation of the level of spend on these measures under the current period.

SINGLE COMMON MARKET ORGANISATION (sCMO) REGULATION

Overall, the Commission's proposed sCMO Regulation would keep reform moving in the right direction, albeit more slowly than we would like. Some of the proposals help achieve the UK's overall objective of increasing the resilience, market orientation and international competitiveness of EU agriculture. For example the proposals tighten the rules for intervention buying and also press on with phasing out the remaining quota systems for milk, wine and sugar. However, there are still some substantive concerns which have not been solved in the negotiations so far.

The proposal that Member States should be obliged to recognise producer organisations in all sectors could have a significant impact on the wider supply chain and competition as a whole, as well as create a major burden for national authorities related to their recognition and monitoring. In negotiations we, like several other Member States, have been arguing against mandatory recognition. The Commission's proposals would be burdensome and might not help to solve the different problems that different sectors face. The proposal provides that POs should not be recognised if they hold a dominant market position. We support this as it is not the role of the sCMO to encourage the formation of very large POs which could dominate the market.

Many Member States and MEPs are pressing for large-scale producer organisations to be allowed to extend their rules and fees to non-members. Member States would however be able to choose whether to approve any request for the extension of rules within their domestic markets. We oppose this proposal as it has the potential to impose artificial costs on otherwise efficient and profitable farmers who are not members of a producer organisation, pushing them out of the market and stifling innovation and alternative ways of working.

The proposal also contains an expanded set of powers that would allow the Commission to take "exceptional measures" to address agricultural crises in all sectors. Along with other Member States we will be looking as far as possible for wording which would make it clear that crisis aid could only be granted in the event of a truly exceptional crisis where the other measures in the sCMO Regulation were insufficient and that any use of crisis aid should avoid negative impacts on the EU market and third parties, particularly developing countries.

Price support and intervention buying have been extensively dismantled as part of previous CAP reforms and high world prices in recent years have also helped moderate expenditure; but intervention systems still provide a targeted product safety-net for a number of sectors. There have been persistent calls from some Member States to increase minimum safety-net prices which would

mean that intervention would be activated more frequently; and there is strong support for this approach from the European Parliament. We will continue to work with other like-minded Member States to resist this proposition because of the budgetary pressures and market impacts associated with it.

We support the Commission's proposals that see an end to production quotas for sugar and vine planting rights in the wine sector: On wine, a large majority of Member States are arguing strongly for the reintroduction of the quota regimes and the retention of subsidies. However, we are continuing to press for a reduction to the annual £1.1 billion worth of support measures received by EU wine producers, which is poor value for money and damages competitiveness.

On sugar, we continue to support the Commission's proposal to abolish beet production quotas by 2015. The UK wants the proposals to allow the beet and cane sugar sectors to compete on a level playing field (which would benefit consumers and food and drink manufacturers), as well as ensure security of supply and safeguarding jobs in the cane refining sector.

FINANCE AND CONTROLS (HORIZONTAL) REGULATION

Our overriding priority in the Horizontal Regulation negotiations so far has been to push for a simplified, more proportionate regulation which would help reduce the cost of managing the CAP for farmers, paying agencies and HMG.

On the proposals for the future of the Integrated Administrative Controls System (IACS), the UK has and will continue to press for control systems that are truly risk-based and proportionate and oppose proposals that would lead to a disproportionate administrative burden on farmers and paying agencies, such as the increased mapping scale (although the Presidency text now contains a two-year transition period) and the requirements to keep data for longer periods of time. Alongside the improvements we want to see on Greening in order to deliver greater environmental outcomes (described above), we are also pursuing changes that would strike the right balance between delivering Greening and not placing undue burden and cost on farmers and the UK's paying agencies.

The UK Government wants to find ways of limiting the Commission's discretion in applying flat rate financial corrections, which have resulted in exceptionally large disallowance amounts for the UK in recent years. We have pursued amendments which would mean flat rates would only be used when it is genuinely impossible to calculate the risk to the fund and have also focussed on improving the procedures that the Commission and Member States go through as part of any disallowance decision. These aspects have been integrated, to a limited extent, in the Presidency text but we will argue it needs to go further.

The Commission has proposed new audit requirements on Member State certification bodies. Most Member States remain strongly opposed to the extended audit rules. However since the main EU Financial Regulation, agreed in July, requires an audit of legality and regularity on audits, we accept that the requirement will remain. Therefore the main priority for the UK will continue to be to shape the content of any new rules to make them as proportionate and cost-effective as possible.

The UK is broadly supportive of the current Presidency text on Cross Compliance. However, we still intend to explore other options to the way breaches of Cross Compliance and subsequent penalties are classified and applied to make the system simpler, more transparent and more proportionate for farmers. We also wish to ensure that Statutory Management Requirements (SMRs) and standards of Good Agricultural and Environmental Condition (GAECs) aim to deliver environmental benefits and are as simple as possible for farmers to understand and regulators to implement.

The UK can broadly accept the Presidency text on the Farming Advice Service (FAS), which makes mandatory advice in the Commission's original proposal (advice other than on cross compliance and Greening) thereby allowing Member States to tailor advice services to their circumstances.

The UK is also pursuing changes to help manage the risk that both farmers and Defra are exposed to through the use of one fixed exchange rate for converting direct payments from Euros into Sterling. It would be more appropriate if an average of exchange rates was used over a period rather than a fixed point in time. This would provide greater certainty for farmers and would help Defra manage the exchange rate risk it is exposed to through this transaction.

CROSS-CUTTING ISSUES

I welcome the Commission's proposal to designate the new Areas facing Natural Constraint (ANC) according to biophysical rather than socio-economic criteria. Good progress has been made in relation to designating ANCs under Pillar 2 and we look to secure many UK asks including the level at

which the designation takes place. The only main issue is whether degressive payments start in 2015 or 2016. The UK Government would prefer to see degressive payments start in 2016, so that Member States have time to prepare the new designation and farmers are not negatively impacted as a result of any delays. This delayed start of degressive payments may also increase the possibility that those Member States and MEPs who are opposed to the new designation will approve it, rather than continuing to delay the designation. We definitely do not want the ANC issue taken out of the negotiations, which is what Germany is pressing for. I am content with proposals for a voluntary ANC top-up payment in Pillar I, provided there is regional flexibility on implementation for the Devolved Administrations.

In conclusion, I plan to go into the November Council with the negotiating lines I have set out in this letter and annexes [not printed]. You will appreciate that there will inevitably need to be some flexibility in the UK position and as such I am seeking a scrutiny waiver from both Parliamentary EU Committees for this stage of the negotiations.

8 November 2012

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

Your letter of 8 November 2012 on the above issue was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 21 November 2012.

The Committee is grateful for your very detailed letter outlining the issues and your position surrounding direct payments to farmers, the Single Common Market Organisation (sCMO) Regulation, the Rural Development Regulation, the Finance and Controls (Horizontal) Regulation, and additional cross-cutting issues.

In previous correspondence, we have set out our position on reform of the Common Agricultural Policy. Our overall approach to the reform is driven by the principle of sustainable innovation and we would urge you to emphasise this principle, which is a strong feature of the proposed new Pillar 2, in your discussions with other Member States. Ideally, we would like to see an increase in the amount of funding devoted to rural development and a decrease in the amount of funding dedicated to direct payments. Among the other high-profile issues, we agree that a flexible approach to the greening of Pillar I is required, but we are supportive of the Commission's proposed capping of direct payments. We would be grateful for a more considered explanation of your resistance to capping, setting out the excessive complications associated with it.

We note with some concern the trend of discussions on the Single CMO and would urge you to be robust in negotiations, particularly given the potentially negative impact on consumers at a time of inflationary pressures on food prices. As you will be aware, we published a report on the sugar regime in September and made a series of recommendations pertinent to the negotiation. While we agreed with the principle that beet production quotas should be abolished by 2015, we concluded that this outcome was highly unlikely and therefore identified a possible compromise along the lines of: a clear date for the ending of quotas between 2015 and 2020; a recalibration of production quotas between Member States; and support to remove inefficient production.

As you observe, the Council meeting at which a Partial General Approach (PGA) might be agreed will take place only a few days after the European Council meets to discuss, and possibly adopt, the 2014-20 Multiannual Financial Framework. The core elements of the CAP reform are included in the MFF negotiation. It is presumably for this reason that a great deal of uncertainty continues to surround the possible PGA. We are very concerned at the sudden speed of negotiations and worried that the result will be an ill-considered compromise. On the assumption that you will not wish to agree to a weak deal, we will retain the draft Regulations under scrutiny but agreement at the 28-29 November Council need not be withheld pending completion of scrutiny.

We look forward to a report on the outcome of the November Agriculture Council within five working days of its conclusion.

22 November 2012

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

I am writing to update you on the change of plans for this week's European Agriculture Council. My letters of 8 November to you and the Chairman of the European Scrutiny Committee set out the UK's CAP negotiating objectives in preparation for a partial General Approach (PGA) the Cypriot Presidency had planned for this week's Agriculture Council. I am grateful for the quick responses

from both Committees as well as the granting of a Scrutiny Waiver (and in the case of the European Scrutiny Committee, clearance of the Proposals).

However, at a senior officials meeting on CAP last week several Member States argued that the Regulations were not near a state suitable for PGA. Therefore the Presidency has cancelled its plans and is instead holding a straightforward two day Agriculture and Fisheries Council on 28-29 November.

It is unclear whether the Presidency will still push for PGA at December Council, this will no doubt be discussed with Ministers at Council this week so we will hopefully have a better idea at the end of the week of what to expect.

I will write to you in December with an update on the Presidency's plans for December Agriculture Council and some further information you requested on the UK Government's position on proposals to cap direct payments to large beneficiaries.

28 November 2012

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

As per my letter to you of 28 November, I am writing to inform you that the Cypriot Presidency has confirmed they will not hold a Partial General Approach at the next Agriculture Council on the 18-20 December. Instead they plan to produce a Progress Report to hand over to the incoming Irish Presidency which will set out where they feel proposals are near agreement and the issues that remain open. This will be discussed by Ministers at December Agriculture Council.

We will now be looking to the Irish Presidency for partial or general approach. I will write to you ahead of any such moves for agreement and update you on changes to our negotiating objectives should there be any. I will also write to you soon regarding the further information you requested on the UK Government's position on the proposal to introduce a cap on direct payments.

9 December 2012

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

I am writing to provide an update following the recent vote in the Agriculture Committee in the European Parliament (EP) on its amendments to the CAP Reform proposals. This letter sets out a high level overview of the outcome of the vote and the timetable over coming months.

CURRENT TIMETABLE

As the Committee will recall, the Cypriot Presidency was unable to achieve a Partial General Approach in Council on the CAP Reform regulations. A number of issues remain for discussion and the Irish Presidency is pursuing negotiations with a sense of urgency as they wish to conclude a deal by June. The Irish have indicated they will seek a mandate from Member States at Agriculture Council in March to enter into trilogue discussions with the EP. Trilogues will commence following an EP plenary vote on CAP Reform which is also expected in March. This timetable is also largely dependent on a successful conclusion to the MFF negotiations. The EP is unlikely to vote on CAP Reform at plenary until the budget is settled, and likewise, some Member States will be reluctant to give the Presidency the mandate it needs until they know how much money they will receive in the next financial perspective.

VOTE IN AGRICULTURE COMMITTEE

Over 8000 amendments to the CAP Reform regulations were tabled last summer. These were whittled down to several hundred compromise amendments, and a vote was held on these over the 23-24 January 2013. In many cases, these compromise amendments were voted collectively in block votes (for example, all of the compromise amendments relating to sugar were merged into one block vote), although many amendments were additionally voted on separately, in particular where no compromise could be agreed by the rapporteurs and shadow rapporteurs in advance.

In the majority of cases, the compromises were adopted and Agriculture Committee endorsed all the reports. However, not all the compromises on the Rural Development regulation were adopted, and the final vote on the single Common Market Organisation (sCMO) received a lower endorsement (26 in favour, 14 against) than the other reports.

My Department sent detailed briefing to UK MEPs on Agriculture Committee ahead of the vote. In addition, I and David Heath MP, Minister of State for Agriculture and Food, met with a number of MEPs at the end of last year and we stay in regular contact with members of the Agriculture Committee. My officials are also active in providing briefing and advice to MEPs and their assistants to help advance the UK position.

GENERAL VIEW ON THE OUTCOME

Whilst I recognise the hard work that MEPs have undertaken to achieve compromises, and there are some positive changes that have been made, overall I am disappointed in the outcome of the vote in Agriculture Committee. I believe the outcome sends both farmers and consumers the wrong signals. The amendments turn back the clock in terms of achieving good value for money from rural development, especially agri-environment, and do nothing to continue orientating European agriculture to the market. There is a significant watering down of the Greening proposals, and I would emphasise concern on the outcome of the vote on the single CMO where the compromises put a halt to, and even reverse, the direction of reform that CAP has been on. Further details are outlined below.

DIRECT PAYMENTS REGULATION

In advance of the vote, seven 'blocked' compromise amendments were drafted which were all adopted. The compromises covered areas such as greening, internal convergence, flexibility to transfer funds between Pillars, the active farmer definition, national reserve and both the young farmer and the small farmer schemes.

The compromises include some improvements to the Commission's proposals that we can broadly welcome as progress towards UK objectives, including for example the removal of the income test from the active farmer definition, and flexibility for Member States to decide whether to implement the small farmer scheme. There are also changes we do not support – such as provisions allowing Member States to limit the impact of internal convergence to 30%, and the mandatory requirement for Member States to implement the young farmer scheme.

Votes were also held on individual amendments where it had proved impossible to establish compromises in advance. Of most significance, the Committee voted in favour of amendments allowing coupled support to be provided for a much wider range of sectors (for example tobacco), and permitting funding of these by up to 15% of national ceilings, with an additional 3% available for protein crops. The idea that coupled support should be limited to maintaining current production levels was also undermined with flexibility introduced to increase production beyond these levels. Such changes would inevitably lead to re-coupling of successfully decoupled sectors and be a very unwelcome backwards step.

On Greening, there were some amendments passed which are an improvement on the Commission's proposals, for example the control of permanent grassland at Member State rather than farm level. In addition there is an extension of automatic qualification for the greening payment to those participating in eligible Pillar 2 agri-environment schemes as well as farms that are certified under national/regional environmental certification schemes. However, while I welcome some of the flexibilities, there were amendments voted through which I feel go too far and risk watering down the objectives of greening. One example of this is the amendment that makes a whole farm 'green by definition' even if only a small portion of it is covered by an organic, agri-environment, Natura 2000 or national/regional environmental certification scheme.

SINGLE CMO REGULATION

From over 2000 individual amendments tabled last summer, 22 'blocks' of compromise amendments were voted on covering the whole of the single CMO Regulation. The compromises were all adopted.

The block vote to reinstate milk quotas after 2015 was rejected, which is one positive step towards a more sustainable and competitive dairy sector across Europe. However, the UK Government is opposed to most of the compromise amendments adopted by the Committee as they would reduce the level of market orientation of the sector and increase budgetary pressures for old style market support payments. In some areas there is also a strong push to reverse clear policy decisions taken by the EU as part of previous rounds of CAP reform.

The Committee's approach to the CAP sugar regime would reverse the decision to abolish sugar quotas by 2015. This is particularly disappointing as production controls such as quotas hinder the

development of competitive businesses and artificially inflate prices for consumers and business with significant export potential such as cake, biscuit and sweet manufacturers. I will, therefore, continue to press the case for genuine reform, including arguing for additional imports of cane sugar for the EU's cane refineries, while retaining preference for ACP/LDC producers, in order to allow sugar beet and cane interests to compete on an equal basis.

Similarly, a block vote was passed which goes back on the decision to abolish vine planting rights by 2018. This risks reducing the long term competitiveness of the EU wine industry. In both the cases of wine and sugar, the approach that the Committee has adopted will call into question the ability of the EU to deliver agreed and funded long term policy and provide the certainty businesses need to plan and invest.

Reducing intervention to a genuine safety net has been a key goal of successive rounds of CAP reform. However, the Committee has called for the system to be significantly expanded, including measures such as raising trigger prices, expanding the number of products that are eligible and keeping intervention open all-year-round. Such changes would increase budgetary pressures on this element of Pillar I and move back towards providing market distorting subsidy support for a range of individual sectors.

The Committee is also seeking to relax competition policy for producer organisations, allowing them to have a dominant position on the market and to introduce supply management measures, including negotiating on setting prices. This is the wrong approach. Maintaining standard EU competition policy for the agriculture sector is essential, both in the interests of consumers and the sustainability and long-term competitiveness of EU supply chains.

RURAL DEVELOPMENT REGULATION

The EP has adopted an approach which reduces the value for money from rural development, at a time when Pillar 2 funds are vital to supporting competitiveness and innovation in the agricultural sector and supporting farmers deliver public goods such as protecting and enhancing our natural environment. Successes such as the vote in favour of a proposal for a 25% minimum spend on agri-environmental and organic measures are far outweighed by the negative impacts of funding the same Greening activities under both Pillars.

MEPs voted in favour of an amendment which would effectively permit double-funding for 'Greening' meaning that farmers could get paid via both Pillars for doing the same thing. This makes a mockery of 'Greening' which should be there to provide added environmental value from the funds available. If you get rewarded through Pillar 2 for taking actions beneficial for the environment, it is not right that farmers should be rewarded again through Pillar 1. One of the amendments goes even further than this, and suggests Pillar 2 funding be used to achieve Pillar 1 greening. This would deliver no additional benefits and significantly reduce the level of benefits that could be achieved through rural development.

In addition, MEPs have not allowed us to pay income foregone for afforestation which will make it harder for us to incentivise this. Crucially the compromise amendments would also have a big impact on the UK's ability to fund future rural development programmes by not allocating funds to Member States on objective criteria (instead, they have proposed allocations purely on a historic basis) and by requiring any transfer of funds from Pillar 1 to be co-financed. These amendments would reduce our ability to afford our agri-environment ambitions.

HORIZONTAL REGULATION

On a more positive note, we are broadly content with the outcome of the vote on this regulation. Several compromises which fit with the UK's overall objective to simplify the CAP for farmers and authorities were adopted, such as changes to make the proposals on audit and disallowance more proportionate, to permit checks to be reduced in certain circumstances and to allow the use of an average exchange rate for Member States not using the euro.

An amendment was also carried which limits the penalty for not Greening to the level of the Greening payment. The effect of this is to make Greening optional. We welcome this in principle as it gives Member States flexibility in deciding how best to implement and control Greening. On cross compliance, we welcome some of the changes to the standards such as the deletion of a burdensome new requirement on carbon rich soils, but we will need to analyse further the consequences of entirely deleting standards on identification and registration of animals since this is a far more extreme approach than our preferred option of limiting the scope of these standards and introducing a more proportionate approach to minor breaches.

Problematic text has also been agreed however, which make cross compliance penalties less proportionate (we do not think the amendments will achieve their desired effect), expand the Farm Advisory Service, increase advances paid by the Commission to Member States from the proposed 4% to 7%, and weaken financial discipline by appearing to allow expenditure under Pillar 1 to exceed the financial ceiling in instances where the crises reserve is utilised. MEPs also rejected the entirety of the Commission proposals aimed at ensuring transparency about who receives CAP funds, which goes against the UK Government's transparency agenda.

NEXT STEPS

I and my officials will continue to work with MEPs ahead of the plenary vote in March and we will seek changes to the reports where they fall way short of UK expectations. However, I do not underestimate how challenging this may be and recognise that we have many months ahead of intensive negotiations. I remain committed to securing a good deal for the UK.

I understand that the Committee holds the four CAP Reform regulations under scrutiny. I will of course keep the Committee informed of negotiations as they progress, however I am likely to need to request a scrutiny waiver ahead of the Agriculture Council in March when the Irish Presidency expects to request a mandate to enter trilogue discussions with the European Parliament. Closer to the time I will write to set out the current state of affairs and the UK's negotiating positions ahead of March Council. As I am sure the Committee will appreciate, whilst I am committed to advancing the best position for the UK there will inevitably need to be some flexibility in the position the UK takes when giving any such mandate to the Presidency.

2 February 2013

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

In my letter of 9 December last year I promised to write in response to your request for further information on the UK Government's opposition to the Commission's proposed capping of direct payments. I apologise for the delay in doing so.

I understand the Committee has expressed some support for the Commission's capping proposal, particularly due to public perceptions and because the funding is hypothecated towards innovation funding under Pillar 2. In the past the Commission has proposed setting an upper ceiling for direct payments received by individual farms but this has never been agreed in Council. Capping as proposed by the Commission is likely to be less effective in reducing payments to the wealthiest than the progressive move away from subsidy that we have argued for. It also provides a strong incentive for large, competitive farms to split into smaller holdings in order to avoid the capping threshold, which may not be as efficient in providing public goods. Competitiveness and growth should be at the heart of the CAP and I am concerned that a proposal such as this will counter these objectives by encouraging the unnecessary and burdensome division of farms in order to avoid a cut in subsidy. The proposal would also penalise charitable organisations that have large land holdings but are in business specially to deliver environmental and rural benefits.

I am also concerned it would add a significant amount of administrative complexity and burden for both farmers and paying agencies. One example of this is that paying agencies would be required to conduct salary checks to calculate how much the capped subsidy should be mitigated. This would require them to collect detailed financial data from customers on salaries paid. They would have to analyse this to distinguish between agricultural and non-agricultural workers and between social contributions, contract and family labour. All of the information would then need to be verified, which would prove difficult given the data is not readily or easily available as farmers are not required to separate out types of income in their tax returns. The UK's concern is shared by almost all Member States, who have raised difficulties about the way the detailed capping provisions would work. So, whereas there are a number of Member States who like the idea of capping in principle, there is little prospect of designing a workable and practicable scheme.

I very much agree with the Committee as to the desirability of transferring funding to Pillar 2 for a variety of purposes, including innovation. Capping, however, is a poor mechanism to do this for the policy and practical concerns set out above and in previous letters to the Committee.

I hope this helps you understand my position on capping.

6 February 2013

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

Your letters of 2 and 6 February on the above issues were considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 27 February.

We note with great disappointment the outcome of the vote in the European Parliament's Agriculture Committee. The vote on the CMO is a particular setback, notably as regards sugar beet quotas and vine planting rights. We consider some of the amendments to the Direct Payments Regulation to be similarly retrograde, such as those relating to coupled support and to the watering down of the greening objectives.

You are more content with the vote on the Horizontal Regulation (15426/11) but you consider an expansion of the Farm Advisory System to be problematic. We have checked the Compromise Amendments adopted and would welcome clarity on the specific aspects that you find problematic. In our view, strong Farm Advisory Systems throughout the European Union are an essential element of developing a modern, innovative farming sector throughout the EU. Such mechanisms will be particularly important if disappointing aspects of the EP's vote are reflected in the compromise position adopted by the institutions and, of course, following the agreement by the European Council to cut the funding of Pillar 2 under the next Multiannual Financial Framework. We look forward to clarity from you on the position as regards the Farm Advisory System and how, more generally, you will seek to negotiate a deal that can drive a modern, innovative farming sector across the EU and not only in the UK.

We note both your comments on the proposal to cap direct payments (letter of 6 February) and the subsequent decision by the European Council that this proposal be voluntary. It is our impression that the UK would not choose to apply the cap for the reasons that you have set out in your letter. Should your concerns about the Farm Advisory System be of a budgetary nature, though, might the potential funds raised through capping be sufficient to cover the additional costs of an expanded Farm Advisory System?

We look forward to further information from you on the current state of affairs and the UK's negotiating positions ahead of March Council. In addition, the Clerk to the Sub-Committee has approached your Office with a view to a possible evidence session with you in March to discuss CAP reform and other matters. We very much hope that such a session will be possible.

We will hold the proposals under scrutiny and look forward to your response in due course.

28 February 2013

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

I am writing to you ahead of Agriculture Council to be held on 18/19 March at which the Irish Presidency intends to request a mandate from EU Agriculture Ministers to enter into trilogue discussions with the European Parliament (EP) and the European Commission. In that context, this letter sets out the current state of affairs, my expectations of what will happen at that Council and the approach I intend to take. You will recall that I previously wrote ahead of the Cypriot Presidency's attempt to secure a Partial General Approach on the regulations and this letter is in the same vein.

In addition, this letter sets out the UK's approach to the plenary vote on CAP Reform scheduled to take place in the EP on 13 March, and also responds to the points made in your letter of 28 February.

MARCH AGRICULTURE COUNCIL

As my letter of 2 February noted, the Irish Presidency intends to request a mandate from Council to enter into trilogue discussions with the EP and Commission. It is too early to know precisely how the Presidency intends to manage the Council but the Irish have been working intensively to make progress on resolving outstanding issues with Member States. There is a good chance that they will be able to secure a QMV and it is important, if I am to advance UK interests, that I am able to fully engage in the negotiations.

My key aims for the negotiations remain to reduce CAP expenditure and increase wherever possible its value for money by:

- Increasing the resilience, market orientation and international competitiveness of EU agriculture;
- Improving the CAP's capacity to deliver environmental outcomes;
- Simplifying the CAP for farmers and authorities.

Whilst it is too early to know precisely the issues that will be the subject of discussion at March Council, given recent discussions in official-level working groups we feel able to make a reasonable assessment of what the major outstanding political issues will be.

Whilst I support the Presidency's ambition, this is not without prejudice to the need to secure a good deal for the UK, whilst recognising the need to compromise. There will inevitably need to be some flexibility in the position the UK takes when agreeing to give a mandate to the Presidency. I want to be able to give our farmers certainty on what the future requirements will be. For other stakeholders they need to know what CAP looks like for our important rural development programmes, including our agri-environment schemes

I have set out below the key issues for March Council under each regulation.

DIRECT PAYMENTS REGULATION

There has been reasonable progress on a number of issues in this regulation. The Council text now includes a simpler, voluntary provision to replace the Commission's unworkable proposal on active farming, and schemes to support young and small farmers have also been made voluntary which will enable us to consider whether they represent the best approach. In addition, there is now provision for administrations which already offer an area payment scheme to recycle farmers' entitlements into the new post-2014 scheme, which reduce burdens on the RPA. It is also now possible for payments to be made from the national reserve for new entrants, which is a particular concern of the Scottish Government. However, my agreement on a mandate on this regulation will hinge on progress in getting a good outcome on the points below.

One of my priorities on this regulation remains Greening. I have been pressing very firmly the need for Member States to be able to implement Greening through nationally designed schemes offering equivalent outcomes to the Commission's measures. If I am successful, we will be able to decide whether to offer farmers something much closer to the agri-environment schemes they are familiar with from our Rural Development Programme.

As the Committee is aware, EU agriculture has successfully phased out coupled payments in most commodities. Whilst the Commission's proposal makes no further progress, I remain opposed to calls from other Member States who want scope to increase both the amount of coupled support and the range of sectors it can be applied to, as well as to make the terms of that support more generous. My letter of 2 February also highlighted my concern about amendments in the EP on coupled support. I will therefore continue to argue against anything which is more generous in terms of sectors where coupling is allowed, the circumstances in which coupled payments may be made, or the volume of coupled payments, than the Commission's original proposal.

I am broadly encouraged by negotiations in Council on internal convergence (the move from historic to area based direct payments). Whilst Member States agree that the continued link of subsidies to historic production levels cannot be justified, there remain substantial differences between them as to the mechanism, scale and rate of internal convergence. I will continue to press for full convergence within the next financial perspective whilst seeking sufficient flexibility to allow Member States and regions to determine the most appropriate method to achieve this. Realistically, however, other Member States would prefer a longer target for full convergence.

SINGLE COMMON MARKET ORGANISATION (SCMO) REGULATION

Overall, the Commission's proposed sCMO Regulation would keep reform moving in the right direction, albeit more slowly than we would like. Some of the proposals help achieve the UK's overall objective of increasing the resilience, market orientation and international competitiveness of EU agriculture. For example, if adopted, the proposals would tighten the rules for intervention buying and also press on with phasing out the remaining quota systems for milk, wine and sugar.

Notwithstanding my serious concerns about the EP's approach on this regulation as highlighted in my letter of 2 February, there have been some positive developments in the Council negotiations. The Presidency has secured a compromise which means that Member States would not be required to recognise Producer Organisations as the Commission had previously proposed. There have also been some modest advances on the use of so-called 'exceptional measures' where the latest proposals are clearer about the circumstances in which these crisis management tools can be deployed and we have seen off attempts to increase co-financing rates which would have had budget implications. However, there remain some significant areas of concern in the Council position for which there have not been satisfactory solutions in the negotiations so far.

Price support and intervention buying have been extensively dismantled as part of previous CAP Reforms and high world prices in recent years have also helped moderate expenditure; but intervention systems still provide a targeted product safety-net for a number of sectors. There have been persistent calls from some Member States to increase minimum safety-net prices which would mean that intervention would be activated more frequently; and there is strong support for this approach from the EP. Recent discussions show that Member States remain divided on this issue. I will continue to work with other like-minded Member States to resist this proposition because of the budgetary pressures and negative market and consumer impacts associated with it.

On sugar, we continue to support the Commission's proposal to abolish beet production quotas by 2015, but a large number of Member States wish to secure a further extension. The UK wants the proposals to allow the beet and cane sugar sectors to compete on a level playing field which would benefit consumers and food and drink manufacturers as well as ensuring security of supply and safeguarding jobs in the cane refining sector.

In the wine sector, a large majority of Member States are arguing strongly for the reintroduction of the vine planting (quota) regime and the retention of subsidies. The latest Commission proposal is in many ways a step forward. It acknowledges that those Member States which are currently exempt (such as the UK) from applying the system of vine planting controls should remain exempt from any temporary safety net system that is introduced as a replacement. It would also prevent the expansion of powers to producers. We are working with like-minded Member States to stress the need for further progress on simplification and clarification in the wine sector and a stronger consumer and market orientation.

The Commission has been seeking to introduce what it views as a more coherent approach to EU Marketing Standards. We have been working with allies to oppose some aspects, such as the proposals to introduce 'place of farming' labelling in the sCMO when there are similar rules in the EU Regulation on the provision of Food Information to Consumers (FIC). There is the potential here to cause confusion for businesses and consumers and in any event we need to wait for the Commission's report on mandatory origin labelling for meat used as an ingredient, which is being conducted in response to the horsemeat scandal. We also continue to resist giving the Commission carte blanche to extend specific marketing standards to any agricultural sector, and we oppose the introduction of a General Marketing Standard which would create new compliance and enforcement costs for a range of commodity sectors without adding any significant value. Member States remain split on these proposals. I will continue to negotiate hard in this area and I am optimistic that we can secure some progress, particularly in relation to the General Marketing Standard proposal.

A further issue is that as a result of progress on the MFF (Multi-Annual Financial Framework) and CAP budgets the Commission's proposal for a new €400m a year Crisis Reserve has now been brought within the CAP budget. This is a positive development, but the Presidency and the Commission will now need to come forward with revised legislative proposals to set out how the Reserve will operate in practice. My main objective in the negotiations will be to argue for clear conditions for mobilising any funds which should only be used in the event of a major crisis affecting agricultural production or distribution. There should also be clear procedures which allow for proper Member State scrutiny before the Reserve is accessed. Delivering ad hoc crisis aid to farmers could create an additional burden for the RPA and we will need to argue that the mechanisms for utilising the Reserve and/or redistributing unused funds to farmers through direct payments are as simple and automatic as possible.

RURAL DEVELOPMENT REGULATION

The Commission's proposed Rural Development Regulation was strong in encouraging Member States to take a strategic approach to secure the three objectives of delivering a healthy rural environment, a competitive agriculture sector and strong rural communities. Significantly, this reform placed great emphasis on the role of innovation and I am very happy to welcome this in view of the Government's wider growth agenda. However, it did not significantly improve simplification for either administrators or beneficiaries and included a few elements, such as the Income Stabilisation Tool, which we could not support as they are not appropriate for the rural development fund.

Although rural development generally offers excellent value for money, especially compared with direct payments, there are changes that could be made to improve this further. The trend in Council discussions and in EP amendments has been to reduce the value for money. One of my key objectives in the negotiations will be to minimise any further erosion of the value for money that Rural Development can provide.

The Income Stabilisation Tool, although voluntary for Member States to adopt, is something I oppose as has been explained in previous correspondence. It is potentially very expensive, administratively burdensome and unwarranted given the existence of direct payments and market management measures elsewhere in the CAP. For these reasons it is an inappropriate addition to the Rural Development Regulation. However, in negotiations we have been in a minority in arguing against the Income Stabilisation Tool. I will continue to seek changes to resolve my concerns.

The Commission's proposal for afforestation of agricultural land removed the ability to compensate for 'loss of income and income foregone'. Compensating for income foregone is vital if we are to incentivise farmers to give their land over to forestry and thereby secure the significant environmental benefits that afforestation can provide. There is agreement from the majority of Member States that income foregone should be included. This is also an important issue for the Devolved Administrations. As such I will continue to oppose the Commission's attempt to remove this important part of the payment. The EP's amendments do not allow for income foregone to be paid, and therefore I consider it important for this to be secured by the Council in its negotiating mandate.

The UK government has argued that a minimum spend on measures which provide the greatest environmental benefit is an effective method of ensuring public money is spent in the most appropriate way. I suggest that we are flexible as to what proportion it should be set at and which measures it should include, as long as it is clear that it will deliver, at the least, a continuation of the level of spend on these measures under the current period.

FINANCE AND CONTROLS (HORIZONTAL) REGULATION

Our overriding priority in the Horizontal Regulation negotiations so far has been to push for a simplified, more proportionate regulation which would help reduce the cost of managing the CAP for farmers, paying agencies and HMG.

On the proposals for the future of the Integrated Administrative Controls System (IACS), the UK has and will continue to press for control systems that are truly risk-based and proportionate and oppose proposals that would lead to a disproportionate administrative burden on farmers and paying agencies, such as the increased mapping scale (although the text now contains a two-year transition period) and the requirements to keep data for longer periods of time. Alongside the improvements we want to see on Greening to enable greater flexibility in the way this is delivered (described above), we have also been successful in pursuing changes that would strike a better balance between delivering Greening and not placing undue burden and cost on farmers and the UK's paying agencies. For example, the Presidency text contains a transition period, giving us more time to prepare the time-consuming and expensive mapping of detailed aspects of a beneficiaries' claims for Greening.

The UK Government wants to find ways of limiting the Commission's discretion in applying flat rate financial corrections, which have resulted in exceptionally large disallowance amounts for the UK in recent years. We have pursued amendments which mean flat rates would only be used when it is genuinely impossible to calculate the risk to the fund and have also focussed on improving the procedures that the Commission and Member States go through as part of any disallowance decision. These aspects have been integrated, to a limited extent, in the Presidency text which we can accept.

The Commission has proposed new audit requirements on Member State certification bodies. Most Member States remain strongly opposed to the extended audit rules. However since the main EU Financial Regulation (Regulation No. 966/2012), agreed in July last year, requires an audit of legality and regularity on audits, we accept that the requirement will remain. Therefore the main priority for the UK will continue to be to shape the content of any new rules to make them as proportionate and cost-effective as possible. We can support the Presidency text which now restricts the future detailed rules the Commission will produce. The UK is broadly supportive of the current text on Cross Compliance. We have been exploring ways of bringing further proportionality into the penalty system, particularly in light of proposals previously brought forward by the Danish Presidency and the Parliament which we believe would make the system more complex. We also wish to ensure that Statutory Management Requirements (SMRs) and standards of Good Agricultural and Environmental Condition (GAECs) aim to deliver environmental benefits and are as simple as possible for farmers to understand and regulators to implement. To that end we have supported the deletion of a proposed new standard on carbon rich and wetland soils. Despite the fact that we agree with the intent behind this standard, we have been unable to support the proposal due to the complexity and added burden on farmers and Member States the proposed text would bring.

The UK can broadly accept the Presidency text on the Farm Advisory System, which makes mandatory advice in the Commission's original proposal (advice other than on cross compliance and Greening) optional, thereby allowing Member States to tailor advice services to their circumstances.

Your letter of 28 February raised some points in relation to Farm Advisory System which are dealt with below.

The UK has also been pursuing changes to help manage the risk that both farmers and Defra are exposed to through the use of one fixed exchange rate for converting direct payments from Euros into Sterling. It would be more appropriate if an average of exchange rates was used over a period rather than a fixed point in time. This would provide greater certainty for farmers and would help Defra manage the exchange rate risk it is exposed to through this transaction. Amendments in the EP are helpful to us in this regard, and now represent the best chance of securing the change.

The proposal on the publication of information about the amounts received by beneficiaries of the various CAP support schemes is broadly consistent with the UK's position on transparency in the use of public funds. However, we are concerned about the exemption for recipients of lower amounts of aid, such that their names would not be published. I continue to oppose the threshold, on the grounds that it is not clear that this provision stems from any justifiable difference in terms of the right to privacy between those beneficiaries (both natural and legal persons) and beneficiaries receiving higher levels of support. It could also create an unnecessary layer of complexity for Paying Agencies. I am also disappointed that the EP text has no provisions supporting such transparency.

Discussions on penalties have focussed on realising the Council's will to have the detailed rules set out in implementing, rather than delegated, acts. The UK has supported this approach, seeking to ensure the basic act contains a coherent and simple set of articles. This is likely to be an area of disagreement with the EP, which will insist on delegated acts. We are content with the Presidency text on this as it stands, which also contains a provision for a Greening penalty capped at the level of the Greening payment, in effect making Greening voluntary for farmers.

CROSS CUTTING ISSUES

I welcome the Commission's proposal to designate the new Areas facing Natural Constraint (ANC) according to biophysical rather than socio-economic criteria. Good progress has been made in relation to designating ANCs under Pillar 2 and we look to secure many UK asks in Council including the level at which the designation takes place. We definitely do not want the ANC designation taken out of these negotiations, which is what the European Parliament is pressing for. I am content with proposals for a voluntary ANC top-up payment in Pillar 1, provided there is regional flexibility on implementation for the Devolved Administrations.

The UK continues to press for clarity that the CAP Reform proposals are regionally flexible in accordance with a Member State's constitutional arrangements. I was disappointed that the amendments tabled by UK MEPs on this in the EP were not carried.

ISSUE RAISED IN YOUR LETTER OF 28 FEBRUARY: FARM ADVICE SYSTEM AND CAPPING

I note the Committee's view on the important role that Farm Advisory Systems can play. As you may be aware, we currently fund a successful farm advisory system from national funds (the Farming Advice Service). I fully support the view that strong Farm Advisory Systems across the EU are essential to building a resilient and competitive farming sector. However, the proposals put forward by the Commission and European Parliament risk the delivery of the Farm Advisory System becoming very complex and burdensome on Member States, given the breadth of topics they wish to include. The EP's amendments on the Farm Advisory System go further than the Commission's proposals, for example, by adding in more items to the mandatory advice to be provided. I am committed to ensuring that Member States are able to have advisory systems which are not more costly and administratively burdensome than need be.

Domestically, the Review of Advice and Incentives for farmers will set out this spring how retaining such flexibility on advice will be important in bringing together private sector and Government-supported offerings. This will mean farmers will get the right advice at the right time, and will help realise efficiency savings from the £20m pa Government spend on advice.

Of course, at this stage, it is unclear if the EP's amendments on the Farm Advisory System will be adopted in its plenary vote and survive through trilogue negotiations. I have previously highlighted the reasons why I do not support Capping, which includes the administrative burden it would bring. I do not consider that we should implement one administrative burden in the form of Capping to fund complex Farm Advisory System arrangements when this is an area where we are already providing good, targeted advice to agribusinesses.

EP PLENARY VOTE ON CAP REFORM – 13 MARCH

In my letter of 2 February I outlined our view on the outcome of the vote on CAP Reform in the Agriculture Committee in the EP. My officials and I have been working to achieve some amendments to the EP's position ahead of the plenary vote on 13 March. We will continue this engagement ahead of the plenary vote and I hope that there will be some positive changes to the text.

If the plenary session votes in favour of the EP's CAP Reform reports then the Rapporteurs will have a mandate to enter trilogue discussions with the Presidency and Commission. There will continue to be an opportunity for the UK to urge changes to the text and will we be working with the Presidency to try and ensure that the most damaging elements of the Parliament's proposals are modified or removed through the trilogue process.

NEXT STEPS

I plan to go into the March Council with the negotiating lines I have set out in this letter. You will appreciate that whilst I am committed to advancing the best position for the UK there will inevitably need to be some flexibility in the UK position and as such I am seeking a scrutiny waiver from the Committee for this stage of the negotiations.

It is important to highlight that the outcome at March Council does not represent the final deal. The Irish Presidency, representing Council, will engage in an intensive period of trilogue negotiations with the EP and Commission. This will lead to changes to the proposals during this period and the Presidency will report back to my officials regularly on progress and to Ministers at Councils. There will need to be compromises on all sides.

Whilst the CAP Reform regulations have cleared scrutiny in the House of Commons, I will be writing in similar terms to William Cash MP to set out my negotiating approach.

7 March 2013

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

Your letter of 7 March on the above proposals was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 13 March 2013.

We welcome the comprehensive information that you have provided and would like to assure you that you have our strong support. Accordingly, you need not withhold agreement to a negotiating mandate at the Agriculture and Fisheries Council of 18-19 March 2013 pending completion of scrutiny.

On the specific issues, we are particularly concerned about the potential outcomes on coupling of direct payments, intervention, wine policy, sugar policy and transparency and would urge you to take a strong position on those matters.

You addressed our specific concerns relating to farm advice and to capping. While we accept your responses, we maintain our concerns.

We will continue to hold the proposals under scrutiny and look forward to information on the outcome of the March Council in due course, along with your view on prospects for agreement with the European Parliament.

14 March 2013

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

Thank you for your letter of 14 March. Further to my letter of 7 March, I am writing to you to update the Committee on the main outcomes of the EU Agriculture Council on 18/19 March and the next steps in the negotiating process for reform of the Common Agricultural Policy (CAP), which the Irish Presidency hopes to conclude in June.

Prior to the March Council, the European Parliament (EP) had voted on its own amendments to the European Commission's original CAP proposals. Although the EP secured a mandate for its Rapporteurs to enter into 'trilogue' negotiations with the Council and the Commission to try and reach a final CAP agreement, the outcome of the vote itself was mixed. In some areas, we were successful in lobbying UK MEPs to help secure our objectives. This included removing text that enabled farmers to be paid twice for undertaking the same environmental activities, making the

Commission's 'Greening' proposals voluntary and reversing the EP Agriculture Committee's position to block transparency amendments.

However, in other areas and despite opposition from a significant number of MEPs, the EP voted through amendments that represented a significant step backwards on CAP reform, damaging competition, reducing the level of market orientation of agriculture and increasing the budgetary pressures for old style market support payments. Of particular concern to the UK were amendments that extended coupled support payments to a wider range of sectors (including tobacco) and increased the amount that may be spent on this support up to 18% of Member States national ceilings. The UK's proposal to add clarity on the regional implementation of the CAP within a Member State was also rejected.

The UK approach to Council was therefore mindful of the more disappointing and potentially damaging outcomes from the EP vote.

MARCH AGRICULTURE COUNCIL – 18/19 MARCH

The Irish Presidency was successful in securing a mandate to represent Council in 'trilogue' negotiations with the European Parliament and European Commission. Only Slovenia and Slovakia voted against the package. Overall, for the UK the March Agriculture Council was largely successful as many of our objectives were achieved including some priority asks of the Devolved Administrations. However, there are several outstanding issues for the UK that may require further engagement with the Commission, MEPs and Presidency during the 'trilogue' process.

I have set out below the main outcomes from March Council under each regulation.

SINGLE COMMON MARKET ORGANISATION (SCMO) REGULATION

The Council agreement on the sCMO Regulation represents a good outcome for the UK. We are pleased that the Council has agreed to continue on the road of reform and market orientation of the sCMO Regulation, maintaining a genuine safety net for producers against pressure to increase market intervention, and agreeing end dates to quota systems for sugar and wine, albeit later than planned.

We are pleased that we were able to fend off calls to review or increase reference prices, which could increase the use of market intervention and see more money taken from direct payments to extend the safety net for producers. It was important for Council to agree a strong position on reference prices to ensure a more market focussed and competitive agricultural sector.

We are content with the final package of measures on Producer Organisations, which includes the option for Member States to formally recognise producer organisations in new sectors. During the negotiations, small changes to the text were made on the eligible measures for producer organisations to extend their rules and fees to non-members however the power to agree requests for these extensions remains at the discretion of Member States.

The European Council agreed a compromise proposal for the sugar beet regime to end in 2017, two years later than previously agreed but ahead of the 2020 end date proposed by some other Member States. Whilst abolishing sugar beet quotas is an important step for consumers, we were disappointed that no commitment was made on cane imports, and will continue to press the Commission to ensure fair treatment for cane refiners.

A new transitional system for authorisations of vine plantings was agreed, due to run from January 2019 to the end of 2024. Whilst we oppose systems that limit production and distort the market as a matter of principle, we are reassured that this new transitional scheme has a fixed end date and that the UK's small but growing wine industry is excluded from these measures.

The Council also agreed text that confirms that exceptional measures should only be used when other measures in the Regulation are insufficient. This is important as it separates normal market management instruments from measures to be taken in a crisis. Although the conditions and procedure for using the crisis reserve remain unclear, we will continue to press for clear criteria that mean the reserve would only be used for a genuine crisis.

DIRECT PAYMENTS REGULATION

The UK was successful in securing important flexibility to deliver Greening through a national scheme. This was a priority objective for the UK that gives us the scope to consider how to deliver

environmental outcomes from direct payments in a way that is straightforward for farmers and secures value for money for UK taxpayers.

The Young Farmers scheme remains voluntary which will allow us to consider what role, if any, additional direct payments funded through a top slice on all basic direct payments should play in our suite of measures to support young farmers. Similarly the optional nature of the Small Farmers scheme has been confirmed. It is disappointing though that Council has supported the Commission's plan to exempt participants from cross compliance controls – smaller size should not exempt anyone from their environmental responsibilities.

Other successes for the UK at Council included securing the option to roll over existing entitlements in England, which provides a potential useful alternative to having to undertake a reallocation exercise. We also protected the competitiveness of our largest farms by ensuring that capping of large claims for direct payments is at the discretion of the Member State.

The biggest disappointment was the outcome on coupled payments. EU agriculture has successfully phased out coupled payments in most commodities so it is frustrating to see some Member States continue to call for their reinstatement and expansion. Coupled payments encourage farming for subsidy rather than for the market and so introduce economic distortions as well as the consequent negative environment and development impacts.

The UK had some limited success in restricting the expansion of coupled payments to new sectors but the Council compromise position allows for the percentage ceiling for coupled payments to be raised to 7% for Member States like the UK who have largely decoupled and 12% for Member States who have not. Whilst short of the Parliament's proposed 18%, the Council position is above the original Commission proposal and not at a common level for all Member States. We expect that a significant number of Member States will apply pressure during the 'trilogue' process to raise the percentage ceiling beyond 12% and closer to the Parliament's position.

It was also disappointing that Council rejected the Commission's proposal for internal convergence which would mean a full move away from historic payments by 2019. Farmers should be rewarded by the taxpayer for the benefits they produce now, and not the crops they grew and animals they reared ten to twenty years ago.

On behalf of all the Devolved Administrations, who have not yet moved from historic to area payments, we did manage to secure flexibility for a smoother internal convergence transition than the one proposed by the Commission, with an initial minimum step of 10% rather than 40%. We also lobbied successfully on behalf of Scotland for the definition of permanent grassland to include heather and secured text which allows the granting of reserve entitlements to new as well as young farmers – a priority ask from Scotland.

RURAL DEVELOPMENT REGULATION

The Council agreement on rural development represents a balanced position to take into 'trilogue' negotiations. We consider that it will enable Member States to safeguard and enhance the rural environment, fostering competitive and sustainable rural business, and support thriving rural communities.

The UK secured important changes on mapping Areas facing Natural Constraints (ANC) to better identify land that is truly constrained. Member States will also have an extra two years until 2016 to prepare for ANC designation, allowing for adjustments to payments under current UK schemes to not start until then. These changes address a number of concerns expressed by the Devolved Administrations.

However, there are some aspects of the regulation that will not offer the value for money we are looking for. The UK was in a minority in arguing against double funding of greening activities, allowing farmers to be paid twice under both Pillars for delivering the same activities. I made clear in Council that I share the European Parliament's opposition to this policy. We are also disappointed that a minimum spend for environmental activities was not secured.

The Irish Presidency had mistakenly removed from its proposed compromise on the Rural Development Regulation, wording which is relevant to the calculation of a portion of the UK's rebate. I made it clear that it was essential for this mistake to be corrected, and the Presidency ensured that it was corrected in the compromise further changes tabled on the second day. Following objections from a few Member States the Presidency maintained the text with the necessary wording, but put the article in square brackets and referred it for resolution in the framework of the Council

deliberation on the EU Own Resource Decision. However, at my insistence they also made it clear that this issue needed to be resolved before the Rural Development Regulation could be agreed.

FINANCE AND CONTROLS (HORIZONTAL) REGULATION

Overall, the Council agreement on the Horizontal Regulation was a good result for the UK. The Council focussed on reducing costs and burdens for Member States, administrations and farmers. We particularly welcomed the more proportionate approach to disallowance procedures introduced by this text, and the amendments which should reduce the impact of the newly proposed audit requirements.

We also strongly welcomed the transition period for paying agencies to develop the appropriate control systems for Greening. However, we are disappointed there is not a provision to enable farmers to refrain from applying for a Greening payment without an additional penalty being imposed. We wanted to be able to implement a more proportionate approach to controls on Greening.

We welcomed the removal of the new standard on protection of carbon rich soils under cross compliance. Whilst the UK is supportive in principle of measures to protect such soils and to address the issue of climate change through agricultural activity, we did not think the requirement as proposed will have sufficient demonstrable benefits on the environment to justify the increased burdens on administrations in controlling compliance.

We are however disappointed that some elements of environmental protection in the Commission's cross compliance proposal have been watered down, such as the removal of a ban on hedge-cutting during bird breeding season. We would also have liked to see more changes, particularly aimed at allowing a more proportionate treatment of minor breaches of animal ID rules, but the Council could not agree to any changes to the Commission's proposal, which largely carries forward the current penalties regime.

A key priority for the UK has been to secure a new specific provision on regionalisation in order to clearly recognise the role of regional administrations in delivering the CAP under all four of the CAP Regulations. I was successful in securing this at Council with the inclusion of a new article in the Horizontal regulation. While I remain concerned over the drafting of this new Article at Council, the Irish Presidency promised to amend the regionalisation provision to clarify that it refers to the whole of the CAP. My officials will continue to work with the Presidency to make sure this happens during the 'trilogue' process and are concerns are reassured.

Although not discussed at Council, we were pleased to see the retention of Commission proposals on publication of beneficiaries' data although would like to have seen these go further. These transparency proposals are important and with the European Parliament voting in favour of increased transparency we are now confident that opposition to these proposals has now been removed.

NEXT STEPS

Formal 'trilogue' negotiations between the Irish Presidency, the European Parliament and the European Commission begin on 11 April. The Presidency is aiming for these negotiations to conclude in mid-June in order to keep its aim of securing a final CAP agreement in late June on track.

Whilst the outcome of March Agriculture Council was in the main a positive one we are under no illusion of the scale of the challenges we will face during the 'trilogue' process where compromises will be sought by the Presidency, Parliament and Council to secure a final agreement. We will need to monitor developments very closely not only to try and secure further important amendments on issues such as double funding, sugar, coupled support and internal convergence but also to defend the amendments we have successfully secured on market reforms under the sCMO Regulation for example.

My officials are now working closely with UKRep colleagues to identify the most effective approach for influencing the 'trilogue' process. The UK negotiating lines will remain consistent with what I have set out to you in previous correspondence.

2 April 2013

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

Your letter of 2 April 2013 on the above proposals was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 24 April 2013.

The mandate agreed by the Council appears balanced to us, and we broadly welcome the positions on sugar, wine, intervention, greening and transparency in particular. There are elements, however, that are disturbing. These include the positions on the coupling of subsidies and the double funding of greening activities.

There are two points of detail on which we would welcome clarification. In the Rural Development Regulation, to what extent is a new process of mapping required for the purposes of identifying Areas facing Natural Constraints? Second, are you able to offer any reason for the removal, which you opposed, from the cross-compliance requirements of a ban on hedge-cutting during the bird breeding season?

We will retain the proposals under scrutiny and look forward to the opportunity to discuss elements of them when you come before the Sub-Committee to give evidence on 15 May.

In the meantime, please do inform us of any further progress in the negotiations.

We look forward to an update in due course.

25 April 2013

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

Thank you for your letter of 25 April where you asked for clarification on two points of detail relating to Rural Development and Horizontal Regulations that are currently subject to negotiation as part of the wider reform of the Common Agricultural Policy (CAP). I will address each of the Committee's points in turn.

IN THE RURAL DEVELOPMENT REGULATION, TO WHAT EXTENT IS A NEW PROCESS OF MAPPING REQUIRED FOR THE PURPOSES OF IDENTIFYING AREAS FACING NATURAL CONSTRAINTS?

Adoption of the Areas facing Natural Constraint (ANC) measure is voluntary and decisions have yet to be taken by relevant administrations on whether to apply it in the UK. In England, we could continue to use the existing Severely Disadvantaged Areas (SDA) for payment purposes. However, mapping ANC is a useful technical exercise and is necessary to assess how it might be applied. For example, ANC offers a basis for supporting future agri-environment schemes, including any approach which impacts in the uplands. This will also depend on the outcome of CAP Reform proposals on Greening and any budgetary constraints in Pillar 2.

Against this backdrop, mapping ANC is in progress in England and the Devolved Administrations. Whilst Defra is broadly supportive of ANC, we have encountered some technical problems and are making good progress in resolving them with the Commission. We are also seeking various clarifications on the legal text to ensure it accommodates the UK's mapping requirements. The Devolved Administrations are undertaking their own ANC mapping and Defra is co-ordinating this on behalf of the UK. Scotland and Northern Ireland run significant Less Favoured Areas schemes, which ANC would replace.

ARE YOU ABLE TO OFFER ANY REASON FOR THE REMOVAL, WHICH YOU OPPOSED, FROM THE CROSS-COMPLIANCE REQUIREMENTS OF A BAN ON HEDGE CUTTING DURING THE BIRD BREEDING SEASON?

In May 2012 under the Danish Presidency, it was proposed to remove the ban on hedge cutting during the bird breeding season because other Member States saw this requirement as being difficult to control. The UK was a lone voice in support of the ban so the Irish Presidency went with the majority view to remove this requirement.

I hope that this letter provides sufficient clarification on the points you raise.

I also note the Committee's wider concerns on double funding and coupled support. I share those concerns. The UK is aligned with the European Parliament in its opposition to double funding and we are supporting their efforts to try and ensure that the Parliament's position prevails during the trilogue negotiations. On coupled support, we are supporting the European Commission who oppose moves by the Parliament and many Member States to increase coupled support payments, while also making our preference clear for a single low rate across the EU. It is disappointing that so many Member States still cling to these market distorting payments and we are working hard in the face of considerable opposition to try and restrict their expansion.

The Committee will of course appreciate that the trilogue process makes it much harder for the UK to influence negotiations. However, I and my officials are taking steps to ensure that the UK position on these issues is clear and well understood by the Commission, MEPs, and other Member States.

8 May 2013

COMMON FISHERIES POLICY PACKAGE (12514/11, 12516/11, 12517/11, 12518/11 12519/11)

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

Since I last wrote to you on progress with the reform of the Common Fisheries Policy (CFP), discussions have continued in the European Parliament (EP). On 18 December the EP Fisheries Committee voted on amendments to the basic CFP regulation, giving us the first clear steer on the Parliament's position on CFP reform. This letter provides an update on the outcome of the EP discussions to date, and our current expectations for the CFP discussions going forward.

The current status of reports related to CFP reform within the European Parliament is as follows:

- Basic Regulation – Considered by Committee, awaiting Plenary vote.
- Common Market Organisation – Considered by EP Plenary, awaiting discussion with Council to close second reading.
- European Maritime and Fisheries Fund – Report being considered, awaiting committee vote.
- Four “own-initiative” reports (non-legislative) – EP consideration completed.

A summary of the outcome of the European Parliament's consideration of the basic CFP regulation is included in Annex A [not printed]

ANALYSIS OF VOTES AND EFFECT ON THE CFP NEGOTIATIONS

While the European Parliament has yet to complete its consideration of the CFP basic regulation, the votes to date in the Fisheries Committee, on the basic regulation and the own initiative reports, provide a clear steer on the European Parliament's views on the key reform topics. The amendments voted on in December show support for ambitious provisions to deliver more sustainable fishing, an end to discards and more regionalised decision making. The Fisheries Committee voted to remove mandatory Transferable Fishing Concessions from the basic regulation, and to apply the same principles of fisheries management outside EU waters as within. The Fisheries Committee's approach is broadly in line with the agreed aims of Council, although there are some differences around how it is envisaged the goals will be achieved and on the detail necessary in the basic regulation, particularly with regard to regionalisation. While we do not support all of the amendments agreed by the Committee and there is still work to do to ensure the final package achieves the UK's objectives, the outcome gives us a good platform to negotiate the final package this year.

The Common Market Organisation report attracted widespread support in the European Parliament. The first reading process has been completed in the European Parliament but will be considered by Council again as the rest of the package is revisited. Areas of interest for the European Parliament remain labelling of fish and fish products and the role of Producer Organisations. Further information on these aspects has been given previously. European Parliament amendments to the EMFF proposal are running to a later timetable and are currently being considered, with a committee vote scheduled for March this year.

NEXT STEPS

Completion of the European Parliament first reading position on the basic regulation, through a plenary vote, is expected in February. We will be looking to retain the elements from the Committee's amendments that we support, whilst seeking to overturn those parts which are not in line with the Council's position. We are working to raise awareness of the main issues and influence the views of key opinion formers. In the run up to the plenary vote, the intention is to build on existing relationships to ensure that UK MEPs and representatives of the key political groupings are

aware of the need for ambitious reform, coupled with the practical measures to ensure these reforms are delivered.

Initial indications from the Irish Presidency suggest that they are keen to maintain momentum on the CFP reform package in Council with ambitions to finalise the outstanding elements of the partial General Approaches on the basic regulation and CMO at Fisheries Council on 25-26 February 2013 and reach full political agreement on the whole package including EMFF in June 2013.

There are limited areas remaining under discussion following agreement of the partial General Approach on the basic Regulation in June 2012. For the basic regulation, the outstanding issues are outlined in annex A along with our intended approach. We will continue to press for ambitious deadlines to fish at sustainable levels, and to eliminate discards through landing obligations and the practical measures that go alongside these. We continue to seek genuine regionalisation of decision making that enables Member States to agree and implement the right measures for their fisheries.

The CMO is likely to be considered again by Council along the same timeline as the basic regulation. The Council also hopes to accelerate progress on the EMFF so that agreement on all elements of the reform package might be reached at the June Council. Progress on EMFF will depend on progress in the EP, and on agreement being reached over the Multi-annual Financial Framework expected in the first half of the year. A fuller update on this aspect of the package is being prepared to respond to the detailed points raised in your letter of the 6 December and will be with you shortly.

I would be happy to provide any further information as required, to assist your consideration of the dossier and its clearance from scrutiny. This is especially important in light of the ongoing and accelerating developments in the negotiations, and with the Irish presidency seeking decisions in Council over the coming months, including finalising the position on the basic regulation and CMO at February Council.

23 January 2013

Letter from Richard Benyon MP to the Chairman

Further to my letter of the 23 January 2013 I would like to update you on the discussions that took place at Fisheries Council on 28 January 2012 in relation to the Common Fisheries Reform package, including the basic regulation, Common Market Organisation (CMO), and European Maritime and Fisheries Fund (EMFF).

The Irish Presidency confirmed that they will ask Fisheries Ministers to finalise the outstanding elements of the partial General Approaches on the basic regulation and CMO (see Annex A) at Fisheries Council on 25-26 February 2013, enter into detailed trilogue discussions with the European Parliament thereafter, and seek to reach full political agreement on the whole reform package, including EMFF, in June 2013.

This is an ambitious timetable which received a positive response from the majority of Member States during the discussion. There is however an influential group of Member States whose support for a rapid conclusion to the negotiations is conditional, and who indicated that they will seek to push back the provisional timelines for key objectives and weaken a number of the provisions relating to the discard ban.

I will continue to seek an early resolution of the negotiations, but it is even more important that the detail within the provisions is fit for purpose and in line with the ambitions that I have set out in my earlier letters. I will continue to make the case for radical reform, defending the agreement secured so far, countering calls to weaken the reforms, and building the alliances we need to see this through. We will need to react flexibly as the negotiations progress, to achieve the best outcomes for the UK in the context of the views of other Member States and the European Parliament.

Should an outcome which supports UK objectives be achieved at February Council, I would wish to vote in favour. To allow me to do that and to secure the best possible deal for the United Kingdom, I would be grateful if you will now release these proposals from Parliamentary Scrutiny or grant a scrutiny waiver allowing me to exert influence in Council to the UK's greatest advantage. As February Council is likely to focus on the basic regulation and CMO, release from scrutiny, or a waiver, on these dossiers is most urgent. Elements of the EMFF may also be discussed at February Council and will certainly be considered at forthcoming Councils under the Irish Presidency.

As these negotiations progress I will continue to keep you up to date with any significant developments. The European Parliament continues to consider these dossiers in parallel and I will be happy to update you on the outcome of their deliberations as key votes take place in the coming weeks.

6 February 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 6 February 2013 was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 13 February, following on from your letter of 23 January which was noted at the Sub-Committee's meeting on 30 January.

We are very grateful for your helpful summary of the latest state of play in these important negotiations relating to the future of the CFP.

It is pleasing that the Fisheries Committee of the European Parliament took a position that is favourable to a more sustainable CFP, and that the Plenary supported the Committee's position in its vote last week. We hope that this vote will strengthen your hand in negotiations in Council.

As regards the basic Regulation and the CMO, we observe that the Irish Presidency will seek to agree a General Approach at Council on 25-26 February 2013, with a focus on finalising the issues that remained outstanding after the Partial General Approach last year. You have previously set out the principles on which you will negotiate and have re-iterated that position. On that basis, we are content to release those Proposals and the external dimension Communication from scrutiny. We would emphasise in particular our focus on the need to minimise, and ultimately end, discards and on a robust system of regionalisation.

One of the issues that remains to be resolved is that of labelling. In light of recent concerns relating to the labelling of processed meat products, we would welcome information from you on the costs to business of introducing proposals to include the date of catch or date of landing.

As negotiations accelerate, we would welcome further information from your Department, particularly if negotiations take a turn in an unexpected and unwelcome direction. Following the European Parliament and Council votes, please provide an update on the respective outcomes and on next steps.

We have written separately to you about the European Maritime and Fisheries Fund, the proposal for which will be retained under scrutiny.

We look forward to further information in due course.

13 February 2013

Letter from Richard Benyon MP to the Chairman

Further to my letter of 6 February 2013 I would like to update you on the outcomes of both the European Parliament Plenary vote that took place on 6 February and the Fisheries Council on 26 and 27 February 2013, in relation to the Common Fisheries Policy basic regulation.

EUROPEAN PARLIAMENT POSITION

The European Parliament voted on 6th February on its vision for reforming the CFP basic regulation. The vote included a firm commitment to eliminate discards for all harvested species, with single point dates for when the requirement would enter into force. For pelagic fisheries, this would be 1 January 2014, and for demersal fisheries in UK waters, 1 January 2016.

The text included an unqualified deadline of 2015 for fishing rates to be set in line with Maximum Sustainable Yield (MSY). The Parliament also supported a model of regionalisation based on the Commission's original proposal, that retains a large amount of prescriptive detail in plans agreed at EU level, and delegated powers for the Commission to step in to override Member State decisions where these are considered inadequate.

FEBRUARY FISHERIES COUNCIL

The position agreed by Council finalises the partial "General Approach" that was agreed in June 2012. It contained measures to progressively eliminate discards, with practical timelines. The pelagic fisheries landing obligation would come into force from January 2014 and for whitefish fisheries from January 2016 and finalised by 1 January 2019. The staged process also provides the flexibilities needed to apply a landing obligation on a fishery by fishery basis. Measures included limited exemptions (including a "de minimis" exemption for defined cases) to address specific problems in specific fisheries. However, the Government was able to prevent other demands to water down plans to

eliminate discards including an unacceptable blanket discard exemption for boarfish and blue whiting. In addition, we also successfully removed the proposal for a bycatch quota, included in square brackets in the June 2012 partial general approach, as well as attempts to replace this with a requirement for mandatory swapping of quotas.

On integration between fisheries management and marine environmental policies the agreement ensures that there would be a clear process for introducing measures. This would improve the situation beyond the 12 nautical mile limit, assisting Member States in meeting their obligations under EU law and regional sea conventions. We will seek further improvements to this process as negotiations continue.

The agreement builds on the achievements of last year when the UK secured a) provisions setting out a genuine regionalised process to replace the centralised one size fits all approach to fisheries management and b) a clear legal commitment, and deadlines, to end overfishing by achieving Maximum Sustainable Yield targets, in line with our international commitments.

The Common Market Organisation (CMO), is now be subject to trilogue discussions between Council and Parliament and is expected to be considered at the April Council. The European Maritime and Fisheries Fund (EMFF) is also expected to be considered at April Council to resolve the outstanding elements and agree a full General Approach.

NEXT STEPS

The Council's agreement and the European Parliament Plenary vote provide a basis for trilogue negotiations between the Council, European Parliament, and the Commission to finalise the new CFP in the coming weeks and months. This process is due to commence on 19 March. The UK government will continue to make the case for our reform objectives of ending discards, setting fishing rates sustainably and regional decision making, working with other Member States and MEPs as the Irish Presidency push ahead to try to reach a political agreement during their term.

18 March 2013

Letter from the Chairman to Richard Benyon MP

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

We are very grateful for your response. We continue to support the position that you are taking in negotiations and we would welcome a further update on the progress of negotiations in due course.

Our scrutiny of the Proposal for a Regulation on the European Maritime and Fisheries Fund (EMFF) is of course proceeding as distinct correspondence. It remains under scrutiny.

We look forward to further information in due course.

25 April 2013

Letter from Richard Benyon MP to the Chairman

Further to my letter of 18th March 2013 I would like to provide a brief update on progress in the negotiations on the CFP reform package.

BASIC CFP REGULATION

Following agreement of the Council position in February, trilogue discussions between Council and Parliament are underway. Information coming out of the trilogues suggests discussions are positive but with little substantive progress as yet. The Irish Presidency has indicated a wish to increase the pace of discussions to achieve an agreement by the end of their presidency, on the CFP basic regulation and the CMO. This ambition was endorsed by ministers at April Fisheries Council.

Although the institutions now agree on many of the key principles of the reform, some important detail (for example on discards and regionalisation) remains to be agreed.

EUROPEAN MARITIME AND FISHERIES FUND (EMFF)

Consideration of the European Maritime and Fisheries Fund dossier in the European Parliament has been delayed. Initial consideration in the Parliament is unlikely to be completed until at least July, and

it is not yet clear when trilogue discussions with Council will be able to begin. The Irish Presidency is now not expected to table a substantive discussion on EMFF during their remaining Councils. As such, it will be for the Lithuanian Presidency to take this dossier forward later this year.

COMMON MARKET ORGANISATION (CMO)

Trilogue discussions have continued on the CMO with the outstanding issues of mandatory labelling and the use of delegated and implementing acts among the remaining areas of discussion. As yet no compromise has been identified. However, a further trilogue is planned for 8 May to try to find a solution. The UK continues to seek that burdens are minimised given the practical difficulty for the industry in providing date of catch or date of landing information to consumers. We will keep the committee abreast of developments on this issue.

We note the interest of both committees' in this issue of labelling and also in the potential costs of this approach to businesses. While being clear that the costs would be high, industry have informed us that it is not possible to calculate costs more accurately because existing supply chains could not cope with tracking this information to individual consumer packs. The impact of these provisions would fall not only to processors but also to catchers who would need to sort and market by catch date and merchants/salesmen would need to separate catches by different dates of catch or landing. Multiple retailers would also need to change their buying practices even with single species because the fish on counters might be from multiple vessels and caught or landed on various dates. We are continuing to make these points robustly in Brussels at every opportunity.

NEXT STEPS

Further discussions on the CFP and CMO dossiers are expected at Agriculture and Fisheries Council on 13-14 May where we expect the Irish Presidency to seek a revised trilogue mandate to reach a deal with the European Parliament. We will support the Presidency in maintaining momentum in the negotiation to reach a deal, urging Council to move closer to the Parliament's position where this is in line with UK's established priorities.

I would like to thank the committee for providing the necessary flexibility to allow the negotiating team to pursue the UK's objectives. We continue to work with other Member States and MEPs as the Irish Presidency push ahead to try to reach a political agreement during their term. We will keep you informed of developments.

29 April 2013

CONSERVATION OF EUROPEAN WILDLIFE AND NATURAL HABITATS (14025/12)

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

Thank you for your letter of 25 October regarding the Explanatory Memorandum on the above Proposal which I understand was considered and cleared from scrutiny by Sub-Committee D at its meeting on 24 October. You asked for further information as it became available.

The UK set out its opposition and concerns about the proposed Council Decision, including on issues of EU competence, legal base and the need to give further consideration to the Swiss proposal, at the Environment Working Party (WPE) meeting on 10 October 2012.

The UK's views were not shared by other delegations or the Council Legal Service (CLS), who advised that, in relation to issues of competence and legal base:

- At the very least pursuant to Article 192 TFEU the Union has non-exclusive competence to fix its position to be taken in the Standing Committee of the Bern Convention;
- Article 218(9) TFEU is the correct legal basis, since the examination by the Standing Committee is the legally required step pursuant to Article 16 of the Convention in order for the amendment process to be set in motion. The Standing Committee's work therefore produces a "legal effect".

The Presidency now intends to transmit the proposal to lawyer linguists with a modification in Article I of the Decision stating that *"the position to be taken by the EU...shall be to oppose the Swiss*

proposal.....". The Presidency believes this reflects the discussions at the WPE where attention was drawn to the fact that, in accordance with Article 16(2)(b) of the Bern Convention, the Standing Committee takes its decisions by a three-quarters majority of the votes cast.

I believe the Presidency's intention is to put this point to Coreper on 14th November as an 'I' point and then to the General Affairs Council on 20 November as an 'A' point.

We remain of the view that the proposed Council Decision is inappropriate because it covers an area of competence that falls to the Member States to exercise rather than the EU. We believe that the Swiss proposal to extend the scope of the reservation clause is arguably a question of international law, and is one not covered by EU rules (the *acquis*). Even if we were to accept that the proposal is an environmental matter and falls within the shared competence of the EU and the Member States, the Swiss proposal would not in fact affect EU rules or alter their scope (the test enabling the EU to act in a matter of shared competence). This is for two reasons.

Firstly, it is impossible at this stage to determine to what species and for what killing methods any subsequent reservation would be applied by a Convention Party. It may or may not relate to a species currently protected under EU legislation, but there is no way of identifying those species at this point in time. This means that it is not possible to confer competence on the EU based on current listings in the Habitats or Birds Directives.

Secondly, the proposal would not affect or alter the scope of EU legislation. This is because any reservation made under the Swiss amendment would only apply to the Party making the reservation. So, for example, if Switzerland makes a reservation removing itself from the obligation to protect *Lynx lynx* under the Convention, there would be no automatic delisting of *Lynx lynx* from the EU Habitats Directive. The only way EU legislation would be affected is if the EU itself decided to enter a reservation on *Lynx lynx*. And EU Member States could not enter reservations in respect of species covered by EU legislation as the protection for such species would be a matter of EU competence.

The only conceivable way that EU rules might be affected by the reservation of a non EU Party would be if that reservation led to a subsequent decision by the Standing Committee to remove a species from protection under the Convention. But that in itself would not require removal of protection of the species under EU legislation. The EU could continue to maintain higher standards of protection if it considered this to be necessary. In any event, the EU and its Member States would be able to argue to retain protection of the species under the Convention during the Standing Committee negotiations. We do not, therefore, agree with the CLS view described in the italicised text above.

We do not agree with the CLS that a legal base of article 218(9) TFEU is appropriate. In the Government's view, consideration of an amendment proposal by the Bern Standing Committee in line with Article 16 of the Convention does not of itself give rise to legal effects as required by article 218(9) TFEU. The amendment will only have legal effects if it is adopted by the Committee of Ministers to the Council of Europe and subsequently accepted by all Contracting Parties.

Given the views of other Member States and the unfavourable opinion from the CLS, the UK will be unable to prevent adoption of the proposed Council Decision. However, we will not be able to support it.

On the substantive question of whether the Swiss proposal should be supported, we can foresee a circumstance in which the ability to make post-hoc reservations may be beneficial. This could occur, if, after a country becomes a Party to the Convention, its domestic circumstances change i.e. what used to be a threatened species is now so prolific it is causing a conservation issue. Some Countries have been a Party to the Convention for over 30 years and so some listings will be of a similar age and no longer appropriate where species have increased in number through conservation efforts.

2 November 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 2 November 2012 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 14 November 2012.

We note that you have been unsuccessful in securing support from other Member States for your opposition to the proposal on legal grounds, and that the Council Legal Service also took a different view.

Do you intend to take any further action to pursue your concerns, such as work with other parties to the Bern Convention?

We would welcome a response within ten working days.

14 November 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 14 November confirming that my earlier letter regarding the above proposal has been considered by your Agriculture, Fisheries, Environment and Energy Sub-Committee, and asking whether I intend to take any further action to address concerns about the Commission's decision.

As you are aware the matter was cleared as an 'I' point in COREPER on 14 November and was raised, as an 'A' point, at the General Affairs Council on 20 November.

For the reasons given in my earlier letter, and reiterated in the annex to my recent letter to the European Scrutiny Committee (of which you received a copy) [not printed] I can confirm that the Government intends to vote against the Commission's proposal.

You have asked whether we intend to work with other non-EU Parties to the Bern Convention in respect of this matter. Given that our concern relates to the whether the correct processes have been followed at EU level in order to establish the position to be taken at the Bern Convention Standing Committee meeting, we would not intend to raise this matter with other non-EU Parties. We would also note that as an EU position has been established (albeit one that the UK does not support), the UK would risk breaching the duty of sincere cooperation under the Lisbon Treaty if we were to seek to work with non-EU Parties to the Convention against that position.

26 November 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 26 November 2012 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 December 2012.

The Committee is grateful for your reply and the information you have provided us with, indicating that the Government intend to vote against the Commission's proposal.

Please mark this strand of correspondence as closed.

6 December 2012

CONSULTATION ON FISHING OPPORTUNITIES FOR 2013 (10746/12)

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

Your letter of 30 October 2012 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 14 November 2012.

We are grateful for the clarification regarding the revised approach taken by ICES and find it similarly encouraging.

We note too that the Commission will not be proposing a TAC for sea bass in 2013. As regards the question of the balance between the commercial and recreational interest in the sea bass fishery, we note that you have launched a project which should provide further information on that matter. We would be grateful for sight of the results once available.

At this point we are content to clear the Communication from scrutiny and to close this strand of correspondence. We will write to you separately about the Commission's proposed 2013 fishing opportunities in due course.

14 November 2012

DECEMBER EU FISHERIES COUNCIL-OUTCOME

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

Following scrutiny clearance of the TAC and Quota proposals I thought it would be helpful to summarise the main outcomes from the EU Fisheries Council which took place this week.

The discussion centred on the setting of next year's number of days at sea and Total Allowable Catches (TACs) and quotas for around 100 stocks in the major sea areas of the EU. I entered this year's negotiation clear in my mind that any decisions on quotas, or days spent at sea, need to be based on three clear principles; following scientific advice, sustainability and the need for continued discard reduction. We adhered to these principles throughout and delivered an outcome which I believe is fully consistent with them.

The UK secured a number of key changes to the Commission's original proposals, set out in summary form below:

- UK fishermen faced the prospect of having the number of days they could spend fishing cut by a quarter. However, the UK Government overturned this proposal, which stemmed from rigid adherence to the Cod Recovery Plan. Scientific advice showed that these automatic reductions were only serving to increase cod mortality and discards, rather than helping to conserve stocks. Without this agreement many fishermen would not have had the necessary time available to fish selectively get to where cod fishing would prove most sustainable.
- The EU quota for North Sea cod in 2013 will be finalised in January following EU/Norway talks, but the agreement at Council means that those negotiations will no longer be constrained by the Commission's proposed 20% cut, and instead the overall allowable catch should be set based on scientific evidence to recover the stock by 2015, whilst also working to significantly reduce discards. We will be pressing for the TAC for next year to be the same as in 2012

Where the scientific evidence showed that significant cuts in quota were necessary for the health of the stock we accepted them, for example North Sea *Nephrops*, Celtic Sea herring, Irish Sea sole and Rockall haddock. But we successfully mitigated large cuts to a number of other important fish quotas which were unjustified, including data poor stocks. We also obtained a number of notable increases, again by providing sound scientific evidence in support of our position to the Council. Examples include:

- In the **West of Scotland**, following last year's 200% TAC increase in haddock, which was secured in return for improved selectivity and national spatial measures, a threatened 48% cut for 2013 was reduced to a 30% cut. We also secured an 18% increase in the *Nephrops* TAC, and a proposed 40% cut to the megrim TAC was reduced to a 7% cut. Proposed 20% cuts to both anglerfish and plaice quota were reduced to 5% cuts.
- In the **Irish Sea**, we succeeded in ensuring that the significant TAC cut of 12% proposed for the economically important *Nephrops* stock was reversed to achieve a 6% increase, which better reflected the latest scientific assessment for the stock. A proposed cut of 20% for Irish Sea whiting was successfully reduced to 6%.
- In the **South West**, we fought hard for quota changes to follow scientific evidence, and were successful in ensuring a proposed 55% cut to haddock was reduced to 15%; a 20% cut to the megrim TAC was avoided as was the 33% cut for hake; and, for whiting in the Celtic Sea, we secured a 29% increase in the TAC. In the western Channel we secured a 15% increase in sole quota. As in the West of Scotland, a similar proposed 20% cut in anglerfish quota was reduced to a 5% cut.

- In the **South East**, quota for channel plaice was increased by 26%, and sole by 6%, and we fought off a threatened 20% cut next year for sprat, successfully negotiating a rollover of this year's TAC.

Finally, under the 'Hague Preference' provisions the UK once again counter-invoked on those stocks of interest to the UK (to the west of the British Isles) on which the Irish had applied their own Hague Preference prerogative – which limited the potential damage of such invocation.

As mentioned above EU/Norway talks are due to recommence in the new year, which, in addition to North Sea cod, will agree the quota shares for North Sea haddock, whiting, plaice, saithe and herring, as well as on mackerel. These will need to take place before the complete set of fishing opportunities for 2013 are finalised.

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

If you would like any further detail on any of the points raised in this letter, please do not hesitate to get in touch.

27 December 2012

EFFECTS OF CERTAIN PUBLIC AND PRIVATE PROJECTS ON THE ENVIRONMENT (15627/12)

Letter from the Chairman to Rt. Hon Eric Pickles MP, Secretary of State, Department for Communities and local Government

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 January 2013.

This EM was due on 14 November 2012. The Department for Communities and Local Government later informed the Scrutiny Committees in both Houses that the EM for this Proposal was then to be expected on 29 November, but did not formally request an extension. The EM was not signed until 6 December. You will be aware that the Reasoned Opinion procedure under the Treaty of Lisbon applied to this proposal and you will no doubt be aware both that the deadline for the Reasoned Opinion was 24 December and that the House of Lords was due to rise on 19 December. Given that receipt of the EM initiates our scrutiny procedures, the delay in your EM severely hampered the ability of the Committee and the House to issue a Reasoned Opinion on this Proposal had it been deemed necessary. Please set out the reasons for the EM's severe delay. We would also appreciate reassurance that the Government will take steps to ensure this does not happen in future – particularly on items that are subject to the Reasoned Opinion procedure.

Under issues of subsidiarity, you note that you believe some of the changes that would be introduced by the Proposal should be left to Member State discretion. Could you elaborate on what specific changes you refer to in this instance? Do you consider that the proposal breaches the principle of subsidiarity? To what extent do you consider that the issues are more of subsidiarity or proportionality?

With regards to the proposed provisions, your EM highlights a series of concerns – such as the potential for increased costs to the screening process and implications for the consenting regimes that operate in the UK. The Committee would be grateful to know whether you have made representations of your concerns to the European Commission, and if so, what response you have received.

An apparent discrepancy arises between the statement in the EM that highlights “the introduction of Delegated Acts, which would enable the Commission to amend some aspects of the Directive without consultation and agreement with European States” and new Article 12(b) which explains that “A delegated act adopted pursuant to Article 12(a) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months of the notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.” We would be grateful for an explanation of this apparent discrepancy.

You state that the EU is engaged in significant regulatory creep and the domestic planning regime is increasingly subservient to European Union law. Could you please provide a clearer analysis of the statement, setting out precisely which provisions indicate such a motive? Furthermore, we were not entirely clear whether your fears pertain more precisely to the Commission or to the EU as a whole, including the Member States and European Parliament? Are your fears in this regard held by other Member States too?

The EM also notes how the Commission failed to share its proposals or impact assessment in advance of publication of the proposals. Has the Commission provided an explanation as to why it chose not to do so in this case?

Your EM also notes that the Government will seek clarification about how the Proposal is consistent with the conclusions of the October European Council (which highlighted the importance of reducing the overall regulatory burden at EU and national levels). The Committee would be grateful for an update of this clarification when it becomes available.

Whilst the Committee appreciates that the devolved administrations were consulted in preparation of the EM, both the Scottish and Northern Irish administrations have expressed a number of concerns regarding the Proposal. Representations of concern have also been made to our Committee by the Republic of Ireland. Have any other Member States raised similar issues of concern? Moreover, are the Government currently talking with the Irish Republic and devolved administrations to try and reassure them? The Committee would be grateful for any updates in the progress of these discussions.

Finally, it is clear that you are highly critical of the proposal. Do you have any views on the previous application of the EIA Directive? Is there anything in the Commission's proposal that is welcome in terms of improving the process and improving the resource efficiency of projects?

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

10 January 2013

Letter from the Rt. Hon Eric Pickles MP to the Chairman

Thank you for your letter of 10 January in which you raised a number of queries in relation to the Explanatory Memorandum on the European Commission's proposal to amend Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive).

I understand the importance of timely submission of an Explanatory Memorandum, particularly where delay impacts on the ability of Parliament to use the Reasoned Opinion procedure to seek the block the Directive before the European negotiation began.

I apologise for the delay in my response. We worked hard to meet the deadline, however, the proposal is complex as it applies to many consent regimes across the UK and as drafted would have very significant implications for developers, local authorities and the environmental bodies such as the Environment Agency and Natural England. It was therefore important that we understood the views of other Government Departments and the Devolved Administrations who are responsible for the implementation of the Directive through their own consent regimes before we submitted the Explanatory Memorandum. In addition, since the Government has concerns about the burdens imposed by the existing Directive on EIA, we regard the proposal as an opportunity to press for improvements. I also considered it important that members of both Houses were alerted to our concerns through a Written Ministerial Statement to encourage members of both Houses to take interest in the proposed amendment of this Directive. This was not possible in the time available, and the Committee clerks were advised of the delay in submitting the Explanatory Memorandum.

I have responded to the Committee's more detailed points in the Annex to this letter [not printed].

23 January 2013

Letter from the Chairman to the Rt. Hon Eric Pickles MP

Your letter dated 23 January on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 6 February 2013.

Thank you for your response.

Regarding the late submission of the Explanatory Memorandum (EM), we have several concerns. Initially, we would refer you to Cabinet Office's Parliamentary Scrutiny of European Union Documents – Guidance for Departments, which notes that "If an EM is likely to be delayed beyond the 10 day deadline, the Cabinet Office and the Committee Clerks should be informed as early as possible of the reasons." Although we were informed that the Department were aiming to submit an EM by 29 November, and that we would be notified of any delays, the EM itself was not submitted until 6 December – which had not been discussed with the Committee.

The Committee are further concerned about the explanation for the delay in the EM. Your letter notes the complexity of the proposal, and how you wished to alert members in both Houses of your concerns, though was unable to do so as there was not enough time available. The Cabinet Office's Guidance for Departments notes explicitly that "lack of time [...] or the nature of the document are not acceptable reasons for the late production of EMs".

Additionally, although your letter points out that the Government have concerns about the burdens imposed by the existing Directive on EIA, and that you regard this proposal as an opportunity to press for improvements, the Cabinet Office's Guidance for Departments additionally stresses: "If the UK policy has not been agreed or there are other areas of uncertainty, the EM should say so while giving as much information as is available at the time." Therefore, the EM could have been produced on time, with attention given to the Government's concerns.

As is usual practice, the delayed EM will be highlighted to the Minister for Europe along with other examples of delayed letters and EMs over the period July-December 2012. A copy of this letter will be included.

We also wish to highlight the importance of circulating electronic copies of correspondence, in addition to hard copies. On this occasion, your letter was not forwarded to the Committee in an electronic format, once again contrary to the Cabinet Office's Guidance for Departments, which states "wherever possible, advance copies of all EMs are sent electronically, ahead of the final copy circulation". The failure to forward an electronic copy has resulted in the Committee losing a week's worth of potential scrutiny time.

Given the degree of your dissatisfaction with the proposal, we were surprised at your reticence about raising concerns with the Commission. We consider such dialogue to be extremely important and it certainly need not await release from scrutiny by both Houses. We therefore urge you to engage with the Commission and to inform of us of the outcome of that engagement.

We note your interpretation of the Commission's power to adopt Delegated Acts and would simply emphasise that the key point is the issue of whether the subject of the proposed delegation is essential or non-essential. You conclude that it is essential and we assume that you will negotiate on that basis. Please update us in due course on progress in that regard.

On the substance of the proposal, it is clearly important to ensure that the legislation does not impose a disproportionate burden on competent authorities. It is interesting to note that this view reflects an emerging consensus among other Member States.

We will retain the proposal under scrutiny and look forward to your response in due course, setting out progress in the negotiations and including specific responses to the issues highlighted above.

7 February 2013

Letter from the Rt. Hon Eric Pickles MP to the Chairman

Thank you for your letter of 7 February and for detailing your concerns about the handling of the Explanatory Memorandum. I do appreciate the points you have made and the impact the delay had on the scrutiny procedures. You have my reassurance that we will take steps to ensure this does not happen again.

I also want to underline that we are actively engaging with the Commission and this will be a central plank of our negotiating strategy. My officials have already contributed to six Environment Council Working Group meetings which the Commission attend and two further expert-level meetings with the Commission and other Member States. We are using these meetings to explain our concerns to the Commission and to build strong relationships with similarly minded Member States (including Ireland which now holds the Presidency). This is starting to bear fruit as the Commission has indicated it is prepared to accept some changes to the proposal. We will of course continue to press for improvements to the text to reduce burdens.

I will write again to update both Houses as the negotiations progress.

21 February 2013

Letter from the Chairman to the Rt. Hon Eric Pickles MP

Your letter dated 21 February on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 13 March 2013.

We are glad that you appreciate our concerns regarding the failure of your Department to respect the established obligations that the Government have towards Parliament with regard to our scrutiny of EU issues. We regret, however, that you did not address the specific issues as regards timing, reasons for delay and how complexity should be tackled. Ultimately, the reasons that you gave for your poor performance were not acceptable and it is still unclear to us why the Department saw fit to disregard Cabinet Office guidance.

While we welcome your re-assurance that steps will be taken to ensure that it does not happen again, the failure was of such a fundamental nature that we would like to know, please, what precise steps you are taking and when they will take effect. It is of utmost importance that our confidence in your Department's ability to meet its obligations is re-built. We would expect you to be working, for example, with other Departments and with the Cabinet Office to identify best practice elsewhere.

You note that you are in fact working with the Commission and with other Member States and that this collaborative approach appears to be bearing fruit. We would welcome further elaboration on the areas in which you are making progress.

Assessment of environmental impact is an issue that has arisen in our recent inquiries into EU Freshwater Policy and into EU Energy Policy (ongoing). As regards water policy, it is clear that building projects have not always taken sufficient account of their impact on the impact and quality of our water. We consider this to be an important aspect of the Environmental Impact Assessment Directive.

In terms of Energy Policy, public acceptance across the EU of energy projects is a particular issue. We note tensions on occasion between environmental concerns and long-term strategic concerns relating to climate change, energy security and energy costs. The new draft of the Directive requires environmental impact assessments to take account both of the environmental and climate change impacts, the latter being defined as "in terms of greenhouse gas emissions including from land use, land-use change and forestry". We note that some energy related projects can serve to contribute to greenhouse gas reductions where an alternative may be harmful and that this is a separate consideration to land-use related emissions. It seems to us that the issues to be taken into consideration when assessing the impact of a project on climate change are insufficiently clear and require significant work.

A timetable has been proposed whereby public consultation should be limited to 90 days. While we have some concerns that this may be an unnecessarily inflexible inclusion in an EU Directive, we would nevertheless point to its potential benefit in terms of preventing excessive delays in the consultation of the public on potentially important strategic projects. We would draw your particular attention to precedent which has been widely supported by Member States. The new Trans-European Energy Infrastructure Regulation, on which agreement has been reached between the European Parliament and Council, would restrict the total time for planning decisions to within 3 years and 6 months, with a possible extension to 4 years and three months. While the issue is not identical, we would nevertheless suggest that it is analogous.

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

14 March 2013

Letter from the Rt. Hon Eric Pickles MP to the Chairman

Thank you for your letter of 14 March in response to mine of 21 February regarding the late submission of the Explanatory Memorandum.

I am sorry that your committee considered that my previous response did not sufficiently address the specific issues as regards timing, reasons for delay and how complexity should be tackled. I can assure your committee that it was not a matter of deliberately disregarding Cabinet Office guidance. I have taken your comments very seriously. I have reinforced the need to take every reasonable action to meet the deadlines set by both Committees. We are working closely with the European and Global

Issues Secretariat in the Cabinet Office, to ensure that the scrutiny committee procedures are followed correctly in future.

You asked for further elaboration on areas of the negotiations where we are making progress. Good progress is most clearly demonstrated by the outcome of the meeting of the Environment Council on 21 March, during which the Irish Presidency held a public policy orientation debate on proposed changes to the environmental impact assessment Directive. The debate sought Member State views on specific questions on the proposals for a one-stop-shop for assessments under different European legislation, the use of accredited experts and mandatory scoping of the content of environmental report. The Right Honourable Edward Davey MP, Secretary of State for Energy and Climate Change who attended on behalf of the UK Government, made it clear that the UK strongly opposed the mandatory nature of the three proposals. This view was shared by the majority of other Member States. There was widespread agreement that the Directive should be amended to simplify the environmental impact assessment procedures whilst improving the quality of assessments. However, as drafted, it would fail to achieve its aims. Most delegations were in favour of retaining flexibility to enable Member States to adapt the proposals to their existing systems. The Environment Commissioner, Janez Potočnik, responded to the interventions saying that the Commission was ready to listen to constructive proposals which achieved the aims of simplifying the process while improving the quality of assessments. The Presidency noted the significant concerns raised and have indicated that they propose to table a revised text shortly. My officials will continue to work closely with the Commission, the Presidency and other Member States to press for changes which will address our concerns.

I note your points on the environmental impacts related to EU water and energy policy. The existing Directive already requires the consideration of the impact of a proposed project on water and climatic factors where the impacts are likely to be significant. As you comment in your letter, the new draft is more explicit about the nature of the climatic impacts to be considered, including in relation to land use and land use change. I agree that the assessment requirements would need to be clarified, particularly in relation to how they could usefully be addressed at the individual project level.

Finally, your explanation of the time limits set by the new Trans-European Energy Infrastructure Regulation supports the need for flexibility in the environmental impact assessment Directive. The Regulation relates to very large projects with transboundary implications. The time-frames you quote for such projects are considerably longer than those introduced by the Planning Act 2008 in relation to nationally significant infrastructure. These in turn are longer than those required for less complex proposals still dealt with through the Town and Country Planning system or other relevant consenting regimes.

27 March 2013

Letter from the Chairman to the Rt. Hon Eric Pickles MP

Your letter of 27 March 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We note that you have taken on board our concerns regarding your Department's failure to meet its obligations to Parliament in the context of our scrutiny of this Proposal, and that you are working closely with the Cabinet Office to avoid future problems.

We note too the progress that you are making in negotiations on this dossier, which we find encouraging. We look forward to further updates from you in due course as negotiations progress.

In the meantime, we will continue to hold the Proposal under scrutiny.

25 April 2013

ELECTRONIC IDENTIFICATION OF BOVINE ANIMALS / DELETING PROVISIONS ON VOLUNTARY BEEF LABELLING (8784/12, 13700/11)

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

I am writing to update you on the latest position on the above proposals and to send you impact assessments covering bovine electronic identification and voluntary beef labelling. Our letter of 31 May 2012 gave a detailed explanation of the UK position.

I enclose two impact assessment documents – one covering Title I of 1760/2000, Bovine Identification and Registration, dealing with the amendments to the cattle tracing systems; the other covering Title II, Beef Labelling, dealing with the deletion of the voluntary beef labelling provisions.

The proposal is at the stage of ‘trilogue’ negotiation between the European Parliament, the EU Commission and the Irish Presidency, having been contested through three previous presidencies who failed to get Member States to agree either to the original proposal, or to their proposed amendments. Cattle and beef tracing is technical and complex, and involves Member States’ governments and industries in significant expenditure already. Opposition to the proposal has come in many forms, as each Member State has tried, understandably, to protect their own interests. Until very recently, there has been a ‘blocking minority’ of Member States against the deletion of the voluntary beef labelling provisions. Some Member States still reserve their position on this, but we believe that the majority would now accept the proposal with amendments. Our overall position is that the text being negotiated will give us (if accepted by the European Parliament) sufficient flexibility.

BOVINE EID

The Presidency has proposed amendments to the original text which are important to the UK:

- In Article 4.2 – a proposed transition period of 7 years before electronic identifiers become an official means of identification;
- In Articles 4 and 4c – two ‘derogations’ which allow flexibility to cope with giving electronic identification to animals born before EID is official, and to imported animals without EID.

We support the 7 year transition period to give both government and industry time to design the best way forward and to implement and fund the proposals.

The attached impact assessment explains that there are no quantifiable benefits which relate solely to cattle tracing, but there are significant costs. The only sector which will save money is cattle markets, and only if the majority of cattle going through markets have electronic tags. The wider benefits in EID lie in the individual business’ readiness to invest in technology which uses the electronic identifiers for their own purposes, that is, not simply to comply with cattle tracing rules. The UK has many farms which already use electronic identifiers, and we would want to ensure that they save money by switching to an official system of EID. Food safety and animal disease control may be improved marginally, but there is little evidence to justify the costs of EID on those grounds alone. At the moment, there are no agreed technical standards, so we have no IT specification on which to base any firm costs or to identify any real benefits. The EU technical standard will be agreed during the transition period.

Additionally, we want time to merge these changes with all the other reforms in farming currently underway, some following on initiatives in each UK country, others flowing out of other EU proposals, such as those for CAP reform, Animal Health law and Food Business regulation. Allowing a long transition period means we can spread the regulatory burden.

The transition period would not prevent an earlier adoption of EID if appropriate. Technical specifications could be developed as soon as the technical standards are agreed, so that any Member State, or part thereof, can develop at the speed best suited to their industry.

The derogations are important because of the limitations of EID technology. We have based our assumptions on the likelihood of the same standards used for Sheep & Goat EID being adopted for cattle. These are world-wide standards under the International Standards Organisation (ISO). The ISO standards make it difficult to transpose cattle tag numbers which are not generated in binary numbers, which means, put simply, that cattle tag numbers allocated from current databases cannot always be put into an electronic tag. Thus, either EID is introduced only for new-born calves and the rest of the herd is left, or some way must be found of giving an electronic number to them. The same will apply to imported cattle, because the Commission’s proposal allows the choice of conventional tagging permanently. The UK is likely to need the flexibility allowed by the derogations.

VOLUNTARY BEEF LABELLING

Unlike other meat sectors, the beef industry is subject to extra costs and administrative burdens as a result of the voluntary beef labelling scheme. We therefore support the Commission’s proposal to abolish existing provisions on voluntary beef labelling under Regulation 1760/2000 and align with the general EU provisions on food information. This would simplify labelling procedures and remove an unnecessary layer of bureaucracy without compromising consumer information. It would also

eliminate the problem of inconsistent approaches in different Member States which puts some operators at a competitive disadvantage. Compulsory EU beef labelling provisions in Regulation 1760/2000 would not be affected by the proposal and would remain in force to ensure traceability. UK stakeholders also welcome the Commission's proposal.

The attached impact assessment explains that abolishing the existing requirements would benefit a variety of livestock interests; in particular, farmers, slaughterhouses and traders. Smaller businesses would benefit from the proposal as they are currently deterred from making voluntary claims by verification costs.

We would be grateful to receive clearance from the Committees to support the proposal on the condition that the agreed text within the current negotiations contains the 7 year transition period and the derogations, and the abolition of the voluntary beef labelling provisions.

31 January 2013

Letter from David Heath MP to the Chairman

Further to my letter of 31 January, I am writing to update you on the outcome of the two negotiation meetings with the European Parliament ('trilogue') on 30 January and 27 February.

The Parliament has expressed strong reservations against a transition period for the introduction of electronic identification, currently proposed as seven years.

A transition period must be included because Member State's cannot comply with the requirement to enable the choice of electronic identifiers before the technical standards for Bovine EID are adopted. The Commission has no powers to adopt standards until this act is adopted, granting it the powers to do so. Put simply, the Commission text is defective and a transition period during which EID is not an official means of identification must be included. The Commission has proposed three years. The Irish Presidency has defended their position of seven years, and is supported by other Member States as well as the UK.

As I explained in my letter of 31 January, the Government's view is that a period of seven years is sensible and I will continue to lobby hard for this. It allows time for the technical standards to be agreed and for Member States and their industries to set up their technology and change their processes. Without the technical standards, we cannot make actual plans and consult industry on real alternatives. In Great Britain, we have to incorporate also the abolition of cattle passports and ensure this will not undermine traceability, nor adversely affect industry.

We understand that the Parliament accepts the two derogations for identifying existing cattle, and conventionally tagged cattle for intra-community trade with a shorter deadline.

They seem keen to push their amendments to bring in the labelling of products from cloned cattle and their descendants. The Commission is due to publish a proposal on animal cloning for food production in June/July 2013. In view of this, it is clear that 1760/2000 is not the appropriate vehicle for decisions on the tracing of cloned livestock and their products, and that these discussions must await the publication of the cloning proposal.

There are further negotiations scheduled with the Parliament in late March. The final position is far from decided, but we would have to consider the UK's position very carefully if a shorter transition period is finally proposed. A proposed three year period would be unacceptable because we know that we could not bring in EID and remove cattle passports within such a short time. If that were the final position, I would feel unable to support the proposal's adoption in Council.

7 March 2013

Letter from the Chairman to David Heath MP

Your letters of 31 January and 7 March in response to our letter of 13 June 2012 to your predecessor was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 13 March 2013.

Thank you for the information that you provided. We note that the seven year transition period for the introduction of electronic identification (EID) has been met with opposition in the European Parliament and that you are no longer as optimistic that an agreement can be reached, or at least an agreement with which the UK is content.

In your letter of 31 January, you asked that the proposals be released from scrutiny on condition that the agreed text contains the seven year transition period for EID, certain specific derogations from

EID and the abolition of the voluntary beef labelling provisions. Given the considerable uncertainty that remains in relation to these proposals, we will not release them from scrutiny but agreement need not be withheld pending completion of scrutiny if the conditions set out in your letter of 31 January are met.

We look forward to information from you in due course on the further progress of these negotiations.

14 March 2013

ENVIRONMENTAL ACTION PROGRAMME 2020 (16498/12)

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

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

The programme is very wide-ranging although we observe that, for the most part, it reinforces existing action.

You helpfully set out the principles on the basis of which you would negotiate but were not in a position in the EM to provide any detail on your position.

Particular detail would be welcome on your statement that no major new European legislative instruments in the environment area will be required for the foreseeable future. This seems to us to be a very broad statement. The Programme includes a commitment, for example, to agreeing the EU's post-2020 climate and energy policy framework. We would expect this to be important legislation that the UK Government will support, at least in principle. It would be helpful if you could highlight which particular suggestions for major new legislative instruments in the environment area caused you concern.

More generally, we would welcome an update from you on your position in relation to the various policy initiatives, including the following which struck us as particularly interesting: the integration of economic indicators with environmental and social indicators, including natural capital accounting; improving sustainable consumption and production, possibly with new targets; development of a system for tracking and reporting environmental related expenditure throughout the EU budget; and the development of a systematic approach to risk management.

On the latter point, it seems to us that the Commission is re-opening discussion on the nature of the precautionary principle. This was a subject which we tackled in our July 2011 Report on Innovation in EU Agriculture. In that Report, we agreed that the precautionary principle should continue to underpin regulatory decisions but that it needed to be applied with due consideration of available scientific evidence of potential risks and benefits. We were clear that there is undoubtedly a need for a much clearer articulation of the potential risks and benefits of any new technology. We would welcome your views on how the EU might develop a more systematic approach to risk management as suggestion in the Programme.

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

17 January 2013

Letter from Lord de Mauley to the Chairman

Thank you for your letter dated 17 January regarding the Explanatory Memorandum above, which was considered by the Agriculture, Fisheries, Environment and Energy sub-Committee on 16 January 2013.

The Programme acknowledges that the EU environmental policy framework is broadly complete and so seeks to pull together existing legislation to create a strategic framework for environmental policy until 2020. The UK believes this is the correct approach which continues to support existing areas of policy development. The commission has not put forward any specific proposals yet on the post-2020 climate and energy policy framework. The Government position on this will be developed once we have further details, and we will update the Committee in due course. It would be difficult for the Commission to demonstrate the case for major new Environmental policy if existing environmental legislation has not been fully implemented by all Member States and the benefits understood. The

programme acknowledges that its aim is the help achieve the environmental targets the Union has already agreed. For instance, the 2013 Commission Work programme includes:

- Proposals for the EU's strategy on adaptation to climate change – mainstreaming adaptation into EU policies and supporting Member States in national actions.
- The review of the Thematic Strategy on Air Pollution, which will look again at air quality across the EU and ensure that it is coherent with agendas on public health, the environment, better regulation and economic growth.
- The review of waste policy, expected in 2014, looking to learn lessons from implementation of the current legislation, ensuring it remains fit for purpose and establishing ways in which coherence can be enhanced and the regulatory framework improved.
- Building on the Europe 2020 Strategy and the Resource Efficiency Roadmap in developing indicators and reviewing policies and strategies to fully implement Rio outcomes.

We are pleased that the current proposal makes a commitment to implement proposals in accordance with the principles of smart regulation (COM(2012)746), reducing the burden to industry and driving forward the principles of sustainable growth.

Areas which cause us most concern include the proposals to revisit the stalled Soil Framework Directive (COM (2006)232), proposals to phase out land-filling completely and proposals that may call for review of the Access to Justice regulation. These are concerns that are shared with many other Member States. We will continue to work with the Commission in suggesting alternative wording that would be more acceptable to the UK whilst still ensuring progress on these areas. We will also continue to challenge issues of subsidiarity and any proposals for new targets unless the UK believes there is a sound evidence base for them.

The proposals in relation to the integration of economic indicators with environmental and social indicators, including natural capital accounting; improving sustainable consumption and productivity possibly with new targets; developing a system of tracking and reporting environmental related expenditure throughout the EU budget; and the development of a systematic approach to risk management, support further implementation of the communication Towards a Shared Environmental Information System (COM(2008)46). The objective is to ensure a sound basis for taking decisions which fully reflect the social, economic and environmental benefits and costs. This will help in achieving greater implementation of directives. For example, the aim of the Water Framework Directive (COM(2012)673) to achieve 'good ecological status' by 2015 is only likely to be met for some 53% of surface water bodies in the EU.

In the context of the Programme, the Commission proposes the development of a more systematic approach to risk management by focussing research efforts on planetary boundaries, systemic risks and society's ability to cope with them. The Commission also proposes strengthening the interface between environmental science and policy. Whilst we welcome these broad statements which are in keeping with the strategic nature of the Programme, we would want to see further references to strengthening the inter-linkages between social, economic and environmental information. We believe this is crucial in order for the EU to have as strong a basis as possible for environmental decision making. This evidence base should also help in identifying areas to target EU financial support, and give impetus to both public and private research and innovation through the Innovation Union Flagship Initiative (COM(2010)546).

This systematic approach could also help in providing a framework for establishing voluntary partnership agreements between Member States, thus reducing the risk of the Commission launching infraction proceedings.

The Proposals are still being discussed at Working Party level, and a revised text from the Irish Presidency is likely to be issued before March 2013. I will provide an update to both European Scrutiny Committees in due course.

26 January 2013

Letter from the Chairman to Lord de Mauley

Your letter of 26 January on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 6 February 2013.

We are grateful for your explanation of the Government's policy to resist any major new European legislative instruments in the environment area for the foreseeable future. It is pleasing to note your statement to that effect did not imply resistance in principle to a new climate and energy policy framework through to 2030, which is mentioned in the draft Programme. We can agree with your fundamental principle that the Commission's focus should be on the implementation of existing legislation. On that matter, we would note that the UK must also be mindful of its obligations to implement EU legislation effectively.

On the specific areas that you raise, we have consistently supported the Government position on the stalled Soil Framework Directive. Thus far, we understand there to be a blocking minority, but would welcome any information that you have to the contrary.

In relation to the development of a more systematic approach to risk management, you indicate that you would like to see further references to strengthening the inter-linkages between social, economic and environmental information in order for the EU to have as strong a basis as possible for environmental decision making. We trust that you will be pursuing this point in negotiations and look forward to information from you on progress in that regard.

We did not entirely understand how a systematic approach to risk management could provide a framework for establishing voluntary partnership agreements between Member States. Whether or not such agreements would be helpful is, we would have thought, immaterial to the overall approach to risk. We would welcome clarification of the link that you made between the two.

You note that a revised text is likely to be issued by the Irish Presidency before March 2013. We would welcome a further update from you after that text has been issued.

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

7 February 2013

ENVIRONMENT COUNCIL, 21 MARCH 2013

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

I represented the UK at EU Environment Council in Brussels on 21 March. I attended the morning sessions, and Shan Morgan, UK Deputy Permanent Representative to the European Union, covered the lunchtime discussion and afternoon business on behalf of the UK.

After adopting the list of 'A' points, there was an orientation debate on biofuels and indirect land use change (ILUC). Key elements of the proposal include a 5% cap on 'food crop' derived biofuels' contribution to the Renewable Energy Directive (RED) sub-target; the quadruple counting of certain 'advanced' biofuel feedstocks; and the introduction of ILUC factors for reporting purposes only. Commissioner Hedegaard began the debate by defending the proposed 5% cap, stating that anything higher would have grave ILUC risks. The UK outlined their desire to see ILUC factors introduced as a means of accounting for the ILUC impacts of a given biofuel feedstock, receiving support from the Benelux countries while Slovenia, Sweden and Denmark were sympathetic. Most other countries, however, expressed a preference for the Commission's proposed cap approach but disagreed on the level

As an AOB, Commissioner Hedegaard provided an update on the international negotiations to prepare a climate-change resolution for the 2013 International Civil Aviation Organization (ICAO) Assembly as well as noting the progress to date on the EU's 'stopping-the-clock' derogation to the EU Emission Trading System (EU ETS) in 2012 for international flights to and from Europe.

Member States then responded to three questions posed by the Presidency, which covered key aspects of the Commission's proposal for a revised Environmental Impact Assessment (EIA) Directive. These focussed specifically on a proposed obligation for a joint or coordinated assessment under one competent authority (a 'one stop shop' for assessments); mandatory scoping; and a system of accredited experts. The majority of Member States opposed mandatory requirements in all three areas and expressed a desire for greater flexibility. Particular concerns were voiced about the risk of increased administrative burdens, additional costs to developers and competent authorities, compatibility with Member States' current legislative regimes, and issues of subsidiarity. The Presidency will now produce a compromise proposal for Member States to consider.

Over lunch, Ministers discussed the Commission's Communication on Rio+20 follow-up, 'A Decent Life for All: Ending poverty and giving the world a sustainable future', which was generally welcomed

by Member States. Ministers reaffirmed their commitment to implementing the Rio+20 outcomes, including through active engagement with UN processes. They agreed the need for a single set of Sustainable Development Goals, integrated with the post-2015 framework, which would tackle the interlinked challenges of sustainable development and poverty eradication in a unified and coherent way. There was recognition of the need for the EU to begin developing priorities for the new global framework, while remaining conscious of the importance of listening to other countries and civil society.

After lunch, there was an orientation debate on the Access and Benefit Sharing of Genetic Resources (ABS) Regulation. Ministers were asked to consider whether the obligations of users contained in the legislative proposal reflected the requirements of the Nagoya Protocol; whether the obligations would contribute to the implementation of benefit sharing arrangements; and whether the proposed balance between the obligations of users and the monitoring of those obligations was appropriate. There was general support - including from the UK - for the Presidency's approach of avoiding over-bureaucratic obligations. A few Member States wanted the proposal to go further, particularly in relation to the handling of illegally acquired genetic resources, whereas others wanted a slimmer and more efficient proposal with respect to compliance checks. The Commission acknowledged that it would be challenging for the Council to ratify the Nagoya Protocol by 2015, and called on Member States to work together to reach final agreement.

Next, Ministers discussed the Commission's report on the review of the REACH regulation on chemicals, a communication on the second regulatory review on Nanomaterials, and the Roadmap on substances of very high concern. Most Member States expressed broad support, although some wanted a greater focus and perhaps more control and monitoring measures on Nanomaterials. There was strong backing for proposals to support SMEs and an appreciation that more work needed to be done to improve the quality of registrations by industry. The joint initiative proposed by Denmark, the Netherlands, Germany, Sweden and Belgium about giving effect to the Roadmap document received good support from several delegations. The UK backed the Danish initiative, whilst underlining potential resource constraints.

17 April 2013

EU ENERGY COUNCIL, BRUSSELS 22 FEBRUARY

Letter from John Hayes MP, Minister of State, Department for Energy and Climate Change to the Chairman

In advance of the forthcoming Energy Council in Brussels on 22 February, I am writing to outline the agenda items to be discussed.

The Presidency plans to hold an orientation debate on the proposal for a Directive relating to the quality of petrol and diesel fuels and amending the Directive on the promotion of the use of energy from renewable sources. The Presidency has suggested questions to frame the discussion and encourage views on the effectiveness of the proposal. The UK supports the introduction of Indirect Land Use Change factors into the Renewables Directive and the Fuel Quality Directive which would allow all emissions attributable to a given biofuel feedstock to be taken into account when determining which biofuels should be supported.

There will also be an in-depth discussion of the Commission's Communication on the Internal Energy Market. This will be the first opportunity for Member States to set out their views on the Communication and the discussion will feed into the draft Conclusions to be presented to the European Council on Energy on 30 May and agreed at the June Energy Council. The Communication, published on 16 November, assesses progress being made by Member States towards completing the internal energy market and considers what remains to be done. The UK strongly supports the completion of the single energy market and welcome the Commission's assessment of progress to date and its consultation on capacity mechanisms.

There will be an exchange of views on the European Semester exercise. This is an exercise to coordinate economic policy across the EU, during which national performance and priorities are reviewed collectively at the EU level. The final stage involves the Commission presenting recommendations for each Member State. Each Council formation has the opportunity to contribute its views before the March and June European Councils assess progress and approve national recommendations.

Finally, the Presidency will provide information on the state of play of the negotiations of the proposal for legislation on the safety of offshore oil and gas activities.

14 February 2013

EU PROPOSAL FOR A NEW ANIMAL HEALTH LAW

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

Your letter of 29 October on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 7 November 2012.

Thank you for your letter regarding the update on the EU's Proposal for a new Animal Health Law. We are grateful for the clarification of what is meant by a 'flexible' law, and are encouraged to note that your engagement with industry has been broad – including, for example, veterinary and welfare organisations.

The Committee understands that discussions surrounding TB have so far focused on principles rather than detailed policies, and we appreciate that the Government are taking opportunities to alert the Commission to the bovine tuberculosis issue. The Committee also look forward to hearing about the views expressed by the World Organisation for Animal Health and the EU reference laboratory in Madrid, in response to the test developed by the Animal Health and Veterinary Laboratory Agency.

The Committee is content to close this strand of correspondence, and looks forward to further updates once they become available.

8 November 2012

EUROPE'S FUTURE WELL-BEING- PROPOSAL FOR A EUROPEAN INNOVATION PARTNERSHIP ON RAW MATERIALS (7247/12)

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

I must begin by apologising for the delay in replying to your letter to my predecessor, Mark Prisk, of 26 July last year, which has only recently been brought to my attention. Officials are investigating this delay and I will ensure the appropriate improvements are made in the way correspondence from the Europe Committees are handled.

In your letter you asked if the "Raw Materials" European Innovation Partnership would be launched solely on the basis of the recommendation of the Environment Council, without waiting for the Competitiveness Council to endorse too. It was, and we supported the approach on the grounds that having the EIP develop its Strategic Implementation Plan (SIP) as soon as possible will enable any relevant recommendations to influence Horizon 2020 Work Programmes as soon as possible. The Government is keen to see more effective use of EU programmes to deliver policy objectives: the foreseen Council endorsement of the Raw Materials SIP will provide the policy drive that we expect Horizon 2020 to help deliver.

You also highlighted the need for strong and effective leadership of the EIPs. It's important to note the qualitative difference between the pilot EIP, in Active and Healthy Ageing, and the first-round EIPs. The rationale and scope of the latter was informed by consultations with stakeholders so that the issues each EIP should address had been identified, whereas for the former much of this consultation was done during the development of the SIP, in a less transparent way. This has allowed the independent members of the Steering Groups to have the opportunity for a more measured consideration of the topics and more effective input.

Although the UK has not applied to be represented Ministerially on any of the EIP Steering Groups, we have had informal discussions with some of the UK-based representatives on the Steering Groups and some have expressed unhappiness at the way the Commission is driving the process. We will raise our concerns during the preparation of Council Conclusions on the forthcoming "State of the Innovation Union" report from the Commission and on the SIPs.

Your final point concerned stakeholder engagement, both to influence the development of the “Raw Materials” SIP through the EIP consultation meetings and to ensure those in the UK interested in participating in its actions are appraised of the opportunities. We have promoted the Raw Materials EIP through the EEF (Engineering Employers Federation). We plan to use the representative of the Chemistry Innovation Knowledge Transfer Network serving on one of the five Operational Groups that are taking forward the recommendations in the original Communication (subject to modification by the Steering Group) to help us develop a strategy that will ensure UK stakeholders can contribute to and benefit from the EIP.

6th March 2013

Letter from the Chairman to Rt. Hon Michael Fallon MP

Your letter of 6 March 2013, in response to our letter of 26 July 2012 to your predecessor on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We are grateful for your helpful response and commitment to ensure any necessary and appropriate improvements are made with regards to future correspondence.

Please consider this strand of correspondence as closed.

25 April 2013

EUROPEAN INNOVATION PARTNERSHIP ‘AGRICULTURAL PRODUCTIVITY AND SUSTAINABILITY’ (7278/12)

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

I am writing to keep you updated on the European Innovation Partnership on Agricultural Productivity and Sustainability (EIP). As mentioned in a previous letter to you on 16 July from my predecessor Sir Jim Paice MP, the Rural Development Regulation (RDR) includes provisions for the establishment of the EIP, specifically for both the proposed Network and for Operational Groups. This forms part of the negotiations of the Common Agricultural Policy package of regulations and progress is therefore considerably dependent on the ongoing negotiations for RDR as a whole. As you may be aware, agreement on the proposals in the RDR and on the budget has yet to be reached. The current Irish Presidency are seeking to secure significant agreement on the overall CAP package by the end of their Presidency. This is essential for the development of our national proposals and to enable us to establish possible funding streams for facilitating the work of the EIP.

While progress does remain slow, we continue to engage with the Commission through various EU working groups to further develop our approach to the EIP proposals. The Commission’s vision for the EIP and how it may function, including how the Network could operate and what the Operational Groups could look like, remains unclear. To help the Commission set out that vision, we recently hosted a meeting with key officials from DG Agri to set out the UK landscape and present projects that are already underway that aim to improve innovation on farm. While continuing to work with the Commission to establish a vision, we are also engaging with other Member States to understand their approach. While most welcome this as a useful mechanism to deliver improvements on farm, they remain cautious until further clarity can be seen from the Commission.

To ensure that the EIP mechanism adds value to the existing knowledge exchange and innovation landscape in the UK, my Department is also working with key farming bodies to better understand how we can best support farmers to bring together key actors. It is essential that we have robust evidence if we are to seek and obtain funding to facilitate the running of Operational Groups. We can then explore a number of funding mechanisms, not only through the next Rural Development Programme, and ensure that what is delivered supports farmers to adopt innovative activities.

In parallel to the work we are undertaking here, the European Commission has gone out to tender for the EIP Network. This Network will aim to promote EIP activities and enable the networking of operational groups. We have yet to hear who has been successful in winning this exercise but I will gladly inform you when we do. The Commission has also established the high level steering board that will oversee the development and implementation of the EIP once it has been legally established, following the successful conclusion of CAP negotiations. The steering board will aim to deliver a Strategic Implementation Plan later this year, which will set out the EIP’s strategic priorities. This

implementation will also need to feed into the design of the EIP here in the UK, and farming industry colleagues are feeding into this process through Copa Cogeca.

Further information on the EIP steering board is available at:

http://ec.europa.eu/agriculture/eip/pdf/composition_steering_board_en.pdf.

Going forward, we will continue to work with the farming industry to develop an understanding of how the EIP mechanism can deliver value and compliment existing initiatives, as well as what funding sources could potentially be available for the Operational Groups. This analysis will also feed into the planning and design process for Rural Development Programme over the next six-months, along with a range of other mechanisms necessary to deliver the RDR.

I am happy to continue to keep you and the Committee updated on progress.

5 March 2013

Letter from the Chairman to David Heath MP

Your letter of 5 March 2013 on the above Communication was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 13 March 2013.

We note the work that you are undertaking with the farming industry to develop this initiative. As you will be aware, we undertook a 12 month inquiry into Innovation in EU Agriculture. If you or your officials have not had a chance to read it, we would be happy to send you a copy. It was strongly welcomed by the former Defra Minister, Lord Taylor of Holbeach. An important finding of that report was the importance of a systems approach to innovation involving farm businesses, agricultural R&D, advisory organisations, retailers, wholesalers, higher education and regulatory bodies.

More recently (5 March 2013), the EU's Scientific Committee on Agricultural Research (SCAR) published its report "Agricultural Knowledge and Innovation Systems in Transition – a reflection paper", which similarly promoted the systems approach to innovation – rather than the alternative top-down and bottom-up approaches.

We are concerned that your focus on the agricultural industry, favouring a bottom-up approach to innovation, fails to recognise the greater benefits that might be derived from a systems approach.

It seems unlikely that a radical reform of the Common Agricultural Policy will be achieved. This places greater focus on the need to maximise the benefits from mechanisms such as the EIP, boosting innovation throughout the agricultural sector.

We would welcome your view on how actors outside of the farming industry will be encouraged to engage in the development of the EIP, and what you as a Government are doing to encourage that systems approach. Any reflections that you have on the recent SCAR report and its implications for the EIP and agricultural innovation in the UK more generally would also be of interest to us.

We will continue to retain the Communication under scrutiny and look forward to a response from you in due course, setting your views on the issues raised in this letter and updating us on any further progress in relation to the EIP.

14 March 2013

EUROPEAN INNOVATION PARTNERSHIP: WATER (10032/12)

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

Thank you for your letter dated 18 October 2012 to David Heath asking for further updates and information on the European Innovation Partnership (EIP) on Water and other activities raised in previous correspondence. I am responding as the Minister responsible for water issues within Defra.

The EIP Water Strategic Implementation Plan (SIP) was adopted at the end of last year. A central part of this Plan is the creation of Action Groups which will work on initial actions on one or more of the priority areas identified in the (SIP). The aim is to bring together relevant multi stakeholder groups of

partners across various disciplines. Where possible, international cooperation is encouraged. A call for Expressions of Commitment to form Action Groups has been opened and runs until 4 April.

Later in the year, a web based market place will become operational. This will be a tool for facilitating communication and collaboration as well as a matchmaking facility between supply and demand around water innovation in Europe. An annual stakeholder conference is planned for November where Action Groups will report back on current activity.

We recently promoted the EIP on Water at two learning events, attended by stakeholders who have hosted a catchment as part of the catchment based approach. This was followed up with further electronic communication to over 60 stakeholders to ensure that they all had access to the information on the EIP on Water and were aware of the call for Expressions of Commitment to form Action Groups.

The UK Water and Research Innovation Partnership has also raised awareness of the opportunities offered by the EIP on Water. It invited the Director of WSSTP (the Water Supply and Sanitation Technology Platform), to speak about the EIP at a meeting held in London earlier this year attended by representatives of water companies, the supply chain, researchers, academics and Government.

You will be aware from earlier correspondence that we hope to introduce a Water Bill which will create a more innovative and resilient industry, able to respond to the future challenges we face to water resources. We want water companies to think differently about how to address these challenges and to focus on their customers' needs. The Bill was published for pre-legislative scrutiny in July 2012 and we received the EFRA Select Committee's report on 1 February. We currently intend to publish our response alongside the Bill's introduction and remain committed to introducing the Bill as soon as parliamentary time allows.

Finally, we published a consultation last November seeking views on developing our strategy for the management of urban diffuse water pollution in England. We are currently considering the responses received with a view to publishing the strategy later this year.

7 March 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 7 March 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 13 March 2013.

We are grateful for the information that you have provided. We will follow the progress of this EIP with close interest.

Please consider this strand of correspondence closed.

14 March 2013

EUROPEAN MARITIME AND FISHERIES FUND (17870/11)

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

Thank you for your letter of 11 October, responding to mine of 9 October, agreeing that the Government need not withhold agreement to a partial General Approach at October Council, pending completion of scrutiny. I am now in a position to provide you with an update on the progress that was made and outline next steps.

The Presidency sought agreement to a partial General Approach, covering Articles 1-95 of the proposal, which was reached by qualified majority in the early hours of the morning of 24 October. Belgium, Germany, Lithuania and Malta voted against.

From the UK perspective, the agreement that was reached was a positive one. Working with like-minded Member States and in close consultation with the Commission, we were able to influence the text in line with approach set out in my letter of 9 October.

No financial details were agreed and I presented a written statement to the effect that the EMFF budget is subject to the wider Multi-Annual Financial Framework negotiations, with our agreement to

the partial General Approach being dependent on it being without prejudice to decisions in that wider negotiation. In addition, no agreement could be reached on Article 17, which lays down the criteria for the allocation of funds between the Member States. This will be left for a future decision.

Under the approach agreed, the funds will be heavily focused where they can deliver the reformed Common Fisheries Policy (CFP), supporting measures such as: more selective gear that will contribute to eliminating discards; innovative research projects to improve the economic and environmental sustainability of the fishing industry; and help for fishermen and small communities to improve their marketing of fish to obtain a better income. The fund will also provide support to improve skills and training, both to improve the fisheries sector and to encourage diversification and job creation outside of fishing.

There will still be some funds available for fleet measures and these will be subject to very strict conditions so that they also contribute to CFP reform. Measures for the permanent cessation of fishing activities (decommissioning and scrapping of vessels) will have to be part of a Member State's operational and capacity reduction action plans approved by the Commission, and will target those parts of the fleet where there is overcapacity. Beneficiaries of support under this measure will have to cease all fishing activities for at least one year, and will be unable to register a new vessel for at least 5 years. The scrapped vessels will be permanently removed from the EU fishing vessel register, and the licence also permanently removed. Aid for permanent cessation measures will cease after 31 December 2017.

Temporary cessation (tie-up aid) for up to 6 months will be allowed but only for emergency situations, such as environmental disasters and non-renewal of fishery partnership agreements. It will also be possible where foreseen in a fish stock management plan in accordance with scientific advice. Vessels affected by these measures will not be allowed to participate in any other fishing during the cessation period.

There will also be tight restrictions around the modernisation of engines, which can be replaced to assist efforts by the fishing industry to combat climate change. Support for new engines will only be granted in those sectors which are in balance with the fishing opportunities available (i.e. not in those sectors where there is overcapacity). Support will only be available for under-12 metre vessels which do not use towed gear; and for 12-24 metre vessels so long as the new engine is 20% less powerful than the one it is replacing. Replacement engines will be subject to physical inspection and testing to ensure they do not exceed the new threshold.

A maximum cap of 15% of member state funding under priorities I and II of the EMFF will apply to the above three measures combined, with a maximum of 3% in the case of engine replacement.

Turning to other issues discussed at Council, the UK was instrumental in resisting calls for the re-introduction of construction subsidies for new vessels or hull modifications: neither featured in the agreed partial General Approach.

With regard to the Integrated Maritime Policy 20% of the resources available will be under shared management rather than direct management by the Commission. This will give the Member States more say in how these funds will be applied, however they will be required to co-finance 25% of that part.

Start up support for "young fishermen" (under 40 yrs old) will also be allowed under the fund. However the support will only be available for their first acquisition of an under-24 metre vessel between 5 and 30 yrs old, and only if the vessel belongs to a fleet segment which is not above capacity. Support will be limited to 15% of the vessel price, and capped at €50,000 (£39,905) per recipient.

No decisions were taken on the allocation of funding to aquaculture or the land-locked Member States.

I am convinced that the package of measures that were agreed was the best that could be achieved to direct the EMFF to supporting effective implementation of CFP reform. This partial General Approach lays down the Council's position in advance of the European Parliament consideration of the proposal, which is currently expected in March 2013. The remaining articles which cover the management aspects of the future EMFF were left for future consideration together with the financial aspects. We expect the Council to agree a position on these at some point under the Irish Presidency.

1 November 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 30 October on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 14 November 2012.

We recognise that the package of measures that were agreed may well be the best that could be achieved. Four Member States voted against, however, and we would be interested to know if all of those Member States, including Germany, rejected it on grounds of failing to deliver possible funding for vessel renewal or whether they considered that it would not achieve desired capacity reductions?

We indicated in our letter of 11 October that we hoped that you would take an extremely robust stance to resist the inclusion of vessel modernisation and engine replacements in the text. While it is welcome that the UK was instrumental in resisting calls for the re-introduction of construction subsidies for new vessels or hull modifications, it is very disappointing that funding will be available to support engine modernisation.

You note that a number of restrictions have been put in place around the modernisation of engines. We would welcome re-assurances on those restrictions. First, these are to assist efforts by the fishing industry to combat climate change. Is the fishing industry subject to specific greenhouse gas reduction targets which would encourage skippers to make such efforts? Will skippers be required to provide a reasoned analysis of how their vessel, allied with their intended time at sea will contribute to fighting climate change? Second, how many sectors would qualify for such support if it is only to be available to those where there is no overcapacity? Third, who will be responsible for inspecting the engines to ensure that they are 20% less powerful than those that they are replacing?

On the issue of permanent decommissioning, we gave support to the measure on the basis that aid could be linked to economic diversification of fishing communities. We would welcome clarification on whether such a link will be made.

As regards temporary cessation of fishing activities, we accept that funding can be available to provide support in emergency environmental situations but we do not consider the failure to conclude a Fisheries Partnership Agreement to be one of those. It implies an expectation that such Agreements will continue in perpetuity regardless of the state of stocks in third country waters.

Finally, you note that no decisions were taken on the allocation of funding to aquaculture or the land-locked Member States. These decisions are in fact very important in relation to the targeting of the instrument to support effective implementation of CFP reform. When do you expect that they will be taken?

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

14 November 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter of 14 November, in which you raised a number of further questions relating to this proposal.

You asked for more detail on why four Member States voted against the proposal. Germany voted against as it could not support any level of funding for engine replacement. Belgium and Lithuania voted against because construction aid for new vessels was excluded from the proposal. Malta voted against because it wanted to see more support given to small-scale fisheries and aquaculture and for processing references to be removed.

It became clear during the Council that there was very strong support for the inclusion of the measure on engine modernisation. However, by remaining in the discussion I was able to push hard and secure a spending cap of 3% of a Member State's allocation under priorities 1 and 2 of the EMFF, thereby limiting the amount of funding each Member State can apportion to this measure. The detailed application of the rules covered in your follow up questions is yet to be determined. I can assure you that I shall be looking to ensure that they are fully effective and fit for purpose, including assisting efforts by the fishing community to combat climate change.

You asked for more detail on the application of cessations measures. Detailed operation of both permanent and temporary cessation measures is also yet to be discussed. We will continue to push strongly for an economic diversification link to be made to permanent cessation measures, and for temporary cessation aid in the case of non-renewal of fisheries agreements to apply only when vessels suddenly find themselves in an area where they are no longer able to fish. In the last case the aid will only be available for a maximum of six months.

On the subject of funding allocations, I expect official-level discussions on these to resume after Christmas, with the remaining articles in the draft proposal being put to Council at some point in the spring.

26 November 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 26 November on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 5 December 2012.

Thank you for your informative response. The Committee appreciates the information provided on why Germany, Belgium, Lithuania and Malta voted against the proposal.

The Committee also understands that your continued presence in the negotiation enabled a spending cap to be placed on use of the EMFF for engine modernisation. What was the rationale for the choice of 3% as the cap?

In terms of the detailed application of the rules, your original letter was clear that engines “can be replaced to assist efforts by the fishing industry to combat climate change”. We consider elaboration of this to be integral to your acceptance of the principle in the first place and not a minor detail. As this was a Partial General Approach, further detail could yet be inserted.

We therefore repeat our request for information not only on how you will assist efforts by the fishing community to combat climate change, but how the Commission will be empowered to ensure that spending on engine modernisation is limited to supporting efforts by the fishing industry to combat climate change. Is it likely, for example, that you will work with colleagues in DECC and DG CLIMA to apply a specific greenhouse reduction target to the fishing industry?

While the detailed application of the rules is yet to be determined, we consider that the queries that we raised are instrumental to ensuring that this money is not entirely wasted. Could you clarify, please, when the detailed application of the rules will be determined and at what point you will be able to inform us how you will ensure they are fully effective and fit for purpose. In the past, it has proved more challenging than you imply to assure maximum effectiveness of funds for engine modernisation.

We note that more detailed talks on the application of cessation measures are still to be discussed, with the subject of funding allocations not expected to resume until after Christmas. The Committee would appreciate further information and updates on these topics once they become available, as also the key issue of aquaculture.

We will continue to retain this Proposal under scrutiny, and look forward to your response in due course.

6 December 2012

Letter from Richard Benyon MP to the Chairman

Since I last wrote to you on progress with the reform of the Common Fisheries Policy (CFP), discussions have continued in the European Parliament (EP). On 18 December the EP Fisheries Committee voted on amendments to the basic CFP regulation, giving us the first clear steer on the Parliament’s position on CFP reform. This letter provides an update on the outcome of the EP discussions to date, and our current expectations for the CFP discussions going forward.

The current status of reports related to CFP reform within the European Parliament is as follows:

- Basic Regulation – Considered by Committee, awaiting Plenary vote.
- Common Market Organisation – Considered by EP Plenary, awaiting discussion with Council to close second reading.
- European Maritime and Fisheries Fund – Report being considered, awaiting committee vote.
- Four “own-initiative” reports (non-legislative) – EP consideration completed.

A summary of the outcome of the European Parliament’s consideration of the basic CFP regulation is included in Annex A. [not printed]

ANALYSIS OF VOTES AND EFFECT ON THE CFP NEGOTIATIONS

While the European Parliament has yet to complete its consideration of the CFP basic regulation, the votes to date in the Fisheries Committee, on the basic regulation and the own initiative reports, provide a clear steer on the European Parliament's views on the key reform topics. The amendments voted on in December show support for ambitious provisions to deliver more sustainable fishing, an end to discards and more regionalised decision making. The Fisheries Committee voted to remove mandatory Transferable Fishing Concessions from the basic regulation, and to apply the same principles of fisheries management outside EU waters as within. The Fisheries Committee's approach is broadly in line with the agreed aims of Council, although there are some differences around how it is envisaged the goals will be achieved and on the detail necessary in the basic regulation, particularly with regard to regionalisation. While we do not support all of the amendments agreed by the Committee and there is still work to do to ensure the final package achieves the UK's objectives, the outcome gives us a good platform to negotiate the final package this year.

The Common Market Organisation report attracted widespread support in the European Parliament. The first reading process has been completed in the European Parliament but will be considered by Council again as the rest of the package is revisited. Areas of interest for the European Parliament remain labelling of fish and fish products and the role of Producer Organisations. Further information on these aspects has been given previously. European Parliament amendments to the EMFF proposal are running to a later timetable and are currently being considered, with a committee vote scheduled for March this year.

NEXT STEPS

Completion of the European Parliament first reading position on the basic regulation, through a plenary vote, is expected in February. We will be looking to retain the elements from the Committee's amendments that we support, whilst seeking to overturn those parts which are not in line with the Council's position. We are working to raise awareness of the main issues and influence the views of key opinion formers. In the run up to the plenary vote, the intention is to build on existing relationships to ensure that UK MEPs and representatives of the key political groupings are aware of the need for ambitious reform, coupled with the practical measures to ensure these reforms are delivered.

Initial indications from the Irish Presidency suggest that they are keen to maintain momentum on the CFP reform package in Council with ambitions to finalise the outstanding elements of the partial General Approaches on the basic regulation and CMO at Fisheries Council on 25-26 February 2013 and reach full political agreement on the whole package including EMFF in June 2013.

There are limited areas remaining under discussion following agreement of the partial General Approach on the basic Regulation in June 2012. For the basic regulation, the outstanding issues are outlined in annex A along with our intended approach. We will continue to press for ambitious deadlines to fish at sustainable levels, and to eliminate discards through landing obligations and the practical measures that go alongside these. We continue to seek genuine regionalisation of decision making that enables Member States to agree and implement the right measures for their fisheries.

The CMO is likely to be considered again by Council along the same timeline as the basic regulation. The Council also hopes to accelerate progress on the EMFF so that agreement on all elements of the reform package might be reached at the June Council. Progress on EMFF will depend on progress in the EP, and on agreement being reached over the Multi-annual Financial Framework expected in the first half of the year. A fuller update on this aspect of the package is being prepared to respond to the detailed points raised in your letter of the 6 December and will be with you shortly.

I would be happy to provide any further information as required, to assist your consideration of the dossier and its clearance from scrutiny. This is especially important in light of the ongoing and accelerating developments in the negotiations, and with the Irish presidency seeking decisions in Council over the coming months, including finalising the position on the basic regulation and CMO at February Council.

23 January 2013

Letter from Richard Benyon MP to the Chairman

Thank you for your letter of 6 December, in which you raise a number of additional questions relating to this proposal.

You asked for the rationale behind the 3% cap for engine modernisation. 3% was the compromise figure reached between those Member States who wanted to remove the measure altogether, and those who would have preferred to see this measure continue in an unlimited form. From the UK's point of view, such a limit will restrict the amounts that Member States are able to use on engine modernisation to a minimum, while the additional controls, such as the 20% reduction in the power of replacement engines, will mitigate any potentially harmful impacts.

You requested further elaboration on how we will assist efforts by the fishing community and industry to combat climate change, and suggested inserting further wording into the draft regulation. It would be extremely difficult to re-open those articles on which agreement has already been reached under the Partial General Approach. To try and do so would invite Member States to revisit other articles which we would rather see unchanged. As it stands, any Member State wishing to use the EMFF for climate change mitigation measures (including engine modernisation) will need to include such a proposal in their Operational Programme and fleet effort reduction plans, which will be subject to Commission approval before they can be implemented. Defra officials will continue to work closely with Commission, other Member States, and Whitehall officials to ensure the detailed rules support Climate Change measures in the way that they are intended to do.

As indicated in your letter, there is still some way to go before the negotiations on the proposals are concluded. The Irish Presidency has indicated that it will look to obtain political agreement on the dossier at the June Council. I will keep the Committee informed of progress on cessation measures, funding allocations, and aquaculture measures, as requested.

1 February 2013

Letter from Richard Benyon MP to the Chairman

Further to my letter of the 23 January 2013 I would like to update you on the discussions that took place at Fisheries Council on 28 January 2012 in relation to the Common Fisheries Reform package, including the basic regulation, Common Market Organisation (CMO), and European Maritime and Fisheries Fund (EMFF).

The Irish Presidency confirmed that they will ask Fisheries Ministers to finalise the outstanding elements of the partial General Approaches on the basic regulation and CMO (see Annex A) at Fisheries Council on 25-26 February 2013, enter into detailed trilogue discussions with the European Parliament thereafter, and seek to reach full political agreement on the whole reform package, including EMFF, in June 2013.

This is an ambitious timetable which received a positive response from the majority of Member States during the discussion. There is however an influential group of Member States whose support for a rapid conclusion to the negotiations is conditional, and who indicated that they will seek to push back the provisional timelines for key objectives and weaken a number of the provisions relating to the discard ban.

I will continue to seek an early resolution of the negotiations, but it is even more important that the detail within the provisions is fit for purpose and in line with the ambitions that I have set out in my earlier letters. I will continue to make the case for radical reform, defending the agreement secured so far, countering calls to weaken the reforms, and building the alliances we need to see this through. We will need to react flexibly as the negotiations progress, to achieve the best outcomes for the UK in the context of the views of other Member States and the European Parliament.

Should an outcome which supports UK objectives be achieved at February Council, I would wish to vote in favour. To allow me to do that and to secure the best possible deal for the United Kingdom, I would be grateful if you will now release these proposals from Parliamentary Scrutiny or grant a scrutiny waiver allowing me to exert influence in Council to the UK's greatest advantage. As February Council is likely to focus on the basic regulation and CMO, release from scrutiny, or a waiver, on these dossiers is most urgent. Elements of the EMFF may also be discussed at February Council and will certainly be considered at forthcoming Councils under the Irish Presidency.

As these negotiations progress I will continue to keep you up to date with any significant developments. The European Parliament continues to consider these dossiers in parallel and I will be happy to update you on the outcome of their deliberations as key votes take place in the coming weeks.

6 February 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 6 February 2013 was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 13 February, following on from your letter of 23 January which was noted at the Sub-Committee's meeting on 30 January.

We are very grateful for your helpful summary of the latest state of play in these important negotiations relating to the future of the CFP.

It is pleasing that the Fisheries Committee of the European Parliament took a position that is favourable to a more sustainable CFP, and that the Plenary supported the Committee's position in its vote last week. We hope that this vote will strengthen your hand in negotiations in Council.

As regards the basic Regulation and the CMO, we observe that the Irish Presidency will seek to agree a General Approach at Council on 25-26 February 2013, with a focus on finalising the issues that remained outstanding after the Partial General Approach last year. You have previously set out the principles on which you will negotiate and have re-iterated that position. On that basis, we are content to release those Proposals and the external dimension Communication from scrutiny. We would emphasise in particular our focus on the need to minimise, and ultimately end, discards and on a robust system of regionalisation.

One of the issues that remains to be resolved is that of labelling. In light of recent concerns relating to the labelling of processed meat products, we would welcome information from you on the costs to business of introducing proposals to include the date of catch or date of landing.

As negotiations accelerate, we would welcome further information from your Department, particularly if negotiations take a turn in an unexpected and unwelcome direction. Following the European Parliament and Council votes, please provide an update on the respective outcomes and on next steps.

We have written separately to you about the European Maritime and Fisheries Fund, the proposal for which will be retained under scrutiny.

We look forward to further information in due course.

13 February 2013

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

Your letter of 1 February on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 13 February 2013.

We observe that work is still in progress as regards the detailed rules to support the provision that engines may be replaced to assist efforts by the fishing industry to combat climate change. We maintain our strong concerns about the effectiveness of this provision, but we are pleased that you are working closely with the Commission and Member States to ensure that the measure is effective. As and when some clarity is available, we would be grateful for further information.

We will continue to retain this Proposal under scrutiny, and look forward to further updates on progress in the negotiations in due course.

13 February 2013

Letter from Richard Benyon MP to the Chairman

Further to my letter of 6 February 2013 I would like to update you on the outcomes of both the European Parliament Plenary vote that took place on 6 February and the Fisheries Council on 26 and 27 February 2013, in relation to the Common Fisheries Policy basic regulation.

EUROPEAN PARLIAMENT POSITION

The European Parliament voted on 6th February on its vision for reforming the CFP basic regulation. The vote included a firm commitment to eliminate discards for all harvested species, with single point dates for when the requirement would enter into force. For pelagic fisheries, this would be 1 January 2014, and for demersal fisheries in UK waters, 1 January 2016.

The text included an unqualified deadline of 2015 for fishing rates to be set in line with Maximum Sustainable Yield (MSY). The Parliament also supported a model of regionalisation based on the Commission's original proposal, that retains a large amount of prescriptive detail in plans agreed at EU

level, and delegated powers for the Commission to step in to override Member State decisions where these are considered inadequate.

FEBRUARY FISHERIES COUNCIL

The position agreed by Council finalises the partial “General Approach” that was agreed in June 2012. It contained measures to progressively eliminate discards, with practical timelines. The pelagic fisheries landing obligation would come into force from January 2014 and for whitefish fisheries from January 2016 and finalised by 1 January 2019. The staged process also provides the flexibilities needed to apply a landing obligation on a fishery by fishery basis. Measures included limited exemptions (including a “de minimis” exemption for defined cases) to address specific problems in specific fisheries. However, the Government was able to prevent other demands to water down plans to eliminate discards including an unacceptable blanket discard exemption for boarfish and blue whiting. In addition, we also successfully removed the proposal for a bycatch quota, included in square brackets in the June 2012 partial general approach, as well as attempts to replace this with a requirement for mandatory swapping of quotas.

On integration between fisheries management and marine environmental policies the agreement ensures that there would be a clear process for introducing measures. This would improve the situation beyond the 12 nautical mile limit, assisting Member States in meeting their obligations under EU law and regional sea conventions. We will seek further improvements to this process as negotiations continue.

The agreement builds on the achievements of last year when the UK secured a) provisions setting out a genuine regionalised process to replace the centralised one size fits all approach to fisheries management and b) a clear legal commitment, and deadlines, to end overfishing by achieving Maximum Sustainable Yield targets, in line with our international commitments.

The Common Market Organisation (CMO), is now be subject to trilogue discussions between Council and Parliament and is expected to be considered at the April Council. The European Maritime and Fisheries Fund (EMFF) is also expected to be considered at April Council to resolve the outstanding elements and agree a full General Approach.

NEXT STEPS

The Council’s agreement and the European Parliament Plenary vote provide a basis for trilogue negotiations between the Council, European Parliament, and the Commission to finalise the new CFP in the coming weeks and months. This process is due to commence on 19 March. The UK government will continue to make the case for our reform objectives of ending discards, setting fishing rates sustainably and regional decision making, working with other Member States and MEPs as the Irish Presidency push ahead to try to reach a political agreement during their term.

18 March 2013

Letter from the Chairman to Richard Benyon MP

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

We are very grateful for your response. We continue to support the position that you are taking in negotiations and we would welcome a further update on the progress of negotiations in due course.

Our scrutiny of the Proposal for a Regulation on the European Maritime and Fisheries Fund (EMFF) is of course proceeding as distinct correspondence. It remains under scrutiny.

We look forward to further information in due course.

25 April 2013

Letter from Richard Benyon MP to the Chairman

Further to my letter of 18th March 2013 I would like to provide a brief update on progress in the negotiations on the CFP reform package.

BASIC CFP REGULATION

Following agreement of the Council position in February, trilogue discussions between Council and Parliament are underway. Information coming out of the trilogues suggests discussions are positive but with little substantive progress as yet. The Irish Presidency has indicated a wish to increase the pace of discussions to achieve an agreement by the end of their presidency, on the CFP basic regulation and the CMO. This ambition was endorsed by ministers at April Fisheries Council.

Although the institutions now agree on many of the key principles of the reform, some important detail (for example on discards and regionalisation) remains to be agreed.

EUROPEAN MARITIME AND FISHERIES FUND (EMFF)

Consideration of the European Maritime and Fisheries Fund dossier in the European Parliament has been delayed. Initial consideration in the Parliament is unlikely to be completed until at least July, and it is not yet clear when trilogue discussions with Council will be able to begin. The Irish Presidency is now not expected to table a substantive discussion on EMFF during their remaining Councils. As such, it will be for the Lithuanian Presidency to take this dossier forward later this year.

COMMON MARKET ORGANISATION (CMO)

Trilogue discussions have continued on the CMO with the outstanding issues of mandatory labelling and the use of delegated and implementing acts among the remaining areas of discussion. As yet no compromise has been identified. However, a further trilogue is planned for 8 May to try to find a solution. The UK continues to seek that burdens are minimised given the practical difficulty for the industry in providing date of catch or date of landing information to consumers. We will keep the committee abreast of developments on this issue.

We note the interest of both committees' in this issue of labelling and also in the potential costs of this approach to businesses. While being clear that the costs would be high, industry have informed us that it is not possible to calculate costs more accurately because existing supply chains could not cope with tracking this information to individual consumer packs. The impact of these provisions would fall not only to processors but also to catchers who would need to sort and market by catch date and merchants/salesmen would need to separate catches by different dates of catch or landing. Multiple retailers would also need to change their buying practices even with single species because the fish on counters might be from multiple vessels and caught or landed on various dates. We are continuing to make these points robustly in Brussels at every opportunity.

NEXT STEPS

Further discussions on the CFP and CMO dossiers are expected at Agriculture and Fisheries Council on 13-14 May where we expect the Irish Presidency to seek a revised trilogue mandate to reach a deal with the European Parliament. We will support the Presidency in maintaining momentum in the negotiation to reach a deal, urging Council to move closer to the Parliament's position where this is in line with UK's established priorities.

I would like to thank the committee for providing the necessary flexibility to allow the negotiating team to pursue the UK's objectives. We continue to work with other Member States and MEPs as the Irish Presidency push ahead to try to reach a political agreement during their term. We will keep you informed of developments.

29 April 2013

EXTERNAL ENERGY POLICY (13943/11)

Letter from the Chairman to John Hayes MP, Minister of State, Department for Energy and Climate Change

Your letter of 31 October 2012 on the above issue was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 14 November 2012.

The Committee is grateful for your letter providing a summary of the Decision that was agreed with the European Parliament and adopted at Council on 4 October. We appreciate that the text

underwent substantial revision in respect of some of the more prescriptive obligations, but we are content to note that the text is acceptable to the UK, with issues of concern resolved.

Please consider this strand of correspondence as closed.

14 November 2012

FISHING OPPORTUNITIES (7296/13)

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

Further to my EM of 26 March I am writing to update the Select Committee on the outcome of the Council written procedure to agree the amendment.

The purpose of this in-year amendment was both to formalise the outcome of the earlier EU/Norway agreements on fishing opportunities, and to establish the sandeel TAC starting in April. The scientific advice needed to establish the TAC only became available at this point in the year, meaning a very short interval between the proposal being published and needing agreement before the sandeel fishery starts in April.

The written procedure was initiated on 26 March 2013 and successfully completed on 27 March 2013. The Council adopted the regulation by qualified majority. In accordance with my intended course of action set out in the EM, the UK recorded an abstention on the basis of an insufficient interval to complete Parliamentary scrutiny, while indicating support for the substance of the amendment. Following agreement the Regulation was published quickly in the Official Journal as Council Regulation 297/2013 .

My officials were grateful for the prompt attention and advice of the scrutiny Clerks of both Houses concerning handling of the EM and the approach to take given the short period of time between the proposal being published and needing agreement.

15 April 2013

FISHERIES PARTNERSHIP AGREEMENT: EU AND MAURITANIA (14282/12, 14278/12, 14281/12)

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

Your Explanatory Memorandum (EM) on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 31 October 2012.

We will retain the proposals under scrutiny pending your responses to our queries as set out below.

These reflect points that also arose from a brief discussion of dossiers 14017/12, 14018/12 and 14019/12 in relation to the Madagascar Agreement and so we would be grateful if your responses could reflect that Agreement too where appropriate.

First, you indicate that the financial burden should be transferred from the EU taxpayer to vessel owners. Could you please indicate how the cost of the agreement is balanced between the taxpayer and vessel owners and how that balance compares to the most recent Protocol under the Agreement.

Second, you insist that funds contributed must be used appropriately. From the text of the Protocol it appears that requirements are only placed on the €3m earmarked for development purposes. We would welcome clarification as to whether this is the correct interpretation and whether you are content that the entire €70m will be used appropriately. If you are content, how confident are you that audit mechanisms are in place to monitor that spending?

Third, the proportion of the cost of the agreement targeted at development activities has fallen significantly. We understand this to be at the request of Mauritania, which was having problems spending the money and required more flexibility. If that is the case, are you aware of assistance provided by the Commission to identify ways in which the money might be spent?

Fourth, you have concerns about whether the fleet can fish economically with the new restrictions. We would welcome clarification on the restrictions to which you refer and the nature of your concerns both in that regard and with regard to the “opt-out” in case of under-utilisation of fishing opportunities.

Finally, we have some concerns regarding arrangements for control and enforcement of fishing activities by EU vessels in third country waters and would welcome clarification from you on those arrangements.

We look forward to your response within 10 working days.

1 November 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 1 November 2012 in response to my Explanatory Memorandum on this dossier.

As you know I strongly support the Commission’s commitment to reducing the cost of fisheries partnership agreements to taxpayers and to increasing the contribution that operators are asked to make. I also believe that it is essential that we follow scientific advice in ensuring the available fishing opportunities can be caught sustainably and that these agreements do more to support local economic development.

I therefore support the overall approach the Commission have taken in the proposed EU Mauritania agreement. However, as explain in my EM, I do have some concerns about the risks of the fishing opportunities not being taken up by EU vessels. We will therefore be pressing for further assurances from the Commission of the action they would take to protect public funds, if the agreement is adopted, and should EU vessels not take up the opportunities on offer.

You asked about how the cost of the agreement is balanced between the taxpayer and vessel owners. Under the old agreement with Mauritania, the EU contribution was €108 million and vessels owners paid 9.9% of the total costs. Under the new agreement the EU contribution has been reduced to €70m and, if all the quotas on offer in the agreement were to be fished, then vessel owners would pay an additional €41million to Mauritania. This would represent a total revenue of €111 million with vessel owners paying 37% of the balance. The percentage paid for by vessel owners under the Madagascar agreement has risen from 29% to 32%.

It is true that the amount of direct fishing sector support has been reduced from €11 million to €3 million in relation to Mauritania and from €950,000 to €550,000 for Madagascar. This is consistent with the move to decouple support for fisheries infrastructure from the level of fishing opportunities and provide greater flexibility for third countries on where revenue can be spent to support local economic development.

The agreements provide that Mauritania and Madagascar must explain to the respective Joint Committees (which are convened annually for the two parties to assess the performance of the agreement) what purpose it has put the sectoral development money to. In the case of Mauritania the EU delegation in Nouakchott will work with Mauritania to help them develop programmes to improve monitoring of fishing activity, scientific co-operation and training and measures aimed at conserving the marine and coastal environment. More widely the use of funds provided under the agreement must be consistent with established commitments on supporting economic development and local infrastructure. Under the agreement, the Mauritanian and Madagascan Government are required to report to the EU each year on how the funding has been used. This will feed into regular full evaluations which are carried out by the EU Commission to judge the appropriateness of the agreement.

On control and enforcement in relation to EU vessels fishing in third country waters, this is primarily a matter for the coastal state. However, any EU vessel fishing in third country waters must have a licence issued by its flag state. In issuing these licences, Member States must comply with the provisions of Council Regulation 1006/2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters, the Control Regulation (1224/2009) and the IUU Regulation (1005/2008). It is therefore possible for us to take enforcement action in the UK against a vessel owner for fishing without such a licence in third country waters or for breaching its conditions, either in addition to or in the absence of any enforcement action taken by the coastal state. In terms of actual monitoring, UK vessels fishing in third country waters all have fully functioning vessel monitoring systems (VMS) and electronic logbooks on board, as required by the EU Control

Regulation. These enable the flag state to monitor each vessel's activity in something close to real time.

15 November 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 15 November 2012 on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 21 October 2012.

We understand that, for Commission administrative reasons relating to the budget, the proposals will be going to the 28-29 November Council, rather than the December Council, for agreement.

In advance of that Council meeting, we are content to release the proposal from scrutiny.

We are grateful for the responses that you have provided, but would wish to press you further on two points.

On control and enforcement, you refer to the legislation in force and that EU Member States must comply with that legislation in issuing licences. Are you content that all Member States with fishing interests in these areas are abiding by the legislation and are you content that coastal states are monitoring activity successfully, taking enforcement action where necessary? We are aware that responsibility for monitoring the implementation of EU law falls to the European Commission rather than to individual Member States but public funds are involved and we would therefore hope that you work in partnership with the Commission to ensure that the EU's Fisheries Partnership Agreements are functioning effectively, in line with their objectives.

We were not entirely clear from your response whether or not you are content that the entire €70m of EU funds will be used appropriately, and whether appropriate audit mechanisms are in place. It was not clear from the letter whether your comments applied to the entirety of the EU contribution or a proportion of it.

We look forward to your response within 10 working days.

22 November 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 22 November 2012 on this dossier, in which you indicated that the Committee was content to release the proposals from scrutiny. I can confirm that these proposals were not in the end included on the agenda for Agriculture and Fisheries Council on 28-29 November. However, we do expect them to be agreed as an 'A' point at an upcoming Council.

You asked whether I am content that Member States are fulfilling their obligations in respect of licensing vessels and monitoring their activities and whether the coastal states are taking relevant enforcement action. As far as I am aware the Member States with fishing opportunities under this agreement are fulfilling their obligations. Were they are not doing so, the Commission would take the relevant action to ensure that they are abiding by their EU obligations. We know that Mauritania has taken action against vessels that it believed to have been acting in contravention of the provisions applied under the agreement. In these situations they notified the Commission who then informed the relevant Member State.

On funding Mauritania is required to report to the EU each year on how the funding for fishing sector support has been used. This will feed into regular full evaluations which are carried out by the EU Commission to judge the appropriateness of the agreement. There are no formal reporting or audit requirements for the remainder of the funds provided. However, any payment made under a fisheries agreement is subject to the Commission's standard rules and budgetary and financial procedures. This makes it possible, in particular, to fully identify the bank accounts into which the financial contribution is paid and, indeed, Commission rules mean that the account must be an official government one rather than a named individual.

6 December 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 6 December 2012 on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 December 2012.

We note the information that you have provided and that you are content with the processes in place. While we retain some misgivings, we are also certain that these issues will arise in relation to other Agreements in due course.

Please consider this strand of correspondence closed.

19 December 2012

FIXING FOR 2013 AND 2014 THE FISHING OPPORTUNITIES TO EU VESSELS FOR CERTAIN DEEP-SEA FISH STOCKS (14635/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 7 November 2012.

We support your position and are content to release the proposal from scrutiny. We look forward to an update from you on the outcome of negotiations in due course.

8 November 2012

Letter from Richard Benyon MP to the Chairman

Following my recent reports to you on the outcome the main fishing opportunities negotiations at December Council, there is one negotiation outcome for me to report on related to the above proposal on deep sea stocks.

As the UK has a relatively modest interest in deep sea stocks in commercial terms, our main challenge was to seek an outcome reflecting the precautionary approach, which I believe deep sea stocks require, while adhering to a position which would be consistent with our negotiating stance during the main fishing opportunities negotiations.

I attach a summary table of the Total Allowable Catches (TACs) for deep sea species with a UK share agreed at Council for 2013 and 2014 – the full range of EU fishing opportunities agreed for deep sea species is now published in Council Regulation 1262/2012.

As part of the agreement reached I was pleased to see that the proposed zero TACs for orange roughy and deep sea sharks were agreed without a by-catch limit for the latter, making it clear that these vulnerable species are not to be targeted.

Following representations from the Shark Trust during our consultations on this proposal, the UK advocated the addition of Lowfin Gulper sharks to the list of deep sea sharks covered by the zero TAC. This shark has a particularly limited range, extremely low fecundity, and is found in deep water (300–1,400m). It has been listed by the International Union for Conservation of Nature as 'vulnerable'. We obtained a declaration from the Commission during the Council discussions that the case for inclusion of this shark species under the zero TAC would be submitted for scientific advice. If this is favourable the species will feature in an in-year amendment for inclusion at the earliest opportunity.

7 February 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 7 February on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 February.

Thank you for your reply, informing the Committee of the negotiation outcome.

Please mark this strand of correspondence as closed.

28 February 2013

FIXING FOR 2013 THE FISHING OPPORTUNITIES AVAILABLE TO EU VESSELS FOR
CERTAIN FISH STOCKS AND GROUP OF FISH STOCKS WHICH ARE NOT SUBJECT
TO INTERNATIONAL NEGOTIATIONS OR AGREEMENTS (15254/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 21 November 2012.

We support your broad approach but we would welcome precision on the stocks which you intend to query, including those where you consider that a rollover TAC should be proposed rather than a 20% reduction.

We look forward to receipt of the above information, along with an update on the progress of negotiations and any information on effort proposals, within ten working days.

In the meantime we shall retain the proposal under scrutiny.

22 November 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter of 22 November asking for further information on the UK priorities for the impending negotiations.

EMs 15254/12 and 16291/12 on were submitted on 7 November and 4 December respectively. As promised in these EMs an impact assessment has been prepared for both and is now attached. This IA assesses the impact of the two proposals both of which will be negotiated and agreed at December Council.

As also undertaken with the Committees of both Houses what follows is a summary update of the UK priorities agreed and the latest elements to emerge during negotiations in the lead up to Council.

Our economic impact assessment suggests the Commission's proposals for 2013 would mean a loss in GVA terms for the UK fleet of around £14m if they were to be accepted unchanged. To counter this, an outcome more closely reflecting the UK's negotiating position would reduce this loss by around £10m. The key UK negotiating points are based on three core principles: Science – consistency with the available scientific evidence and advice; Sustainability – ensuring stocks are on course to reach Maximum Sustainable Yield (MSY) levels by 2015, where possible, in line with international commitments; Discard Reduction – we support the continued reduction and progressive elimination of discarding.

Ministers will also be asked to agree a Council Regulation amending the Cod Recovery Plan. This has been proposed by the Presidency, but is opposed by the Commission as part of a long running inter-institutional impasse over the applicability of co-decision with the European Parliament to certain parts of the Common Fisheries Policy. It will therefore have to be agreed by unanimity. This has the potential to affect the wider negotiations at Council.

AMENDING THE COD RECOVERY PLAN

The negotiations this year are complicated by the wider inter-institutional impasse on the role of co-decision in long term management plan. This has come to a head in relation to the role of the different institutions in agreeing a Commission proposal to amend the Cod Recovery Plan. These amendments are urgently needed to provide a legal basis for the UK to deliver its highest priorities at December Council

Following extensive lobbying by the UK and others, the Commission brought forward a proposal to amend the Cod Recovery Plan, via co-decision, in September 2012. However, this was too late to be agreed before December Council. There is also a blocking minority of Member States in Council who oppose European Parliament involvement in setting fishing opportunities. In line with Council Legal Services advice, the Presidency, as a solution, therefore proposed to split the Commission proposal, bringing forward only those Articles that are deemed to be about setting fishing opportunities (quota and effort), for agreement in a Council Regulation.

The Commission do not support the Council Legal Services advice and are opposed to the Presidency solution. Having removed themselves from discussions, this will now mean the Presidency's proposal needs to be agreed by unanimity. It has been agreed that this issue should be discussed at Ministerial level at December Council. The Presidency proposal is also strongly opposed by the European Parliament, who have threatened retaliatory action on other fisheries dossiers.

Amendments to the Cod Recovery Plan rules will provide more flexibility in setting cod quota and effort limits. This is necessary to deliver UK priorities, especially in relation to effort. However, this issue is likely to impact on wider negotiations, especially if the Commission decide to oppose all of the measures which cover cod effort, thereby requiring unanimity of the full package to be agreed at Council.

KEY UK ISSUES AND PRINCIPAL NEGOTIATING POSITION

UK comments on the full set (200+) of proposed TACs and quotas have been agreed at official level with devolved administrations. I have also had initial discussion with ministerial colleagues in Devolved Administrations on our priorities and views have been put forward by the fishing industry at a UK stakeholder event, and in meetings at Ministerial and official level. Based on those meetings/discussions, the initial list of high-level priorities are as proposed below.

The first order-priorities for the UK would be:

- Days at sea (Effort) – securing a freeze in the annual effort reductions applied under the Cod Recovery Plan;
- North Sea cod TAC – resisting the 20% reduction in the TAC as prescribed by the Cod Recovery Plan and seeking a rollover in the TAC if supported by ICES advice;
- Fully Documented Fisheries (FDF) – secure removal of the proposed prohibition on leasing between FDF and non FDF vessels;
- Mackerel – follow ICES advice on the TAC, with the EU and Norway continuing to take their traditional 90% share.

Other priorities will be:

- Western Nephrops – securing a rollover in the TAC;
- West of Scotland Haddock – mitigating a reduction in the TAC to 25%;
- Celtic Sea haddock – mitigating a reduction in the TAC, probably with the application of additional selectivity measures;
- North Sea and West of Scotland Megrim – agreeing a transitional approach to realigning the TAC between the two areas;
- Data Poor – avoiding an over-precautionary approach in the absence of robust scientific data;
- MSY – achieving MSY by 2015, where possible in line with our commitment under CFP reform.

Further details on above issues

EFFORT FREEZE

Year on year reductions in effort under the Cod Recovery Plan are ineffective in reducing mortality and are seriously threatening the future viability of the fishing fleet in the UK. As the effort levels are now at such low levels that are working against fishermen and their drive for improved selectivity. To avoid discarding requires time to find and fish less cod abundant fishing grounds and maximise the benefits of more selective fishing gear and behaviour. With less time at sea, fishermen will be forced to catch the first cod they see – meaning grounds closer to the shore will be targeted, often where cod spawn.

The UK position to date has been that the effort freeze remains a priority and the Presidency approach currently appears to be the only way to secure the priority in time for the start of the effort year.

As an effort freeze is vital to the recovery of cod stocks and to maintaining the viability of the UK fleet, I do not believe the UK can stand in the way of the Presidency's proposal.

North Sea Cod TAC: Despite ICES noting the gradual improvement in this stock they have to advise TAC changes in accordance with both the Cod Recovery and EU/Norway Management Plans. In both cases this means a 20% reduction in the TAC, despite the Cod Recovery Plan having been evaluated as flawed both in design and implementation.

We have been working with scientists to develop alternative approaches that whilst mitigating the TAC reduction for 2013 will also increase the likelihood of achieving MSY by 2015, increase Spawning Stock Biomass to levels above those stipulated in the Management Plans and significantly reduce discards. The UK paper is to be considered by ICES by 14 December, and all signs currently suggest they will view our approach favourably. If so, we propose that our position should be to seek a rollover in the TAC.

The North Sea cod TAC is negotiated as part of the package at EU/Norway. We suspect Norway might be open to a figure different to a 20% cut for very similar reasons to us, and we have allies in the Danes. If ICES rules favourably we suspect France and Germany might also support the UK position. However, the Commission are adamant that they are bound to negotiate according to the Management Plan, and this must be changed (through co-decision) before an alternative TAC could be agreed.

Chances of success on this priority are currently lower than securing the effort freeze as there is no proposal on the table to deal with the legal restrictions. We are pressing for an outcome from EU/Norway to agree a TAC different to the Management Plan, against Commission opposition.

Fully Documented Fisheries : We need to resist a proposed prohibition on leasing between FDF and non-FDF vessels. In the proposals the Commission have introduced a prohibition on quota leasing between vessels on FDF schemes and those not. The theory is that if FDF vessels buy up cod quota from non FDF vessels, there is likely to be an increase in discarding in the non-FDF sector. Whilst we understand the theory, for the last 3 years we have been running the scheme we have not experienced this. In fact, discards across all sectors have decreased year on year. Denmark, Germany and the Netherlands are very much of the same opinion as us. We have had a useful technical meeting with the Commission on this; the evidence supports our position.

Mackerel: We agreed a position with Devolved Ministers ahead of November Council. We support following the ICES advice to reduce the TAC, but to maintain the EU and Norway traditional 90% share. The Commission are arguing for a lower share to be taken to put aside some quota for Iceland and Faroes. This has some support from Member States (the Netherlands and Denmark) but most interested countries advocate continuing to take 90%. We understand that Norway also supports this position so we expect this to be agreed as part of EU/Norway this week.

Western Nephrops: The Commission are proposing a 12% cut in the TAC. Northern Ireland are unhappy with a cut and are seeking a rollover of the TAC. Ireland is pushing for a 14% increase but we continue to explore the scientific evidence for this. The Commission are not convinced by our position and are likely to be critical of our selectivity measures in the Irish Sea. Last year Michelle O'Neill committed to introduce gears in the Nephrops fleet that would reduce cod catches to less than 1.5%. The deadline was July and those measures were only rolled out in October. STECF advice states that it is unable to evaluate whether the gear is successful or if the low cod catches are because of low cod abundance.

West of Scotland haddock: Last year the UK secured a 200% increase in the TAC following MSY advice rather than just a 25% increase that would have applied under the Management Plan if it had been evaluated at that stage. This year ICES originally recommended a 55% increase, but following the identification of an error in the ICES advice, the proposal is now for a 48% cut to maintain fishing at MSY. The Management Plan has now been evaluated as precautionary and would restrict the decrease to 25%. Scotland wishes to follow the Management Plan this year. The Commission are likely to push us on this on two points 1) why move away from fishing at MSY and 2) discards of whitefish in the West of Scotland are high. They are likely to link any deviation from the ICES advice to a commitment for further selectivity in the area given their wider concerns here. Scottish officials are in discussion with the Commission on this and we will need to ensure that the UK has something of substance to offer if we are to limit the cut to 25%.

Celtic Sea haddock: The Commission advice here is to follow MSY by 2013 resulting in a 55% cut in the TAC; but even following MSY by 2015 results in a 43% decrease. The ICES advice states that selectivity needs to be introduced to reduce catches of haddock that are being discarded because they

are over quota but that same advice was unable to take account of the recently introduced selectivity in the area because of timing issues. The UK position is that a cut in the TAC will only lead to an increase in over-quota discards, especially in this mixed fishery, but we are investigating what more could be done to reduce haddock catches. France and Ireland are also calling for a smaller reduction in light of recently adopted selectivity.

North Sea and West of Scotland megrim: The Commission proposal, following STECF, is to realign the TACs between the two areas to bring it in line with the distribution of the stock. Currently the TAC is distributed 35% in the North Sea and 65% in West of Scotland but STECF recommend it should be 60:40. The UK supports this position but considers getting there in one year to be too big of a change for the industry or the markets to accommodate. We therefore propose a 3 year transitional move with the distribution for 2013 being 44:56 meaning a 15% increase in TAC for North Sea and a 19% cut in West of Scotland. The Commission are unlikely to have many other allies on this matter, and based on official level discussions on this matter our proposal seems to be viewed favourably.

Data poor: Following the rather appalling state of affairs last year where the UK have around 60 data poor stocks facing automatic reductions of 15 or 25%, ICES have spent a significant amount of effort this year undertaking assessments using all available evidence. This is a very welcome development. It has, however, left a small number of stocks for which there is either absolutely no advice or the advice is over reliant on landings data. In these cases, it is our view that there is insufficient evidence on which to change the TAC and, as such, we will be calling for rollovers. Many other Member States shares this view and previous negotiations on Baltic TACs and Deep-Sea TACs this year have set helpful precedents on considering these stocks on a case-by-case basis. For information the stocks with no advice are: herring in the Western & Bristol Channels; plaice and sole West of Scotland, whiting in the Irish Sea and saithe in Area VII. And stocks whose assessment is over reliant on landings data are: megrim and anglerfish in Area VII, haddock in the Irish Sea and sprat in the English Channel.

Maximum Sustainable Yield: It remains a UK priority and commitment to achieve MSY by 2015 where possible. We also not against trying to achieve MSY sooner i.e. 2013 if there is no adverse socio-economic impacts on the fleet. For some stocks, despite the ICES advice, the Commission has often chosen the route of most pain i.e. 2013 when 2015 is advised and would cause minimal disruption and 2015 even if 2013 would be easier. The UK position here is to follow the ICES advice on MSY timetables. For information: ICES recommends MSY in 2013 for herring in the Celtic Sea (-10% rather than -18%); and in 2015 for sole in the Eastern Channel (+6% rather than -14%), hake stocks (-18% rather than -33%).

As far as other issues are concerned there could be some significant and easy gains to be had in a number of technical areas:

- Extending the FDF scheme in the North Sea – securing an increase in quota for the cod scheme and additional quota to trial schemes for plaice, haddock and saithe.
- Removing the 30% cap on additional quota allocations under FDF – this cap is a barrier to vessel participation particularly in high discard fisheries like plaice. Removing it will not undermine the scheme.
- By-catch quotas – securing a rollover in TAC to avoid increases in discards. Stocks included here are whiting in the West of Scotland, cod in Rockall, plaice and sole in the Celtic Sea and Skates and Rays TACs.
- Flexibility in quota between anglerfish TAC areas - securing an increase in flexibility between the North Sea and West of Scotland from 5 to 10%.
- Bristol Channel plaice – mitigating a reduction in the TAC from 19% to 2% following ICES advice.
- Rockall haddock – securing a small TAC for a targeted fishery and to reduce discards.
- Clyde herring – securing a change in the boundary of this stock.
- Prohibited Species – securing the ability to undertake scientific research on these stocks subject to strict criteria to avoid targeted fisheries.
- Porcupine Bank – securing the lifting of the restrictive TAC.
- Common skate complex – closing a loophole in one species of common skate being targeted whilst another is prohibited.

— Seabass – fighting off any suggestion of a TAC for this stock for 2013.

Ultimately, the final UK position for the December Council will evolve during the intense negotiations in Brussels during the Council itself. The need for a degree of flexibility around these priorities needs to be taken into account to ensure I can secure an outcome in the best interests of the UK.

10 December 2012

Letter from the Chairman to Richard Benyon MP

Your Explanatory Memorandum (EM) on dossier 16291/12 and your letter of 10 December 2012 on both of the above Proposals were considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 December 2012.

You have provided helpful additional information to the material contained in the respective EMs. We support the three core principles on which your negotiating points are based – science, sustainability and discard reduction.

It is clear that the biggest concern relates to possible cuts in effort under the cod recovery plan. We are supportive of your attempts to negotiate a pragmatic approach, although we are unclear why the Commission is opposed.

In advance of the Fisheries Council, we are content to release both proposals from scrutiny. We look forward to a comprehensive update on the outcome of negotiations.

13 December 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 27 December on the December EU Fisheries Council outcome on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 16 January 2013.

Thank you for summarising the main outcomes from the December EU Fisheries Council. We are pleased to note that the UK secured a number of key changes to the Commission's original proposals, such as overturning the proposal to cut by a quarter the number of days fishermen could fish.

Please mark this strand of correspondence as closed.

17 January 2013

FLUORINATED GREENHOUSE GASES (15984/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 December 2012.

The Committee understands the Government's position that given the range of F gases, equipment and applications, there is no "one size fits all" solution to regulation in this area, and that this Proposal has tried to reflect such a view. We also appreciate that the measures proposed, such as the reduction steps in the phase down of HFCs, for example, would respect the expected needs of the market.

The EM highlights concerns with the control of use provisions, and the potential significant costs that could be created for some end users, such as SMEs. The Committee would be interested to know whether these representations have been made to the European Commission, and if so, what response/reassurances, if any, were provided?

Similarly, concerns are raised about the potential implications for a ban on the pre-charging of refrigeration, air-conditioning and heat pump equipment. The EM notes that this could introduce "related practical and safety issues". The Committee would be grateful for clarification on what these specific issues are, and whether (as with the above) these concerns have been brought to the attention of the European Commission?

Furthermore, the EM states that "careful consideration" with stakeholders will be necessary. Could you please inform the Committee of which stakeholders the Government intends to consult, when they hope to achieve this and, when available, provide the results of the consultation.

You do not comment at all on the views of other Member States. Are you aware of an emerging consensus in support or opposition of the proposal? Are your concerns shared by others?

Your EM reflects on the Montreal Protocol discussions that began in 2009, including the fact that the UK has agreed to this "in principle", and note that you hope an EU-level HFC phase down could help secure an international agreement. The Committee would be grateful if you could please keep us informed on any progress in this area, particularly as discussions on this proposal develop.

Regarding subsidiarity concerns, the Committee agrees with the Government position that as this Regulation relates to the EU's Kyoto commitments, it is sensible for the Proposal to be established at EU level, and not Member State level.

Finally, on a related issue, the Committee would be interested in any information that you may have on the effectiveness of the ban on the use of chlorofluorocarbons (CFCs), both as regards global application of the ban and any emerging impact on the ozone layer.

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

13 December 2012

Letter from Lord De Mauley to the Chairman

Thank you for your letter of 13 December, in which you requested further information regarding the European Commission proposal on regulation of fluorinated greenhouse gas.

The Committee asked what representations have been made to the European Commission regarding the potential significant costs of the proposal on end users, particularly small and medium enterprises. Defra has been fully engaged with the European Commission throughout the review of the existing EU F gas Regulation leading up to the publication of the proposal. We have continued to discuss specific elements of the proposal informally with the Commission since it was published and this included submitting some early informal views outlining our areas of concern.

Subsequently, following a request from the Commission, at the November Working Party meeting in Brussels, the Commission presented its proposal and the UK formally submitted preliminary

comments on the Commission's draft proposal. These comments reflected that whilst the UK support the replacement of F gases with a global warming potential, care is required to ensure that equipment that is already in use is not made obsolete and subject to replacement before its commercial end of life. These comments included examples of equipment that would be adversely affected and proposed a number of alternative suggestions for the Commission to consider. We maintain a general scrutiny reserve on the proposal as a whole, as well as a Parliamentary Scrutiny reserve.

We understand that the Commission will now review the comments submitted by Member States and will discuss these at further Working Party meetings in January and February 2013 when there will be a first full read through of the proposal. Our informal discussions with the Commission have also indicated its willingness to consider the various elements of the proposal in more detail and it has acknowledged that there are areas where further analysis and information is needed.

The Committee has also asked for further details regarding the potential safety and practical issues relating to the proposed ban on the pre-charging of refrigeration, air conditioning and heat pump equipment. In this respect, discussions with several key stakeholders have brought the following issues to our attention:

INCREASE OF REFRIGERANT EMISSIONS AND OF ENERGY CONSUMPTION:

Charging in the field is less precise and could lead to an increase of refrigerant emissions of the order of one million tonnes of CO₂-equivalent in 2020 for air-conditioning and heat pump applications only. Transport refrigeration and domestic appliances, which are also in the scope of the ban, are not included in this figure. Moreover, there are potential impacts on energy efficiency with losses of up to 10% should equipment be over or under charged, thus further increasing emissions.

HIGHER COSTS:

The estimated cost of this measure could be of the order of €500 million in 2020 due to higher refrigerant costs and increased manpower. Again, this figure does not include transport refrigeration and domestic applications.

SAFETY:

Pre-charging equipment in the factory is not a choice for manufacturers but a must. Manufacturers must pre-charge units with refrigerants in order to test proper functioning of the refrigerant circuit. This procedure ensures that safety of equipment is ensured at all times and limits as far as is possible the need for topping up in the field. It is also indispensable for manufacturers to warranty their equipment.

RESOURCE EFFICIENCY:

The proposed ban would add two steps to equipment lifecycles as the refrigerant will first be filled in the factory for testing purposes and then have to be removed again having been contaminated with compressor oil or waste. Before it can be used again, the refrigerant would need to be sent back as waste to the gas suppliers for cleaning. This would dramatically increase the amount of waste gas in the supply chain.

DELAYED ACCESS TO PRODUCTS:

End-users risk being faced with delayed access to the products of their choice, due to the fact that installation will be more lengthy, costly and intensive, whereas the number of qualified installers will not increase in the short term. This may have a detrimental effect for the uptake of heat pumps for example, a technology that is essential for the roadmap towards a low carbon economy by 2050.

Defra has reflected the above points in the comments submitted to the Commission. We have also drawn the Commission's attention to a number of weaknesses in the Impact Assessment. These include:

- The cost for manufacturers of split air conditioning (AC) units, which is claimed to be 0,5 € per unit but it is not clear where this figure comes from.
- The cost of pre-charging bans is not compared against the cost of administration.

The assessment does not consider:

- the impact on all other sectors (other AC, heat pumps, refrigeration, including transport refrigeration, heat pump tumble dryers, icecream makers etc);
- the cost for end users (higher price of refrigerant, more work of installer to be paid for); or
- the impact on emissions.

Turning to the Committee's question regarding stakeholder engagement, as reflected in the Explanatory Memorandum (EM) Defra has been fully engaged throughout the review process with business interests, non government organisations, who have an active interest in the area, and others. This has included key stakeholders from the five main industry sectors affected by the Regulations, which include:

- the stationary refrigeration, air conditioning and heat pump sector,
- the fire protection sector,
- the mobile air conditioning sector,
- the solvents sector,
- the high voltage switchgear sector.

The implementation groups referred to in the EM have been established for the stationary refrigeration, air conditioning and heat pump sector (since these represent the key sector affected by the existing Regulations and the Commission's proposal) and the high voltage switchgear sector. The consultation process began at an early stage when the Commission first began reviewing the existing Regulation at the start of 2011 and will continue throughout negotiations of the Commission's proposal. Whilst there is no specific outcome of these consultations, that play a significant part in providing specialist and technical input to ongoing negotiations that enable us to influence the shape of the eventual Regulation and ensure that UK interests are safeguarded. Defra also continues to meet with other key stakeholders individually as necessary and the broader stakeholder contact group referred to in the EM has representatives from all five industry sectors covered by the Regulations. There will then be further written consultation in 2014 on transposition and implementation of the new Regulations. In addition, Defra is fully engaged with the Devolved Administrations and other Government Departments with an interest.

Regarding the views of other Member States, most are still working through the proposal in detail and so are still developing their positions. At the Working Party meeting in November, a number of Member States expressed initial views. Many are broadly supportive of the proposal but many shared similar concerns to those that the UK has expressed to the Commission, in particular the ban on servicing refrigeration equipment, the ban on pre-charged equipment, the potential changes to training and certification schemes and the proposed phase-down mechanism. Defra will continue to work closely with other Member States as negotiations progress.

In relation to the Committee's request to be kept informed of ongoing discussions under the Montreal Protocol, I can report that, whilst there was not significant progress at the recent Montreal Protocol's 24th Meeting of the Parties (12–17 November) the mood was more constructive than in previous years. For the first time an informal discussion group was able to consider, on a non-committal basis, the technical issues linked to controlling the use of hydrofluorocarbons (HFCs) under the Montreal Protocol, such as the availability of alternatives, scientific issues and funding questions.

The Parties also unanimously agreed that the Montreal Protocol technical expert body should continue and build on its work to provide additional information on low global warming potential alternatives that could be used as substitutes for ozone depleting substances. A draft report will be considered at the next Montreal Protocol meeting in July 2013 and could assist in advancing this issue, since this information is a necessary precursor to any discussion of possible international regulation of HFC production and use.

Finally, the Committee has expressed an interest in information on the effectiveness of the ban on the use of chlorofluorocarbons (CFCs) and its impact on the ozone layer. The Montreal Protocol on Substances that Deplete the Ozone Layer has been very successful in reducing atmospheric abundance of ozone-depleting substances (ODS). The production and consumption of individual ODS are now controlled in all 197 nations that are Parties to the Protocol.

The reduction in the atmospheric abundance of an ODS in response to controls on production and consumption depends principally on two factors: how rapidly an ODS is used and released to the atmosphere after being produced and its lifetime in the atmosphere before it is removed. For example, the abundances in the atmosphere of ODS with short lifetimes change quickly in response to emission reductions. Production and consumption of CFCs in developed countries ended in 1996 and in developing countries ended in January 2010. As a consequence, CFC-11 and CFC-113 abundances have peaked in the atmosphere and have been declining for more than a decade. However, CFC-12 abundances have only recently shown a decrease owing to its longer atmospheric lifetime (100 years) and continuing emissions from CFC-12 banks, namely refrigeration and air conditioning equipment and thermal insulating foams. With no further global production of the principal CFCs allowed, except for limited exempted uses, and with some continuing emissions from banks, CFC abundances are projected to decline steadily throughout this century. Those ODS gases that are still increasing in the atmosphere, such as halon-1301 and HCFC-22, will begin to decrease in the coming decades if compliance with the Protocol continues. Only after 2050 will the effective abundance of ODS fall to values that were present before the Antarctic ozone hole was observed in the early 1980s.

20 December 2012

Letter from the Chairman to Lord De Mauley

Your letter of 20 December 2012 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 16 January 2013.

Thank you for your detailed and informative reply. The Committee is pleased to note that the Government have been fully engaged with the Commission throughout the review of the existing EU F gas Regulation, including informal discussions to outline UK concerns. Regarding concerns about the potential implications for a ban on the pre-charging of refrigeration, air-conditioning and heat pump equipment, your letter notes a number of issues were brought to your attention, including higher costs, safety and resource efficiency, and so forth. We are pleased to see that the Government have reflected the concerns raised by stakeholders with the Commission, in addition to the weaknesses identified in the Impact Assessment, and that the Commission has indicated its willingness to re-consider various aspects of the proposal.

We note that, further to the November Working Party meeting, the Commission will now review comments submitted by Member States and will discuss these at the January and February Working Party meetings in 2013, and we look forward to the outcome of these discussions.

The Committee understands throughout the review process, the Government have remained fully engaged with stakeholders, including those from the five main industry sectors affected by the Regulations. Whilst we appreciate that there is no specific 'outcome' of these consultations, we would be grateful if you could please provide a summary of any key points raised by stakeholders in addition to those highlighted on the second page of your letter.

Whilst we are disappointed to see that there was no significant progress at the recent Montreal Protocol's 24th Meeting of the Parties, it is reassuring to note that the mood was more constructive than in previous years. We shall continue to follow progress in this area with great interest.

It is pleasing that the Montreal Protocol on Substances that Deplete the Ozone Layer has been successful in reducing atmospheric abundance of ozone-depleting substances (ODS), and that the production and consumption of individual ODS are now controlled in all 197 nations that are Parties to the Protocol.

We shall continue to retain the Proposal under scrutiny and look forward to your initial response within 10 working days, with further updates in due course on negotiations as they develop.

17 January 2013

Letter from Lord De Mauley to the Chairman

Thank you for your letter dated 17 January, in which you requested further information regarding key points raised by stakeholders about the European Commission proposal on regulation of fluorinated greenhouse gases.

Representative bodies for the key sectors affected by the Regulations and the larger business interests have been broadly positive about the objectives of the Commission's proposal. However, there is also broad agreement that further work is needed to address a number of shared concerns.

In particular, these concerns relate to: the early reduction steps in the Hydrofluorocarbon (HFC) phase-down mechanism, which may be difficult to achieve subject to the successful commercial development of various new HFC alternatives; the proposed ban on servicing of refrigeration and air-conditioning with high global warming potential refrigerants, that could render some existing equipment obsolete after 2020; potential changes to the current training and certification requirements for personnel and companies that have only been fully implemented since 2011; and the introduction of additional bans which could be technically prescriptive and hinder innovation.

In addition, we are getting a very clear message from industry that they need certainty to assist their long term business planning objectives. In particular, they need to be confident that they are not making investments in equipment and technologies that will subsequently be made redundant before the end of its economic life. In this respect, it is vital to secure a quick, but fair and proportionate conclusion to the adoption of a revised F gas Regulation that recognises the costs of altering or replacing existing equipment and does not render it prematurely obsolete.

We continue to work through these various issues with stakeholders, Member States and the Commission to ensure that UK views are fully reflected and taken into consideration as negotiations progress.

26 January 2013

Letter from the Chairman to Lord De Mauley

Your letter of 26 January on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 13 February 2013.

Thank you for your informative reply.

We are interested to note from your letter that although the concerned stakeholders are broadly positive about the objectives of the proposal, there is also the broad agreement that further work is required – for example, concerns relating to the early reduction steps in the Hydrofluorocarbon (HFC) phase-down mechanism. Your letter also highlights industry need for certainty to assist their long-term business planning objectives. We would be interested to know how negotiations progress and how the issues and concerns raised are addressed.

We will continue to retain the proposal under scrutiny, and look forward to a reply in due course.

13 February 2013

FOOD INTENDED FOR INFANTS AND YOUNG CHILDREN AND FOOD FOR SPECIAL MEDICAL PURPOSES (12099/11)

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

Thank you for your letter of 19 July 2012 in response to an update on the outcome of the first reading position. The Committee's report of 30 May 2012 concluded in releasing the proposal from scrutiny and requesting an update on progress.

The second reading of the dossier began in July with the first triologue meeting held on 19 September and a second on 9 October 2012. It is expected that the third triologue will be held on 14 November, with a vote in Council expected on either 5 or 6 December.

The Commission's original proposal was based on a better regulation approach to the review of the original legislation. This would result in fewer products regulated under this legislation and an opening of the market to a more innovative approach.

Amendments to the Council's approach have been proposed by the Cypriot Presidency, which are summarised below. The Limite text, detailing the Presidency's compromise proposals, is attached and is shared with the Committee in confidence [not printed].

UPDATE ON NEGOTIATIONS

The agreed Council mandate represents a balanced solution with an increased period of transition of 3 years for businesses to adjust to the new requirements.

If adopted following further negotiation with the European Parliament, it would: resolve the current confusion in defining a particular nutritional purpose food (PARNUT), clarify labelling rules for low-gluten and gluten-free products (including foods sold loose) and reduce the regulatory burden on businesses, with more categories of foods regulated under existing, more general food law.

The mandate as agreed includes areas of compromise from the UK's original position in support of the Commission's proposal. These are additional controls on foods intended to replace the total daily diet for weight control and reports on milk-based drinks and similar products intended for young children (growing-up milks) and sports foods, with a possible further recommendation on the desirability of specific legislation if necessary. However, it is clear from negotiations thus far that the proposed general approach represents the best achievable position at this point and I am content that the burdens on business have been mitigated as far as achievable during negotiations.

The European Parliament's agreed position of 14 June indicates that they would prefer to maintain some provisions, such as the labelling of low-gluten and gluten-free products, within the proposed framework legislation and to introduce some additional controls. The Council's agreed mandate and proposals aim to achieve a balance of these positions.

Apart from these issues there are a range of less contentious issues, procedural matters or minor wording changes to be agreed in the Council's negotiating position and these will be agreed, provided that the resulting legislation remains within the principles of better regulation and allows for efficient, evidence-based policy making.

LEGAL COMPETENCE

The legal basis for the proposed Regulation is Article 114 of the Treaty on the Functioning of the European Union (TFEU). This is an area of shared competence. The ordinary legislative procedure of the European Parliament applies.

REGULATORY IMPACT

The review accords well with the Government policy on Better Regulation to simplify and reduce the regulatory burden on industry. The proposed regulation aims to repeal existing regulations on slimming foods (96/8/EC), Regulation (EC) 41/2009 on gluten-free foods and Council Directive 92/52/EEC on export of infant and follow-on formula to third countries, and simplify the regulation of slimming foods, growing-up milks and sports foods. Limiting the scope of the proposal would reduce the administrative burden for industry resulting in foods that will no longer fall under the current notification procedure such as gluten-free foods and some slimming foods. Details of the impact of options under discussion in the European Parliament and Council are summarised in the EU checklist for analysis which was submitted previously.

FINANCIAL COSTS

We do not anticipate any additional financial costs to the UK Government, if the proposal was to be adopted. There may be costs to businesses, as some label changes may be necessary. The costs of changing product labels vary between £1800 and £6500 per stock keeping unit. However, we estimate that a majority of products are unlikely to need any change of labelling and the main burden will be familiarisation costs. Furthermore, an extension to the proposed two-year transition period to three years should further alleviate the costs of labelling, as it would fit in with the re-labelling cycle for products.

1 November 2012

Letter from the Chairman to Anna Soubry MP

Your letter of 1 November 2012 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 14 November 2012.

We note the progress made between the EU institutions in taking forward negotiations. As you observe, a series of compromises have been necessary. While we accept your assertion that the outcome from Council represents the best achievable position at this point, it seems to us that the original simplification proposed by the Commission has been watered down to such a point that its impact may not be significant. We would welcome confirmation that the additional controls on slimming foods and sports foods, compared to the Commission's proposal, will not represent an effective maintenance of the current status quo in relation to those foods?

Negotiations are ongoing with the European Parliament. In that light, we would welcome an update in due course following conclusion of those negotiations.

14 November 2012

Letter from Anna Soubry MP to the Chairman

In your letter of 14 November 2012, concerning the above proposal, you asked for an update following conclusion of negotiations and clarification on the additional controls on slimming foods and sports foods.

I can confirm that following the conclusion of trilogue discussions, the European Council adopted the agreed text on 20 December 2012. The text is undergoing final legal and linguistic checks, before being submitted to the Council and European Parliament for final endorsement, which is expected later in spring 2013.

UPDATE ON AGREED TEXT

The Commission's original proposal abolishes the concept of 'dietetic foods' and limited its scope to, infant and follow-on formula; cereal-based foods for young children under 3 years; and medical foods (foods necessary for the management of particular medical conditions). Following the outcome of negotiations between the EU institutions, a fourth category of food has been added to the scope of the proposal, foods for 'total diet replacement for weight control'. A summary of the agreed text and link to the full text is available at Annex A.

CONTROLS ON SLIMMING FOODS AND SPORTS FOODS

Following pressure from some Member States and the European Parliament, the Council agreed to include a requirement for the Commission to produce reports on the necessity, if any, for specific rules under this framework, for foods intended for sportsmen (sports foods). Whilst the UK is in principle against the widening of the scope, this represents an acceptable compromise, given that some Member States pushed strongly for their inclusion. We are of the opinion that there is insufficient evidence to support the need for the regulation of sports foods under this framework and that existing food law provides adequate consumer protection. The report will be presented to the Council and Parliament, within two years of entry into force of the framework legislation.

The controls for slimming foods are split between the new framework and general food law. The 'total diet replacements', replacing all meals throughout the day, remain within the scope of the legislation, to ensure adequate daily nutrients; this includes low calorie diets and very low calorie diets. Meal replacements and snacks used as part of a calorie controlled diet will be regulated as general foods, with the slimming claims approved under the Nutrition and Health Claims Regulation. This ensures a high level of consumer protection and the free movement of goods.

REGULATORY IMPACT

The EU checklist for analysis which was submitted previously, will be revised in line with the adopted text and will form part of the public consultation package to accompany the UK Statutory Instrument.

The agreed text represents the best achievable outcome and I am content that the burdens on business have been mitigated as far as achievable during negotiations. The increase of the transition period from two to three years, should further alleviate the costs of any label changes, as it would fit in with normal re-labelling cycles.

15 March 2013

Letter from the Chairman to Anna Soubrey MP

Your letter of 15 March 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We are grateful for your helpful response informing us that, following the conclusion of trilogue discussions, the Council adopted the agreed text. We note that the agreed text now incorporates a fourth category of food.

Please consider this strand of correspondence as now closed.

25 April 2013

FOREST REPRODUCTIVE MATERIAL (12256/12)

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

Your letter of 22 October on the above Decision was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 31 October 2012.

We are grateful for your clear response to our queries and for your confirmation that material of this nature from third countries will be subject to plant health controls under the plant health Directive.

We note that the legislative proposals to revise the plant health regime are due early in the new year, at which point we look forward to scrutinising them.

Please regard this strand of correspondence as closed.

1 November 2012

FUTURE NECESSITY AND USE OF MECHANICALLY SEPARATED MEAT (MSM) IN THE EU (17547/11)

[FORMERLY SCRUTINISED BY SUB-COMMITTEE G]

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

On 4 April last year, my predecessor, Anne Milton, wrote to you to advise of a change in UK policy concerning the production and use of desinewed meat (DSM) which, you may recall, was implemented by the introduction of a UK moratorium on these activities. The issue was also the subject of an inquiry by the House of Commons Environment, Food and Rural Affairs Committee. The report of that inquiry was published on 24 July last year to which the Government presented its response to Parliament on 16 October.

I am writing to let you know that further to a mandate issued by the European Commission in July 2012, the European Food Safety Authority has published its Scientific Opinion on the public health risks related to mechanically separated meat derived from poultry and swine. I attach a copy of the Opinion for your information.

I am advised by the Food Standards Agency that the Opinion is welcomed and that the European Commission presented it at a meeting of the EU Standing Committee on Food Chain and Animal Health on 16 April. Detailed discussions at working group level are expected to follow on from this and the Government will continue to press the Commission to ensure that these discussions begin without delay.

Whilst these are positive developments, the impact of the Opinion on the scope and duration of the current UI (moratorium will not be known until the working group discussions with the Commission and Member States are well advanced.

23 April 2013

GENETICALLY MODIFIED CROPS (9665/11,12371/10)

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

In your letter of 19 July to my predecessor, Lord Taylor, you raised a number of further points on the above documents being held under scrutiny. I apologise for the delay in coming back to you on this.

As expected the Cypriot Presidency has not sought to advance discussions on the GM cultivation proposal (doc 12371/10), so any possibility of progress on this issue remains in abeyance. Ireland will

hold the next EU Presidency starting in January but has not so far indicated how it might handle this dossier.

The review commissioned by Defra of data on the environmental and economic impact of current GM crops is proving to be a much more involved task than was first anticipated, and the work is still continuing. I will forward a copy of the report to the Committee when it has been finalised.

As regards liability for economic harm that might be caused by GM cultivation, Defra Ministers will be considering whether special liability arrangements should be introduced and if so what form they should take. At this stage we do not have a definite outcome in mind, but in line with our general policy our approach will seek to be pragmatic and proportionate. The liability issue needs to be seen in context, because with sensible and effective arrangements in place to manage the segregation of GM and non-GM crops, instances of potential economic harm should be few and far between. Our intention is to establish such a 'coexistence' regime, and we will outline our detailed thinking on this in due course. As things stand, the possibility of GM crops being grown commercially in the UK is still some years away.

19 November 2012

Letter from the Chairman to Lord de Mauley

Your letter of 19 November 2012 on the above documents was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 28 November 2012.

Thank you for your response to our previous letter. The Committee understands that the Cypriot Presidency has not sought to advance discussions on the GM cultivation proposal (doc 12371/10), and is aware there is no indication that the Irish Presidency will take this further. If you do become aware of any updates or changes, please do let us know.

We are also aware that the review commissioned by Defra of data on the environmental and economic impact of current GM crops is still ongoing, and the Committee appreciates your offer to forward a copy of the report when it has been finalised.

Regarding liability for economic harm that might be caused by GM cultivation, the Committee appreciates that Defra Ministers will be considering whether special liability arrangements should be arranged, and if so, what form they should take. We recognise that your intention is to establish a 'coexistence' regime, and the Committee would welcome further details of this approach once they become available.

We will continue to hold the documents under scrutiny and look forward to a response in due course.

30 November 2012

HONEY (13957/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 31 October 2012.

The Committee agrees with the Government's position regarding the clarification of the status of pollen in honey, particularly given the concerns and opinions expressed by industry.

As regards the Government's concerns about the proposed amendment to Article 4 of the Directive relating to prescribed verification methods, we would appreciate information as to whether the Government have engaged in consultation with industry, and whether these bodies have expressed similar concerns and opinions?

Finally, whilst the Committee notes your position in terms of preferring a fixed period of time for the delegation of power, we would be interested to know whether this position has been communicated to the Commission or any other bodies?

We would appreciate updates on the progress of negotiations as they become available. The Committee will retain this proposal under scrutiny, and we look forward to your response within ten working days.

1 November 2012

Letter from David Heath MP to the Chairman

Thank you for your letter dated 1 November requesting a further update on this proposal.

We have consulted industry within the last week on the proposal including the issue of prescribed verification methods and are currently awaiting their response.

On the issue relating to delegation of power and other comitology aspects as explained in the EM, our aim is to pursue the same principal as that taken for fruit juice and the other breakfast Directives currently being discussed, which reflects the position agreed under the common understanding. The UK position is that the delegation of power should be for a fixed period of time, with tacit extension as necessary, rather than for an indeterminate period of time as currently proposed. In the case of fruit juice, the period agreed was for 5 years and this is what is proposed for the other breakfast Directives currently under discussion. We will therefore be proposing that the same timeframe is adopted for honey.

We have not explicitly communicated this position to the Commission but it is unlikely that this will come as a surprise to them (given the common understanding and our previous position) and we expect other Member States to support this view as they have done when negotiating the fruit juice and breakfast directives portfolio.

The dossier has been assigned to the ENVI Committee as the lead committee in the European Parliament, but AGRI Committee will have a keen interest and will also consider the proposal. Julie Girling MEP has been appointed as the rapporteur for this work.

No definitive timetable has been communicated on this dossier on the plans for discussion at Council, but we understand that the Cypriot Presidency are not taking this forward as a priority. The Presidency will pass to Ireland in January and we are not yet aware if this will be one of their priorities

We will of course provide a further update as requested on the negotiations as they occur.

12 November 2012

Letter from the Chairman to David Heath MP

Your letter of 12 November on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 21 November 2012.

We will retain the proposal under scrutiny and look forward to an update on progress in due course, along with information on any reaction from industry.

22 November 2012

INFORMAL ENVIRONMENT AND ENERGY COUNCILS

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

I am writing to report discussions at the Informal Environment and Energy Councils in Dublin on 22-24 April, where I represented the UK on 23 and 24 April. Katrina Williams, Director General in DEFRA, also represented the UK for the first Informal Environment Council sessions on Monday 22 April.

On the first day of the Informal Environment Council, Ministers discussed a new Commission Communication on the Single Market for Green Products; the United Nations Environment Programme (UNEP) and the green economy agenda; and Air Quality.

On the Single Market for Green Products, Commissioner Potocnik claimed that the new proposal would reduce costs and increase opportunities. Many Member States were positive about the proposal, seeing it as a contribution to helping the EU recover from the financial crisis. However, there were notes of caution about potential burdens on businesses if the proposal was not effectively implemented. Innovative policy solutions and a mix of regulatory and voluntary practices were seen as crucial. The UK called for a robust evidence base, the need for simplicity, and a voluntary approach in partnership with industry. Many Member States agreed that the green economy would contribute to ensuring economic growth.

The lunchtime discussion, facilitated by Achim Steiner (UNEP Executive Director), focused on how UNEP saw the evolution of the green economy globally and the role of the EU in furthering that agenda. The UK emphasised that the best opportunity for progressing the green economy agenda internationally lay with the discussions on a new set of global development goals post-2015. The UK stated that the goals should be focused on poverty eradication, but that sustainable development and progress towards a green economy would be critical to achieving them and delivering long-lasting change globally.

The Commission confirmed their intention to publish an ambitious air quality package in October 2013. Member States raised the need to focus on current compliance challenges, mainly in cities, before looking to tighten air quality standards. EU vehicle engine standards needed to perform better against test procedures. Realistic ambition in relation to new national emission ceilings beyond 2020 would need to be accompanied by EU source control measures. There were concerns about the risks to air quality from emissions from transport and agriculture, support for the work of the Climate and Clean Air Coalition, and support for stronger public engagement. Concern was also expressed about the risks to local air quality from biomass and domestic heating.

On the second day of the Informal Environment Council, I represented the UK during the session on the Commission's Consultative Communication on International Climate negotiations. This was published on 26 March to stimulate a debate on how best to shape the international climate regime between 2020 and 2030, as part of the finalisation of a new, global legally binding agreement in 2015. There was wide support for the Commission green paper with almost universal agreement around three points (EU ambition is a precursor to a global deal; all parties need to take legal binding commitments, but there needs to be flexibility to enable all to sign up). I urged Ministers to take the political opportunities and to show leadership in this area.

The Informal Environment Council was followed by a joint lunch for Environment and Energy Ministers at which there was an initial discussion of the Commission's Green Paper on a future EU climate and energy framework for 2030. Although most countries did not have a formal position, the discussion indicated considerable support for extending the existing headline targets for greenhouse gas emissions, renewable energy and energy efficiency. Other Member States expressed doubts about the cost-effectiveness of the targets.

Discussions at the subsequent Informal Energy Council covered smart meters, shale gas, financing energy efficiency and integrating renewable energy into the grid.

The discussion of smart meters focused on the better control of energy consumption through links between technology and energy (i.e. smart meters and grids). Member States emphasised that consumers should be central to the discussion to ensure that they receive value for money and that they understand and accept smart meters.

The session on unconventional resources (shale gas and oil) focused on the effects of unconventional oil and gas on energy supply and prices. Most Ministers noted that it should be for Member States to decide whether or not they want to exploit unconventional resources. I noted developments in the UK and pointed out that shale gas could be an opportunity to improve security of supply and support decarbonisation but that it was unlikely to bring down energy prices. I also emphasised that EU legislation was largely fit for purpose in this area.

On financing energy efficiency, a number of Member States emphasised the importance of energy efficiency to the EU's energy strategy. Ministers discussed innovative financing for energy efficiency and many stressed the need to motivate consumers and private actors to take part in the market. Several noted that energy efficiency measures required high levels of spending at a time when public debt was already a problem. Some Member States suggested that more European funds should be used to support energy efficiency.

Finally, the Council discussed the integration of renewables into the grid. Member States explained their own experience with national renewable support schemes. Commissioner Oettinger noted that consideration of a 2030 renewables target should be on the basis of the amount of renewable energy that could be feasibly integrated into the system.

29 April 2013

IONISING RADIATION: BASIC SAFETY STANDARDS FOR PROTECTION (I4450/11)

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

Thank you for your letter of 25th October 2012.

I am writing to inform you that the European Presidency has yet to provide the new draft proposal. I can confirm that it will replace the existing proposal and that, in turn, it is likely to be replaced by further drafts as the negotiations progress. Should broad agreement on the proposal as amended as part of the negotiating process be reached a final draft proposal will be put before the European Council via COREPER for formal adoption.

3 December 2012

Letter from the Chairman to Baroness Verma of Leicester

Your letter of 3 December 2012 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 12 December 2012.

Thank you for keeping the Committee updated on this proposal and, in particular, for informing us that the Presidency has yet to provide a new draft proposal.

As you note, further negotiations will need to take place before passing the draft text to COREPER and subsequently to Council. We look forward to a further update on progress in due course.

In the meantime, we will continue to retain this proposal under scrutiny.

13 December 2012

Letter from Baroness Verma to the Chairman

EM 14450/11- PROPOSAL FOR A COUNCIL DIRECTIVE LAYING DOWN BASIC SAFETY STANDARDS FOR PROTECTION AGAINST THE DANGERS ARISING FROM EXPOSURE TO IONISING RADIATION ('THE BASIC SAFETY STANDARDS DIRECTIVE')

Further to my letter of 17 October 2012, describing the latest developments in the negotiation of the revised Basic Safety Standards Directive (EM 14450/11), I am able to inform you that negotiations are progressing swiftly. The Irish Presidency is conducting these negotiations as a matter of priority with the aim to complete them by the end of their term as the European Presidency in June. It remains to be seen, given the length of the directive, the broad scope of its subject matter and the technical complexity of many of the issues, whether this target will be met.

As things stand, the UK has successfully maintained our negotiating principles in ensuring that the new Directive is balanced, proportional and flexible, and that any changes are evidence based and do not cede competence to the European Commission. However, I should state that at this stage a number of Articles of the proposal are still to be discussed so there is still considerable work to do. The UK will continue to hold the principles set out above until the negotiations are completed.

I am mindful that your Committee continues to hold EM 14450/11 under scrutiny pending a detailed Impact Assessment (IA). When I last wrote to you on this issue I stated that it was planned that an IA would be completed once the previous European Presidency (the Danish) had provided a new draft of the Directive. Unfortunately, a consolidated draft was not produced by the Danish until 20 December 2012 and was already out of date when issued. Given that greater progress has been achieved under the Irish Presidency the decision was taken that there would be no benefit in basing the IA on the old text, and consequently my officials will now produce the IA based on the Irish text which is expected before the end of April 2013. As with the other dossiers covered in this update I will keep you informed of developments.

25 April 2013

IRISH PRESIDENCY – COUNCIL PRIORITIES

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

I am writing to inform you of the energy and climate change issues we expect to be dealt with in the Council of Ministers under the Irish Presidency. I would be interested in your views on which issues your Committee considers a particular priority and may specifically want to be kept updated on during the course of the Presidency.

The Presidency has timetabled Energy Councils for 22 February and 7 June. Climate change issues (where DECC takes the lead) are dealt with at Environment Councils, which are scheduled for 21 March and 18 June. The Presidency has arranged back-to-back Informal Energy and Environment Councils on 22-24 April.

OVERVIEW

The overall theme of the Irish Presidency is stability, jobs and growth. The Presidency will focus on enhancing the Single Market, including the internal energy market. In the area of energy and climate change, the Irish Presidency's main priorities are:

- Agreeing conclusions on the Communication on the internal energy market
- Concluding negotiations of the Directive on the safety of offshore oil and gas activities
- Agreeing legislative proposals in relation to the EU Emissions Trading System (ETS)
- Taking forward work on the post-2020 climate and low carbon energy framework

POST-2020 CLIMATE AND ENERGY FRAMEWORK

An overarching feature of the Presidency is likely to be an increasing focus on the post-2020 climate and energy framework. Whilst this will not involve any proposals for new legislation during the Irish Presidency, we understand that the Presidency aims to hold a discussion at the Informal Energy and Environment Councils in April, following an expected Commission Green Paper.

ENERGY ISSUES

There will be an in-depth discussion of the Communication on the internal energy market at the February Energy Council, leading to Council Conclusions at the June Energy Council.

Negotiations will continue on the Directive on the safety of offshore oil and gas activities with the objective of reaching agreement before the end of the Presidency. We expect the Commission to publish a Communication on Carbon Capture and Storage (CCS), probably in the second half of the Presidency. The Presidency intends to focus on the development and application of new energy technologies and has scheduled a policy debate on smart grids and smart meters for the June Energy Council and a high level meeting in May.

We expect the Commission to issue proposals for the revision of the Nuclear Safety Directive before the summer. Negotiations will continue on a number of nuclear issues:

- Directive on basic safety standards protecting the health of workers and the general public against the dangers of ionising radiation; the Irish intend to complete discussions on this dossier.
- Council Regulation establishing a Community system for registration of carriers of radioactive materials (discussions will continue provided that sufficient progress is made via bi-lateral discussions with the MS that are opposed to this regulation).
- Council Regulation on Union support for the nuclear decommissioning assistance programmes in Bulgaria, Lithuania and Slovakia.
- Council Regulation establishing an Instrument for Nuclear Safety Cooperation.

— Euratom agreements with other States on nuclear safety issues.

CLIMATE ISSUES

On climate change, in addition to the post-2020 climate and energy framework, key priorities relate to the EU Emissions Trading System (EU ETS). The Presidency will push forward legislative proposals for changing the timing of the auction of emissions allowances in the EU ETS (known as 'backloading' but now termed 'ETS Clarification' by the Irish Presidency), as well as discussing options for the structural reform of the System.

We also expect the Presidency to progress proposals to "stop the clock" on aviation EU ETS as a matter of urgency in order to temporarily suspend the international elements of the EU legislation for one year (i.e. the requirements for most extra-EU routes). The proposal would give the International Civil Aviation Organisation time before its General Assembly in September to make progress on a global measure for aviation emissions.

The European Commission has also presented a draft mandate to the Council to begin negotiations with Australia for linking the EU and Australian emissions trading systems. This draft will be considered by Member States with a view to establishing acceptable terms for the Commission to enter into technical discussions with Australia, and the Presidency will need to guide and oversee this process.

The Presidency will also pursue work to follow up the eighteenth UNFCCC Conference of the Parties (COP18) climate talks in Doha last year and begin the EU's preparation for the nineteenth Conference of the Parties (COP19) in Warsaw in November 2013. This will include developing the EU's detailed position on the new legally binding global climate regime that will be agreed in 2015 and to accelerate work to raise effort to reduce further global greenhouse gas emissions before 2020, when the new global regime will come into force. The Commission is expected to publish a Green Paper on the 2015 agreement in late March. We do not know what the Presidency plans in terms of any Ministerial discussion at this stage.

Work will also need to begin within the EU on ratification of the Amendment to the Kyoto Protocol adopted by the EU and all its Member States at the COP18, including on the internal EU burden share arrangement.

We also expect that the Presidency will oversee final agreement of the Decision on EU accounting rules for Land Use, Land Use Change, and Forestry and will be seeking to make significant progress on the sustainability of biofuels and discussion of the Commission's proposal to account for Indirect Land Use Change. We do not expect agreement to be reached before July and the next (Lithuanian) Presidency will take this forward. The Department for Transport leads in this area.

Finally, although I have not sought to include a comprehensive list of other measures that could impact on climate and energy policy but where other Departments have a lead role, I am aware that one of the Presidency's main priorities will be the EU climate change adaptation strategy. The Department for Environment, Food and Rural Affairs leads on this.

5 February 2013

LAND USE, LAND USE CHANGE AND FORESTRY (7639/12)

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

Thank you for your letter dated 12 September 2012, in which you thanked us for the updated Explanatory Memorandum on LULUCF accounting and Impact Assessment Checklist.

I now enclose that Impact Assessment [not printed] which sets out estimates of the main costs and benefits to the UK should a regulatory approach be adopted. The potential impacts of the Decision are that there would be new reporting obligations, requirements to report on additional agricultural activities and the adoption of new definitions for the purpose of the Decision.

Since my last correspondence in July, negotiations have taken place at meetings of the Working Party on the Environment, where the UK has continued to voice concerns regarding the delegation of powers to the European Commission, the proposed LULUCF Action Plans, and accounting obligations for some agricultural activities.

TIMETABLE

Informal tripartite meetings attended by representatives of the European Parliament, the Council and the Commission will begin in November and a plenary vote is expected on January 15.

10 November 2012

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

Your letter of 10 November 2012 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 21 November 2012.

We are grateful for the Impact Assessment and for the update on the progress of negotiations. At this stage, we are content to release the proposal from scrutiny but would ask that you provide further information in due course on the outcome of discussions with the European Parliament, particularly as regards the approach to be taken to wetland drainage and rewetting. We would remind you that, like the European Parliament, our preference would be to see an obligatory approach to reporting of emissions and removals resulting from wetland drainage and rewetting.

22 November 2012

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

Thank you for your letter dated 22 November in which you released the above proposal from scrutiny and sought an update on the outcome of discussions with the European Parliament, particularly as regards the approach to be taken to wetland drainage and rewetting.

The legislation was adopted in Parliament on 12 March. Subsequent to discussions between the Council and the European Parliament on 21 December, the following has been agreed:

- A flexible definition of 'forest' will be used to provide consistency with the UNFCCC definition, and to prevent double accounting.
- Delegated acts last only as long as the first accounting period and are limited so that definitions and reference levels can only be altered in line with internationally agreed changes.
- LULUCF action can be reported through existing Member State arrangements as well as through LULUCF Action Plans. There is no provision for the Commission to make recommendations to which Member States must take due account.
- Accounting for revegetation (of which there is none in the UK), and wetland drainage and rewetting will remain voluntary. Accounting for cropland and grazing land management will remain voluntary in the current accounting period, but with mandatory reporting from 2016 to 2018 and full accounting from 2021.

To achieve consistency in accounting for LULUCF under the EU and the Kyoto Protocol, any activity we do not elect to report from 2013, we will not be able to account for until subsequent periods (i.e. from 2021). We are working with Defra in deciding which voluntary activities the UK elects to report on and will take an informed decision following the completion of the Intergovernmental Panel on Climate Change (IPCC) guidance on wetlands and a scoping study on agriculture expected in July and October respectively. For this reason I am copying your letter and this response to Lord de Mauley.

29 April 2013

LEAVING A BITTER TASTE? THE EU SUGAR REGIME

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

I am writing to apologise for the continuing delay in producing the Government response to the Sub-Committee's report on the EU Sugar Regime.

I am afraid that a number of factors including staff changes, pressures resulting from the reform negotiation itself and need to obtain input from a number of sources outside the Department, have

combined to result in a series of delays that have held up production of a response of the necessary standard. This is clearly an unsatisfactory situation and I have asked for this work to be prioritised in order that I am able to provide you with the final version by the end of the Easter recess.

1 March 2013

Letter from the Chairman to David Heath MP

Your letter of 1 March 2013 on the above report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We are grateful for your letter of apology in regards to the Government's overdue response to our report on the EU sugar regime, including your explanation as to why this has been the case.

We are, however, very concerned that the Government's response is now six months overdue, and despite stating in your letter that you would aim to provide us with a response by the end of the Easter recess, your officials informed us of a further delay of approximately two weeks. Whilst the Committee can appreciate and understand that current negotiations have forced the Government to prioritise other matters, it is not acceptable that we were not at least informed of the likely delay. In the future, we hope efforts will be made to ensure that such delays are communicated to the Committee as soon as possible.

We look forward to the Government's response to our report.

8 May 2013

MAKING THE INTERNAL ENERGY MARKET WORK (16202/12)

Letter from the Chairman to John Hayes MP, Minister of State, Department for Energy and Climate Change

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 December 2012.

The Committee notes that the UK has been the driving force behind the liberalisation of EU energy markets since the early 1990s, and appreciates that Government are very supportive of integrated and well functioning energy markets – particularly for transitioning to low-carbon economies and securing cheaper energy supplies for consumers.

Your EM notes that the Government welcome the Commission's recognition of the high levels of switching in the UK, particularly as part of measures to 'get a better deal for consumers'. What analysis have you undertaken to assess the proportion of consumers involved in switching? The Committee would be grateful if you could provide more information on whether the Government has any further plans or proposals to further provide better deals for consumers.

We are aware that not all of the Member States have fully transposed the Third Energy Package. Which countries does this include, and is there an expected date of completion for the transposition in these Member States?

In your EM, it is noted that the Government have been working with the Commission and other Member States on the introduction of a Capacity Market. However, at the Energy Council on 3 December, the Commission expressed concerns about the design of the UK's proposed Capacity Market. We would be interested to know whether the Government have any plans to amend the Capacity Market to alleviate the concerns expressed by the Commission.

Furthermore, the Committee would be grateful to know details of the Government's response to the Commission's proposed consultation paper.

Finally, as you may be aware, the Committee is currently conducting an inquiry into "EU energy: decarbonisation and economic competitiveness", and so will follow the progress of this discussion with great interest. We will retain this Communication under scrutiny and look forward to your response within 10 working days.

19 December 2012

Letter from John Hayes MP to the Chairman

Thank you for your letter dated 19 December 2012 in reply to my Explanatory Memorandum on the above Communication. You asked for my views on a number of issues and are retaining the Communication under scrutiny pending my response. I hope that this letter will give your Committee all the information it needs.

You note that the Government welcomes the Commission's recognition of the high levels of switching in the UK and ask whether we have undertaken any analysis of the switching rates and whether we have any further plans to provide better deals for consumers. At least 62% of electricity customers in GB have switched supplier since the market was opened up, along with at least 58% of gas customers. We know rising energy prices are hitting many households hard at a difficult time and need to ensure we are doing all we can to help them keep their bills down. The Government has set out a package of proposed measures that are designed first and foremost to help get consumers on to the cheapest tariff offered by their supplier, but also to enhance overall consumer protection and enable consumers to compare different suppliers' tariffs more easily. Our aim is to strike the right balance between helping consumers engage in the market, maintaining consumer choice and providing incentives for suppliers to compete and innovate. Our proposals complement Ofgem's work and we are working closely with them. We intend to introduce measures during the passage of the Energy Bill.

You note that the Commission has expressed some concerns about the introduction of capacity mechanisms in the UK and elsewhere and ask how we intend to respond to these concerns. We are actively engaging with the Commission on the design of the capacity market, and we will take account of the Commission's views as we finalise the detailed design of the mechanism. You also ask about our response to the Commission's consultation on this issue. The Commission has asked for responses by 7 February and I would be happy to share our response with the Committee.

Finally, you ask which countries have not fully transposed the Third Energy Package. We are reliant on information provided by the Commission which is responsible for enforcing the legislation. Since September 2011 the Commission has launched 19 infringement cases for non-transposition of the Third Electricity Directive and 19 cases for non-transposition of the Third Gas Directive. By 24 October 2012 only 12 of these cases had been closed so the remaining 26 cases remain open. The UK has only notified partial transposition as Northern Ireland will not have fully transposed the Directives until April 2013. The Commission is now examining all the notifications in detail so may well launch further cases. It is therefore not possible to say when transposition will be completed across the EU. We fully support the firm action the Commission is taking to ensure full compliance with the Third Package across the EU.

11 January 2013

Letter from the Chairman to John Hayes MP

Your letter of 11 January on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 January 2013.

Thank you for your informative letter responding to our queries. Your letter notes that you are willing to share the Government's response to the Commission's consultation on the capacity market, which we would be grateful for. If possible, it would be helpful to receive this before we take evidence from the Secretary of State, the Rt. Hon. Edward Davey MP, in relation to our energy inquiry on Wednesday 13 February.

We understand that the UK has only notified partial transposition, with Northern Ireland not expected to fully transpose the Directives until April 2013. We would be grateful to be kept informed of any updates in this area, including whether the Commission launches any infringement cases against the UK.

We shall continue to retain this Communication under scrutiny and look forward to your response within due course.

31 January 2013

Letter from John Hayes MP to the Chairman

Thank you for your letter dated 31 January 2013 in reply to my letter of 11 January on the above Communication. I attach a copy of the Government's response to the Commission's consultation on

the capacity market which was submitted on 8 February. I hope you will find this helpful when your committee takes evidence from Ed Davey on 13 February on relation to your energy inquiry.

You note that Northern Ireland has not yet fully transposed the Third Package Directives and ask whether the Commission has launched infraction proceedings against the UK. On 24 January the Commission announced publicly that it will be referring the UK to the Court of Justice of the EU (CJEU) for failing to fully transpose these two Directives by the due deadline. The Commission has proposed that the CJEU should impose on the UK a daily penalty of €148,177 for each Directive if it finds us in breach of the rules. Under its guidelines, no daily penalty will be payable if the CJEU is satisfied that UK is in full compliance by the time the case is heard.

We have informed the Commission that both Directives will be fully transposed in Northern Ireland by 30 April 2013. The UK is very supportive of the Single Energy Market, and we are working to ensure that full transposition is achieved as soon as possible.

I assure you that I will keep you informed of further developments on this case.

11 February 2013

Letter from the Chairman to John Hayes MP

Your letter of 11 February on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 February.

Thank you for your informative reply and for providing the Committee with a copy of the Government's response to the Commission's consultation on the capacity market. We shall take this into consideration when preparing our report on EU energy policy.

We will continue to retain this Communication under scrutiny and would be grateful for updates when they become available. We look forward to a response in due course.

28 February 2013

Letter from John Hayes MP to the Chairman

Thank you for your letter dated 28 February 2013 in reply to the letter from John Hayes of 11 February on the above Communication. You have asked for updates on the Communication when they become available. I attach, in confidence, the latest text of the Council conclusions on the Communication. These are currently being negotiated and the aim is to adopt them at the Energy Council on 7 June. We are largely content with the current text which accords with UK policy and, in particular, is consistent with our plans to introduce a capacity market. The text has been through a number of iterations already and we do not expect significant changes before adoption in June.

In his letter John Hayes also informed you of the infraction proceedings which the European Commission had launched against the UK and said he would keep you updated on further developments. I am pleased to tell you that the regulations completing transposition of both Directives have been laid in the Northern Ireland Assembly so we will meet the deadline of 30 April for full transposition that we notified to the Commission.

As we expect the Energy Council on 7 June to adopt conclusions on the Communication, I would be grateful if your Committee could consider lifting scrutiny.

13 April 2013

Letter from the Chairman to John Hayes MP

Your letter of 13 April 2013 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 April 2013.

We are grateful for sight of the draft Conclusions and we are content to release the Communication from scrutiny in advance of Council on 9 June.

Several of the issues included in the Conclusions will be covered in our report on EU Energy Policy, which will be published on 2 May 2013.

We note the draft Conclusions on capacity mechanisms and agree that the minimisation of negative effects will be important. We trust that the Government will work with the Commission on the development of non-binding guidance.

Finally, we would ask that you inform us in due course of any significant changes to the Conclusions and of the outcome of the Council meeting.

25 April 2013

MARINE KNOWLEDGE 2020 (13457/12)

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

Thank you for your letter dated 18 October regarding the above Explanatory Memorandum.

The UK Government response to the public consultation on Marine Knowledge 2020 was submitted to the European Commission on 14 December, having been prepared by Defra in consultation with other Government Departments at official level. I have provided the response as an annex to this letter.

You also asked whether we are aware of any specific views expressed by other Member States or the Private Sector on the level of commitment expected from them. The responses to the public consultation have recently been made available on the European Commission Maritime Affairs website. Those responses from private sector organisations show a good degree of consistency with the HMG response, especially on questions concerning requirements for private sector monitoring. A wider range of views have been submitted by other Member States as some favour strong initiatives by the Commission to supplement their national work. The full responses can be viewed at:

http://ec.europa.eu/dgs/maritimeaffairs_fisheries/consultations/marine-knowledge-2020/index_en.htm.

We understand that the European Commission will provide their summary in due course.

7 January 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 7 January on the Marine Knowledge 2020 Green Paper was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 30 January 2013.

Thank you for your reply, and for providing the Committee with the UK Government's response to the public consultation on Marine Knowledge 2020. We understand that the Commission is still to provide their summary.

We are content to release this dossier from scrutiny, but would appreciate being informed of any updates or progress as they become available.

31 January 2013

MARITIME SPATIAL PLANNING AND INTEGRATED COASTAL MANAGEMENT (7510/13)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 April 2013.

We understand that the Devolved Assemblies are considering closely the alignment of this proposal with the principle of subsidiarity. Our initial view is that the proposal does not breach the subsidiarity principle but that disproportionate requirements must not be placed on Member States.

There is clearly a tension in this proposal between setting a framework at the EU level, while ensuring that Member States are able to set their own priorities and determine their own solutions. We note that you are opposed to any common minimum requirements for plans and strategies. We would welcome an explanation from you as to which of the requirements you find objectionable, and why, and how you consider all Member States can be expected to develop a comprehensive framework without common minimum requirements.

Otherwise, we support the approach that you propose. We will retain the proposal under scrutiny and look forward to your response to the above query within ten working days.

25 April 2013

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 25 April setting out the Committee's views on the UK's approach to this proposal for a draft Directive.

I agree that there is a tension in this proposal between setting a framework at the EU level while providing Member States with freedom to set priorities and determine how these are delivered. While the UK fully recognises the benefits of maritime spatial planning and integrated coastal management and supports implementation we believe that Member States must be allowed to determine their own priorities and the form and contents of their plans and strategies in order to reflect national and local needs and governance structures. This view and approach accords with the aims set out in the Commission's own Explanatory Memorandum and recital text accompanying the proposal i.e. that the Directive sets up the process for MSP and ICM but Member States have flexibility to determine their content.

You specifically asked for clarification of our concerns about the common minimum requirements for plans and strategies. I should clarify that we are not fundamentally opposed to inclusion of such common minimum requirements. However, we are concerned where these affect the content of plans and strategies, reducing Member States' flexibility in this respect. For example, article 5 lists a number of specific objectives for plans and strategies and article 6 requires that plans and strategies must include the operational steps to achieve such objectives. Together these requirements serve to prescribe the content and detail of plans and strategies rather than simply ensuring that MS have them in place. In our view that moves the proposal beyond process and beyond what we would expect of a framework Directive of this sort.

Initial discussions show that many Member States share our concerns and would prefer to have greater flexibility with more generic and high level overarching requirements. We will continue, therefore, to work with others to seek appropriate amendments.

I hope the Committee finds this additional clarification helpful.

7 May 2013

NANOMATERIALS (14869/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 7 November 2012.

The Committee agrees with the Government's stance that it would be sensible to obtain more knowledge and information on the potential exposure and risks associated with nanomaterials, before introducing further regulatory changes. We would, however, be interested to know which Member States are calling for regulatory changes before more evidence can be provided, and what discussions the Government are engaging in with these countries.

We also agree with the Government that REACH should remain as the appropriate legislative framework, pending any necessary changes. Please keep the Committee informed of any proposals or negotiations regarding potential changes to this framework.

You support an interim EU-wide reporting measure, as opposed to a national nanomaterial reporting scheme. Have any other Member States expressed an opinion on this matter? How is the Government engaging with the Commission to express this view?

In the 2009-2010 Session, the House of Lords Science & Technology Committee produced a Report on Nanotechnologies and Food (HL Paper No 22), making a number of recommendations on regulatory concerns and the filling of knowledge gaps. The Committee would be grateful to know whether the Government have acted upon any of these recommendations since the report's publication.

The Committee will retain this Communication under scrutiny, and we look forward to your initial response within ten working days.

We would also be grateful for updates on the progress of discussions as they become available.

8 November 2012

Letter from Lord De Mauley to the Chairman

Thank you for your letter dated 8 November, in which you requested clarification on the following aspects relating to the above Explanatory Memorandum.

WHICH MEMBER STATES ARE CALLING FOR CHANGES TO REGULATION TO ADDRESS NANOMATERIALS; AND WHAT DISCUSSIONS ARE THE GOVERNMENT ENGAGING IN WITH THESE COUNTRIES?

The Dutch Government wrote to the European Commission on 6 July 2012 calling for action to ensure that EU legislation takes account of possible risks associated with the production and use of nanomaterials. This letter (pdf copy at Annex A) [not printed] was supported by the Governments of Austria, Belgium, the Czech Republic, Denmark, France, Italy, Luxembourg, Spain, Sweden and Croatia. The letter called for the following actions to be taken to (a) improve knowledge and facilitate traceability of nanomaterials currently on the market; and (b) help deliver an adequate system of risk assessment and management:

1. The adaptation of existing legislation to improve its application to nanomaterials, including the amendment of relevant annexes and guidance documents of the EU Chemicals (REACH) Regulation and, where appropriate, aligning the definition of nanomaterials in regulations with the one adopted in Commission Recommendation 2011/696/EU of 18 October 2011.
2. The introduction of legislation to facilitate the registration or market surveillance of nanomaterials or products containing nanomaterials.
3. The publication of proposals for:
 - a solution to the lack of a definition of nanomaterials within REACH;
 - a review of the current tonnage levels (which determine which information is required) for the registration of nanomaterials within REACH;
 - a shortening of the period within which information must be obtained;
 - the introduction of specific requirements for nanomaterials, such as characterisation and testing.

The UK Government was unable to support the Dutch letter, despite working closely with counterparts in the Netherlands to try and reach agreement on the text. We believed that the Dutch letter would add to mounting pressure on the Commission to propose regulatory changes based on hazard and which could be unsupported by sound evidence of risk. Such measures could result in all nanomaterials being classed as hazardous, imposing unnecessary burdens on industry whilst stifling innovation in a potentially promising technological area. Additionally, whilst we welcomed an EU-wide approach to any reporting or surveillance system, rather than fragmentation by national Governments, we called for it to be proportionate and able to provide information required for effective risk management without imposing unnecessary data or compliance requirements.

The UK Government view is that the EU Chemicals (REACH) Regulation and the Classification, Labelling and Packaging Regulation are the appropriate tools for regulating nanomaterials over the long term. Nanomaterials should be assessed on a case by case basis as, like all other chemicals and substances, some may be hazardous and some may not. This position was agreed at a meeting of the cross-Whitehall Chief Scientists Group, chaired by Sir John Beddington on 25 May 2010.

Defra, as the department with lead policy responsibility for the REACH Regulation, engages regularly both with the European Commission and relevant government contacts in other Member States over the regulation and management of nanomaterials. These discussions have been conducted both bilaterally and collectively and have included a meeting, called under the Danish Presidency, of officials from competent authorities to consider the current state of play regarding the governance of nanomaterials.

HAVE ANY OTHER MEMBER STATES EXPRESSED OPINIONS ON NANOMATERIAL REPORTING; AND HOW IS THE GOVERNMENT ENGAGING WITH THE COMMISSION OVER THIS MATTER?

The French Government is introducing a national scheme in May 2013, which will require compulsory annual declarations to be made relating to nanomaterials produced, distributed or imported into France. Other Member States, including Denmark, Belgium and the Netherlands have indicated that they may introduce similar national schemes. We have concerns that such unilateral measures may disrupt the internal market.

We have formally submitted views to the European Commission on the French proposals stating our preference for a reporting scheme to be initiated by the Commission on an EU-wide basis. We have also expressed concern over that the breadth and extent of data being requested under the French proposals, which we believe to be unnecessary for risk management purposes and an imposition of unnecessary burdens on industry, with operators likely to find it very difficult to comply with some of the data requirements. Germany has expressed similar concerns as the UK in relation to trade.

PROGRESS MADE TO IMPLEMENT THE RECOMMENDATIONS ON (A) REGULATORY CONCERNS; AND (B) THE FILLING OF KNOWLEDGE GAPS MADE BY THE HOUSE OF LORDS SCIENCE AND TECHNOLOGY COMMITTEE'S 2010 REPORT ON NANOTECHNOLOGIES AND FOOD

A summary of the relevant recommendations made by the Science and Technology Committee, along with details of actions we have since taken, is provided at Annex B [not printed]. This shows that the UK Government has made good progress in various areas covered by the 2010 report. Most of the recommendations are either ongoing or have been completed but require continuing efforts to ensure that food safety is not compromised.

19 November 2012

Letter from the Chairman to Lord De Mauley

Your letter of 19 November on the above Explanatory Memorandum (EM) was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 28 November 2012.

Thank you for your detailed and informative response. The Committee was interested to see that the Dutch Government (supported by a number of other Member States) wrote to the European Commission on 6 July 2012 calling for more rapid action. We appreciate that the UK Government were unable to support this letter, due to concerns of undue pressure on the European Commission. Logically, 17 other Member States also found themselves unable to support the Dutch. Did they share the UK's concerns?

We note that the French Government (with similar indications from Denmark, Belgium and the Netherlands) is introducing a national scheme in May 2013 to require compulsory annual declarations to be made relating to nanomaterials produced, distributed or imported into France. The Committee notes that the Government prefers an EU-wide scheme for reporting, and appreciate that they have made formal representations to the European Commission expressing their concerns regarding these moves.

We would be grateful for information on the further progress of discussions with the European Commission and Member States in due course as they develop.

The Committee are especially grateful for the attached Annex in your letter [not printed], which provides a summary of the relevant recommendations made by the Science and Technology Committee, including the actions the Government have taken since. We are pleased to note the progress made so far, and would be grateful to be kept updated with any further progress you subsequently make.

We will continue to hold the documents under scrutiny and look forward to your initial response within ten working days.

30 November 2012

Letter from Lord De Mauley to the Chairman

Thank you for your letter of 30 November, requesting a further point of clarification on why 17 EU Member States did not support the Dutch Government's letter to the European Commission of 6 July, which called for action to take account of possible risks associated with the production and use of nanomaterials.

My officials have contacted the Dutch Environment Ministry who have confirmed that the German and Irish Governments were unable to arrive at national positions on the issue, with Environment Departments in support and Enterprise Departments against the proposals. Finland and Poland, who were also expected to support the Dutch letter, ultimately did not although the reasons are not known. We understand that other countries have shown little interest in the matter.

I shall ensure to keep the Sub-Committee apprised regarding further discussions in Europe on nanomaterials governance and on the Government's progress against the Science and Technology Committee's recommendations in their 2010 report on Nanotechnologies and Food.

13 December 2012

Letter from the Chairman to Lord de Mauley

Your letter of 13 December 2012 on the above Explanatory Memorandum (EM) was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 January 2013.

Thank you for your response relating to the Committee's question on why 17 EU Member States did not support the Dutch Government's letter to the European Commission. We understand that Germany and Ireland were unable to arrive at a national position and that the reasons for Finnish and Polish opposition are unknown. The Committee also understands that the remaining countries have shown little interest in the matter.

The Committee welcomes your commitment to keep us apprised regarding further discussions in the EU on nanomaterials governance and on the Government's progress against the Science and Technology Committee's recommendations in their 2010 report on Nanotechnologies and Food.

We are content to release the Communication under scrutiny in the meantime and look forward to further information from you in due course.

10 January 2013

NON-COMMERCIAL MOVEMENT OF PET ANIMALS (7326/12)

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

Your letter of 30 October on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 7 November 2012.

We are grateful for your detailed and informative response, updating the Committee on the proposal relating to the non-commercial movement of pet animals. The Committee is pleased to note that the proposal has received wide-spread support amongst Member States.

The Committee is also content to see that the three key amendments proposed by the Commission (and supported by the UK), as explained in the EM of 19 March, remain substantively unaltered in the proposals, despite concern from a number of Member States. We agree with the Government's position that these amendments would build important flexibility into the system. The Committee is pleased to note that other concerns raised by the UK relating to veterinary practice were accepted by the Commission.

Your letter outlines two areas of concern to the Government arising from discussions in the European Parliament, namely microchipping and the establishment of a database to record pet movements. We understand that the Government are working with UK MEPs represented on the ENVI Committee to propose counter-amendments. Have the Government expressed any of these concerns to other Member States, and have any responded with similar views? It may be that Member States sharing their views would be content to work with their own MEPs on the same concerns.

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

14 November 2012

Letter from Lord De Mauley to the Chairman

Further to your letter of 14 November, I am writing to provide an update on the above proposal.

Your letter asked for more detail on two amendments to the draft Regulation that has been proposed by the European Parliament; namely a requirement for the microchipping procedure to be restricted to veterinarians and a proposal for an EU-wide database (in order to record all pet movements into, and between, EU Member States).

I am pleased to report that the microchipping amendment was rejected in the first reading vote in the European Parliament. The draft Regulation now requires that microchips should be implanted by a "suitably qualified person". We are supportive of this, while pushing for clarification that "suitably qualified" means trained to a required level of competence, rather than trained and formally examined. This is an important issue for the UK. We have a large number of microchipped animals, many of which are microchipped by charities or Local Authorities. We are also working to introduce national legislation requiring all dogs to be microchipped. Only a small percentage of these animals will ever travel overseas with their owners. It would therefore be unhelpful to have different (and more expensive) microchipping procedures for pets being prepared for overseas travel.

The second area of concern was an amendment to establish an EU-wide database of pet movements. MEPs voted in favour of this amendment. The UK's strongly held view is that such a database would bring little, if any, disease control benefit at a disproportionate cost – a view shared by the EP Rapporteur and the Commission. Your letter asked whether other Member States share our concern. Our colleagues in UKRep have taken soundings and Ireland, Denmark, France, Sweden, Germany, Poland, Austria, Lithuania and Romania are also against this proposal. Spain is the only Member State fully supporting the database with Belgium and Luxembourg taking a neutral stance. The Presidency is also not in favour, and the proposal does not appear on the draft mandate they have drawn up for the Council to now consider. We are therefore cautiously optimistic that an EU database will not feature in the final Regulation, and we will be robust in maintaining and defending our stance on this issue.

The Presidency is now in the process of agreeing a draft mandate to take into trilogue discussions for a first reading deal between the Commission, the European Parliament and the Council. We will update your Committee on progress on these negotiations in due course.

26 November 2012

Letter from the Chairman to Lord De Mauley

Your letter of 26 November on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 5 December 2012.

Thank you for your useful and informative update. The Committee is pleased to note that the microchipping amendment was rejected in the first reading vote, and notes the Government's support for the implantation of microchips by a "suitably qualified person".

The Committee appreciates your update regarding the amendment to establish an EU-wide database of pet movements, and understands that the Presidency and nine other Member States support the UK's position in opposing such a move, with Spain being the only Member State to fully support the measure. We appreciate your offer to keep the Committee informed of the progress on these negotiations.

The proposal was released from scrutiny on 25 April 2012. We look forward to a further progress report in due course.

6 December 2012

NORTH-EAST ATLANTIC: FISHING AND DEEP-SEA STOCKS (12801/12)

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

Thank you for your letter of 11 October requesting further information regarding our analysis and other developments on this proposal.

I certainly agree with your emphasis on the urgency of agreeing this proposal, particularly as its objectives include minimising the impact of fisheries on the marine environment – primarily by protecting Vulnerable Marine Ecosystems (VMEs). This is a key priority and I describe our next steps towards this at the end of this letter. As you will have gathered from the Explanatory Memorandum,

however, I do have reservations as to whether the Commission's proposal as issued will deliver the objectives.

The current regime is based around the total tonnage of deep sea species landed. Those catching more than 10 tonnes per year are considered to be targeting deep sea species. As previously reported, the Commission's new proposal amends this to a system based on each fishing vessel's percentage of deep sea species caught in any one trip. A vessel normally catching below 10% of deep sea species is now classified as requiring a 'by-catch' permit, while a vessel with a catch profile of 10% or more of deep sea species is regarded as a 'targeting' vessel and needing a permit for that purpose. The ban on bottom fishing methods being phased in after two years relates to the latter group of targeting vessels. The attempt to base the entire regime upon this single percentage criterion is the central flaw in the Commission's proposal. By moving from catch by weight, to one based on percentages, many more vessels will be affected. Our analysis reveals that this approach generates a number of problems, as follows.

CAPACITY MANAGEMENT

The proposal limits the capacity permitted for each Member State to that under the existing regime. However, this consists solely of the total capacity under the existing tonnage definition of the 'targeting' category. In moving from a fixed tonnage to a percentage criterion, now requiring both by-catch and targeting vessels to be included in that same pot, and expanding the list of deep sea species that this applies to, we anticipate the likelihood of a significant shortfall in capacity.

As the UK does not have a large deep sea species targeting fleet, our current 'capacity pot' is comparatively modest with a total of 118 vessels holding targeting permits. However, under the new proposals there are many more vessels that would require permits to land deep sea fish:

- There are 208 Over 10m vessels and 73 under 10m vessels – a total of 281 vessels – that are not currently in the 'capacity pot' but that would be captured in the expanded 'targeting' category requiring permits.
- There are a further 146 Over 10m vessels and 4 Under 10m vessels – a total of 150 vessels – that are also not currently in the pot but would be in the 'by catch' category requiring permits.
- This adds up to a total of 431 vessels not covered in the available capacity pot as proposed, that could not be issued permits to land deep sea species.

In considering the likely consequences of the proposal for the 431 UK vessels that could not be issued with a permit, it is worth noting that much of the deep sea species element of their catch is in fact by-catch in mixed fisheries. Without a permit they would not be permitted to land these fish, yet would be unable to avoid catching them. They would be forced to discard them, even if they held legitimate quota for them. This undermines our key objective to ensure the sustainable exploitation of deep sea species.

The arrangements to determine the new capacity limits are clearly unacceptable and must be re-visited. The proposed regime is significantly different to the existing one, leaving unacceptable and significant shortfalls related to normal fishing patterns and encouraging discarding.

EFFECTS ON THE UK OF THE BAN ON BOTTOM CONTACT FISHING METHODS

In terms of the above vessels in the targeting category (including the 118 currently holding permits, and the 281 vessels that we would have insufficient capacity for) a total of 204 vessels would be affected by the ban on bottom trawling methods, with a further 42 vessels affected by the ban on gillnetting. To avoid this there would be an incentive for vessel operators to discard in order to maintain total catches of deep sea species at below 10% during each trip, thus staying within the by-catch category and not therefore subject to the ban on these fishing methods.

The latter point is key to the UK Government's objection to the percentage criterion being used. Experience in other areas of fisheries management has shown that reliance upon a percentage criterion can create anomalies for both large and small vessels. There are various means open to a vessel operator to ensure his catch does not trigger the higher level of restrictions at 10% or more.

This becomes a real problem in relation to the ban on bottom fishing methods, which is intended to protect VMEs. If a vessel can continue to operate using bottom contact methods by successfully staying below the 10% trigger, and therefore being able to fish anywhere, this undermines protection of VMEs. There are no risk-based spatial or depth-related specifications to stipulate where the ban

applies, which means a great deal of fishing activity could be banned in areas which are already regularly fished, without the pay-off of effectively protecting VMEs.

UK GOVERNMENT'S PREFERRED APPROACH

Relying on an approach which uses deep sea fish landings alone as a management measure to protect VMEs is fundamentally flawed due to the large spatial and depth distributions which such species exhibit and their potential overlap with targeted non deep-water fisheries. We will be pressing for a change from the proposed management approach, which essentially only relies on defined catches of deep-sea species, to one which utilises both the spatial extent of established fishing activity and the spatial extent of deep-sea vulnerable marine ecosystems. Limiting where deep sea fishing activity can occur would be much more effective in protecting VMEs than the proposed approach.

You asked how convinced I am as to whether there will be effective monitoring and enforcement of the regime. Attempting to control the activity of vessels on the basis of their catch profile and percentages would be very difficult to enforce. This helps to underpin our preferred shift to a spatial management approach. Vessel Monitoring System (VMS) data enables vessel monitoring to be precisely undertaken, making it possible to spatially manage the established fishing footprint. I believe this approach will be more effective at achieving the stated objectives.

CONSULTATION MEETINGS

You asked about the outcome of discussions of this proposal with stakeholders. Officials have met with fishing industry representatives who have expressed surprise at the absence of any spatial / depth specifications, and concern at the implications of the capacity pot issues. They support the UK position described above to seek a shift of the management approach to risk-based spatial measures, taking into account the existing fishing footprint. Feedback from Marine Scotland colleagues who have met with their Scottish industry reflects similar general agreement with this intended negotiation approach.

Officials have also met with the Deep Sea Conservation Coalition. They agreed with the concerns identified over the potential incentive for a race to fish and potential expansion of the 'footprint' of deep-sea fisheries. They have raised this concern with a number of MEPs and other Member States, which helps to prepare the ground for us when active discussion in Working Group commences. They understand these control flaws and likelihood of discards, and cautiously agree that a spatial risk based approach may be preferential, although they emphasised they would want to see specific depth criteria also stipulated.

NEXT STEPS

This proposal was not given priority by the Cypriot Presidency and has not been scheduled for initial presentation/discussion at Working Group. This means I cannot report the range of Member State reactions. Presentation at Working Group is not anticipated now until early next year under the Irish Presidency.

8 November 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 8 November 2012 on the above Proposal was considered by our Agriculture, Fisheries and Environment Sub-Committee at its meeting of 14 November 2012.

We note your concerns and appreciate the comprehensive analysis that you provided to substantiate those concerns. On the basis of your analysis, we can support your position.

You are clear that progress is not expected before the beginning of 2013. We would welcome an update in due course, including on the position of other Member States, once working group discussions have commenced.

In the meantime we shall retain the proposal under scrutiny.

14 November 2012

NUCLEAR DECOMMISSIONING: ASSISTANCE PROGRAMMES FOR BULGARIA,
LITHUANIA AND SLOVAKIA (17752/11)

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

First let me apologise for the delay in responding to the Committee. As my officials explained to your Clerk at the beginning of this process, progress was dependent on discussions of the Multi-annual Financial Framework, which are yet to start which means that thus far there has been little to report. There were also difficulties in getting information on costs of decommissioning overseas. This coupled with the need to focus on other priorities, such as the EU Stress Test, have all contributed to the delay.

As you know Bulgaria, Lithuania and Slovakia have argued for a significant increase to the proposed further Union support. However, the only agreement that has been reached by Member States so far is a change in the legal basis in the draft proposal. This relates specifically to Lithuania where there has been a change from Article 203 of the Euratom Treaty to Protocol No. 4 of the 2003 Act of Accession. As a consequence the Commission presented two revised proposals in June. The UK is content with this change as the outcome remains the same.

On your specific points, the Committee has asked whether the Government has a position yet on whether, if negotiations on the rest of the EU budget are not favourable, it will be content to run the risk that these programmes will end before completion of decommissioning. It has also requested information, based on the experience of decommissioning in the UK, what the actual costs of the decommissioning programmes in Bulgaria, Lithuania and Slovakia would be.

As you are aware, the Union's financial support was an expression of "European solidarity" towards Bulgaria, Lithuania and Slovakia. Its primary purpose was to effectively mitigate the economical consequences of the early closure of the nuclear power plants and has ensured that progress has been made by these countries with their programmes. As a result the Commission has indicated that further financial support from the EU for mitigating measures is no longer being considered. The total financial assistance for these countries until the end of 2013 is some €2.85 billion (£2.3 billion). This equates to around €0.87 billion for Bulgaria, €1.37 billion for Lithuania and €0.6 billion for Slovakia.

However, it was recognised that the decommissioning process would continue beyond the current financial perspective and that important safety relevant key projects still needed to be implemented. Following consultation with stakeholders including decommissioning expert groups, the Commission therefore proposed an overall budgetary envelope of a further €553 million of Union support dedicated to decommissioning only. This equates to a further €209 million for Bulgaria, €230 million for Lithuania, and €115 million for Slovakia. Total funding including that received from the current financial perspective would therefore be in the region of €1.08 billion (£0.87 billion) for Bulgaria, €1.60 billion (£1.29 billion) for Lithuania and €0.72 billion (£0.57 billion) for Slovakia. In reaching its assessment the Commission has sought to decouple the decommissioning process from these countries' energy sector needs which the Commission considers should be moved to specific financing channels such as structural funds.

In my letter of the 16th October I noted that the UK considers the Commission's assessment to be reasonable, in particular as it is based in part on the views of expert groups on decommissioning. I also noted inter alia. that the delivery of these programmes relies on ensuring that the concerned Member States make sufficient contributions to the overall cost of decommissioning from their national budgets. It should be noted that the ultimate responsibility for nuclear safety remains with the Member States. This includes the ultimate responsibility for its financing, including the financing of decommissioning, and this is enshrined in EU legislation in particular the Nuclear Safety Directive and the Safe Management of Spent Fuel and Radioactive Waste Directive. The Commission's proposal includes the expectation that the concerned Member States are ready to provide the required additional financing to cover the remaining financial needs in order to ensure efficient and effective use of the additional Union support as well as to ensure the transition towards full Member State funding for the completion of the safe decommissioning. The proposal therefore includes cost estimates of €668 million (£537 million) for Bulgaria, €1.14 billion (£916 million) for Lithuania, and €321 million (£251 million) for Slovakia.

The UK supports the Commission's view that this would allow seamless continuation of decommissioning to reach an irreversible state while at the same time supporting the transition towards full Member State funding of the safe completion of decommissioning. Our view is that the three countries have yet to make a compelling argument on why the additional costs to undertaking the decommissioning work cannot, as was agreed as part of their Accession Treaties, be met from

their national budgets. My officials will continue to push this point once the negotiations on the Commission's proposal commences at the Council Atomic Questions Working Group and to work closely with Treasury officials during the wider negotiations on the EU budget.

On your point about information on the actual decommissioning costs of the decommissioning programmes based on the experience of decommissioning in the UK, it is difficult to make a direct comparison with the situation in the UK as the current financial support provided to Bulgaria, Lithuania and Slovakia also includes some compensation costs for early closure. In addition variables such as labour costs in the UK compared to the three countries would also need to be taken into account. However, my officials have consulted with the Nuclear Decommissioning Authority who have advised that the undiscounted programme cost for decommissioning the Magnox fleet in the UK (10 reactor sites) is around £16 billion. While not directly comparable for the reasons mentioned above, if you take Oldbury (medium size (two reactors), relatively recently shutdown, and still to be defueled) as an example the residual operations, preparing for and carrying out care and maintenance, and final site clearance is believed to be around £2 billion (excluding the reprocessing of fuel) to complete the work. Bearing in mind the difficulties in getting information on costs of decommissioning overseas, UK believes that the Union support received so far together with the proposed further support and the expected additional national financial contributions, would be broadly in line with the cost estimates for Oldbury. For example, for Lithuania the cost estimate would be around £2.2 billion (including £1.29 billion of Union support plus £916 million as the national contribution). However, as I highlighted in my previous letter this does depend on the Member States concerned effectively managing their decommissioning programmes and making sufficient national contributions.

6 November 2012

Letter from the Chairman to Baroness Verma

Your letter of 6 November 2012 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 14 November 2012.

The Committee are grateful for the detailed and helpful information your letter provided in regard to our queries on decommissioning in Bulgaria, Lithuania and Slovakia, and what the actual costs of the decommissioning programmes would be.

We appreciate that so far the only agreement that has been reached by Member States is a change in the legal basis in the draft proposal. The Committee understands the Government's support of the Commission's assessment and view that the three countries concerned need to make a compelling argument on why the additional costs are necessary.

The Committee also appreciates the difficulty of providing information on decommissioning costs based on the experience of decommissioning in the UK, and appreciates the details you were able to provide on this subject.

However, the Committee would appreciate information regarding why the Commission deemed it appropriate to increase the budget for the decommissioning programmes in these three Member States. We are interested to know whether the initial figure given was accurate, or whether circumstances have altered the situation.

We would also be interested to know what the Government consider to be the main risks and dangers, should the decommissioning programmes in Bulgaria, Lithuania and Slovakia remain uncompleted.

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

14 November 2012

Letter from Baroness Verma to the Chairman

Thank you for your letter of 14th November requesting further information on the decommissioning programmes in Bulgaria, Lithuania and Slovakia. The Committee has specifically asked why the Commission deemed it appropriate to increase the budget for the decommissioning programmes in these Member States, whether the initial figure given was accurate or whether circumstances have altered the situation, and what the Government consider to be the main risks and dangers should the decommissioning programmes remain uncompleted.

As you will be aware Bulgaria, Lithuania and Slovakia committed to closing their first generation reactors as part of their accession to the EU and in return were offered some financial support to

contribute towards the consequences of the early closure of the reactors (i.e. mitigating measures in regards to energy capacity loss), and to support these countries' efforts to decommission the closed reactors. The financial support from the EU is therefore anchored in the respective Accession Treaties for Bulgaria, Lithuania and Slovakia..

As the reactors were shut-down before their initially foreseen end of design lifetime, the Member States had not been able to set aside sufficient funds for decommissioning – it takes about 25 years of operation to accumulate sufficient funds for decommissioning. The financial assistance aims to support these Member States in addressing the funding shortfall to allow for seamless continuation of safe decommissioning.

The Commission's proposal for the next Multi-Annual Financial Framework for the period 2014-2020: "A Budget for Europe 2020" makes provision for €700 million from the general budget of the EU for nuclear safety and decommissioning. The €553 million on offer for the decommissioning programmes will come from this sum. The Commission's proposal foresees the continuation of EU financial support in order to ensure that the general objectives of these first generation reactors reaching an irreversible state within the decommissioning process, that the defueling would be completed and the spent fuel safely stored, and that expertise and knowledge would be maintained. The Commission has based these objectives and the proposed amount of additional funding on the findings of their mid-term evaluation, the European Court of Auditor's performance audit (*EM 6425-12, Special Report 16/2011 of the European Court of Auditors*), discussions in the European Parliament, and the Commission's consultation in March 2011 which included the Nuclear Decommissioning Assistance Programme Committee (composed of Member States) and the Decommissioning Funding Group (composed of nuclear experts from Member States dealing with financial aspects of decommissioning). The Government supports these objectives as they will help to ensure that the key hazards are dealt with thus minimising the risks and dangers.

However, it should be noted that this is actually a reduction in funding as the Commission have strongly stated that the three Member States should show a higher degree of financial responsibility and ownership for the decommissioning work. As a result the financial support on offer is time-bound and will not extend beyond 2020.

Finally, while there are no immediate safety risks from these sites a delay in their decommissioning will increase the hazard over time. Therefore it is in the best interests of the EU to ensure that with the support of the EU that these States complete the decommissioning work. It is therefore the view of the UK that the remaining fuel needs to be removed and that the spent fuel and high-activity waste must be stored safely. Bulgaria, Lithuania and Slovakia are subject to the requirements of Council Directives on the safety of nuclear installations and on the safe management of spent fuel and radioactive waste. This means that, as well as being bound by the terms of the Accession Treaties to make their own financial arrangements for the safe decommissioning of the reactors, they are also legally bound to meet the objectives of these Directives and to ensure safety regardless of the funding made available by the EU.

27 November 2012

Letter from the Chairman to Baroness Verma

Your letter of 27 November 2012 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 5 December 2012.

Thank you for your detailed and informative reply. The Committee understands your explanation of why the budget for decommissioning programmes in these Member States was felt appropriate, particularly in relation to commitments made under the respective Accession Treaties. The Committee also appreciates that these reactors were shut down before their initially foreseen end of design lifetime, meaning the Member States had not had sufficient time to set aside sufficient funding.

We appreciate your thorough explanation of the €553 million on offer for the decommissioning programmes from the Commission's proposal for the next Multi-Annual Financial Framework, and that this amount is deemed necessary to meet the set objectives. The Committee understands that the Government are supportive of these objectives in terms of minimising risks and dangers, and would be interested to know how the discussions progress.

We must apologise for a lack of clarity in our original letter. When referring to an increased budget, our reference was to the amount under the 2014-2020 period as an extension to money already provided for the purposes of decommissioning. Our desire was to understand whether circumstances had demonstrated that the funds already provided were insufficient and therefore that funding should be extended during the 2014-20 period.

As regards the proposed funding for 2014-20, we note that the amount on offer represents a reduction in funding, and that the Commission has taken a strong stance in emphasising that the three Member States need to show a higher degree of financial responsibility and ownership for the decommissioning work. We note too that it is time limited and will not be extended beyond 2020.

Your reply notes there are no immediate safety risks from these sites in the delay of their decommissioning programmes, but the Committee does appreciate that these risks and potential hazards will rise over time, and the Committee wishes to stress that issues of safety are key.

Furthermore, the Committee would appreciate information regarding the procurement process of these decommissioning programmes in each Member State. Who is carrying out these programmes, and which EU body, if any, has overall responsibility for the oversight of these programmes?

We will continue to retain this Proposal under scrutiny, and look forward to your initial response within ten working days.

6 December 2012

Letter from Baroness Verma to the Chairman

Thank you for your further letter of 6th December in response to mine of 27 November requesting further information on the decommissioning programmes in Bulgaria, Lithuania and Slovakia.

The aim of the EU financial assistance is to provide assistance to Bulgaria, Lithuania and Slovakia rather than to cover the full financing of the decommissioning or to compensate for all economical consequences of early closure. As you are aware, the expectation is that the assistance would be complemented by adequate resources in each Member State. However, all three Member States have stated that their national resources are still insufficient to ensure a seamless continuation and completion of decommissioning. In early 2011, Bulgaria, Lithuania and Slovakia provided the Commission with updated decommissioning planning and decommissioning cost estimates which showed clear evidence that substantial additional financial resources would be required to complete the decommissioning programmes in a safe manner. Projects that still need to be completed by all three countries include the dismantling of the turbine halls and large components in the reactor buildings, safely managing the decommissioning waste in accordance with a detailed waste management plan, and in the case of Lithuania defueling of one of the reactor cores still needs to be carried out. These are set out as specific objectives in the Commission's draft proposal and progress on achieving these objectives will be monitored by the Commission.

The Commission has ultimate responsibility for monitoring the progress made and for putting in place the conditions for the effective, efficient and economical use of the EU financial assistance. They are assisted by the Nuclear Decommissioning Assistance Programme Committee which is comprised of Member States. The European Court of Auditors also monitor and assess the progress made on the programmes and make recommendations to the Commission on the basis of their findings. The management of the financial assistance has been delegated by the Commission to the European Bank for Reconstruction and Development (EBRD) for Bulgaria and Slovakia and the Central Project Management Agency (CPMA) for Lithuania. This is in line with the relevant Council Regulations on financial regulation and is also provided for in the Accession Treaties. In the case of Bulgaria and Slovakia, contracts financed by the International Decommissioning Support Funds managed by EBRD are put out to tender by the grant recipients. Businesses are selected according to EBRD's procurement rules. The EBRD acts as a Fund administrator and as such, monitors the procedure. The CPMA carries out procurements in accordance with Lithuania's national public procurement rules. If the Committee would find it helpful we can seek details on the companies working on these programmes.

19 December 2012

Letter from the Chairman to Baroness Verma

Your letter of 19 December 2012 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 9 January 2013.

Thank you for your detailed and informative response, including information about the procurement system. We would welcome any information that you are able to identify on the companies working on these programmes. The Committee appreciates that the aim of the financial assistance provided to the three Member States is not to cover the full financing of the decommissioning or to compensate for economic consequences of early closure – but to assist with these programmes. We also understand that whilst the Member States are expected to complement this assistance with their own

resources, all three Member States have provided evidence showing that additional financial resources would be required.

We are also grateful for your explanation of where responsibility for monitoring the progress lies. From your letter, we note that the Commission has ultimate responsibility, putting in place the conditions for the effective, efficient and economical use of the EU financial assistance. The Committee also notes that other organisations with roles in the decommissioning programmes are the Nuclear Decommissioning Assistance Programme Committee, the European Court of Auditors, the European Bank for Reconstruction and Development (EBRD) (for Bulgaria and Slovakia) and the Central Project Management Agency (CPMA) (for Lithuania). We would be interested to know whether any of these bodies have made recommendations or expressed any opinions about the proposed funding level.

We will continue to retain this Proposal under scrutiny, and look forward to your reply within 10 working days.

10 January 2013

Letter from Baroness Verma to the Chairman

Thank you for your further letter of 10th January in response to mine of 19th December 2012 requesting further information on the decommissioning programmes in Bulgaria, Lithuania and Slovakia.

The Committee has asked whether the Nuclear Decommissioning Assistance Programme Committee, the European Court of Auditors, the European Bank for Reconstruction and Development (EBRD) (for Bulgaria and Slovakia) and the Central Project Management Agency (CPMA) (for Lithuania), have made recommendations or expressed any opinions about the proposed funding level.

I have seen no record to suggest that these organisations have expressed any opinions about the proposed funding level although the Court of Auditors noted in its Report (Special Report No 16/2011) that while the overall cost for the completion of the programmes is unknown, that there is a significant funding shortfall. The Court of Auditors also recommended that the Commission should put in place the conditions for an effective, efficient and economical use of EU funds, and that should the EU decide to provide further financial assistance in the next Multi-Annual Financial Framework, that the specific activities to be financed should be identified, taking account of other funding facilities such as Structural Funds and the conditions for EU disbursements.

On the Committee's request for any information on the companies working on these programmes, my officials have been liaising with officials in BIS (UKTI) who lead on this area. Currently AMEC Nuclear are working on projects in Lithuania and Slovakia, while Babcock is working on a project in Bulgaria. Also Babcock and SERCO have been involved in earlier projects in Lithuania. However, as you can appreciate, the contractors will change as the decommissioning programmes progress through different stages. For example, the next contract for the project in Bulgaria is currently being tendered and UKTI is aware that two UK companies are bidding for the new contract – the successful bidder as not yet been announced.

As you are aware, the Commission's proposal has not been discussed by Member States since late 2011. However, Ireland is seeking to deal with the proposal during its Presidency which ends in June 2013. I will keep the Committee updated on any progress made on the proposal at the Council Atomic Questions Working Group.

28 January 2013

Letter from the Chairman to Baroness Verma

Your letter of 28 January on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 6 February 2013.

Thank you for your informative reply.

We note that whilst the various bodies responsible for assisting Bulgaria, Lithuania and Slovakia have not expressed any opinions about the proposed funding level, we appreciate that the Court of Auditors recommended that the Commission should put in place the conditions for an effective, efficient and economical use of EU funds.

We are also aware from your letter that Ireland is seeking to deal with this proposal during its Presidency, and whilst we are content to release this proposal from scrutiny, we would be grateful for

an update of any progress made during the Irish Presidency and at the Council Atomic Questions Working Group.

We look forward to a response in due course.

7 February 2013

Letter from Baroness Verma to the Chairman

In response to several EU dossiers and the subsequent submission of Explanatory Memoranda you have written asking to be kept informed of their progress through the EU negotiation process. I thought now would be an appropriate time to provide you with such an update.

EM 17752/11 PROPOSAL FOR A COUNCIL REGULATION ON UNION SUPPORT FOR THE NUCLEAR DECOMMISSIONING ASSISTANCE PROGRAMMES IN BULGARIA, LITHUANIA AND SLOVAKIA

Thank you for also releasing this proposal from scrutiny. In my letter to you of 28th January 2013 I indicated that it was the intention of the Irish to progress this dossier during their Presidency. Thus far the Irish Presidency has focused its efforts primarily on the negotiation of the Commission's proposal to amend the Basic Safety Standards Directive (BSSD). As a result the dossier on financial support for decommissioning in Bulgaria, Lithuania and Slovakia is yet to be discussed. Should, for whatever reason, this dossier not be finalised during the Irish Presidency it will be for the next Presidency – which is Lithuania – to decide the priority it will be given. Should there be any further developments before the end of the Irish Presidency I will of course ensure that you are informed.

25 April 2013

PLASTIC WASTE IN THE ENVIRONMENT (7367/13)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 April 2013.

We agree with you that the Commission's consultation is welcome. The issues raised are clearly very important.

As with all EU waste legislation, there is a challenging balance to be achieved between environmental stringency and respect for the principle of subsidiarity. You note that the document raises no issues of subsidiarity. We understand that statement as the Green Paper is not a legislative proposal, but we would nevertheless highlight a concern that some of the suggestions put forward by the Commission could well breach the principle of subsidiarity if they were to come to fruition. One such example of that would be a future mandatory regime for separate door step collection of all plastic waste combined with pay-as-you-throw schemes for residual waste. Another might be a pan-EU approach to tackling the issue of single-use plastic bags. We hope that you will be able to reflect such concerns in your response to the Green Paper

We were interested to note inclusion in the Green Paper of discussion on bio-based plastics. The Commission describes the market as "emerging and growing". There would appear to be a danger that, if the market were to expand significantly, it could potentially have unforeseen land use implications. We would hope that you will include this issue in your response, including reference to the UK's science base in this area.

Other issues which we consider of particular importance and would also hope to see reflected in your response include: plastic waste in the marine environment; the export of waste and why the level is so high; and clarity on what is included within the term "recovery".

We will retain the Green Paper under scrutiny pending receipt in due course of your response to the Paper.

25 April 2013

POWERS TO BE CONFERRED ON THE COMMISSION: BREAKFAST DIRECTIVES
(8842/12)

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

Thank you for your letter dated 13 June regarding the EM for the above proposal. As requested in that letter, we are now in a position to provide further guidance now that initial Working Group meetings and a meeting of the Committee of Permanent Representatives (Deputies) have taken place.

This proposal forms part of the Commission's ongoing Lisbon alignment exercise and combines five related directives on coffee, chocolate, certain specified sugars, jams and preserved milks. These along with fruit juice and honey are informally known as the breakfast directives. Agreement on fruit juice was reached in the spring this year and progress on honey is being taken forward separately in light of the European Court of Justice ruling on GM pollen.

In the recent Working Group discussions, all Member States were supportive of the revised Presidency text. The proposal was heard at Coreper on 31 October as a 'II point'. The UK registered its Parliamentary scrutiny reservation and France dropped its reservation on the Jams Directive. The proposal is scheduled as an A point for the EPSCO (Health) Council meeting on 7 December, with the aim of making a first reading deal possible.

On the issue of conferring additional powers on the Commission, the Presidency text represents a position that the UK can support. The Presidency proposal does not confer greater power on the Commission except to update the legislation on chocolate, sugar and jams in response to developments in international standards, and actually removes Commission powers to amend the legislation on coffee and preserved milk. On the time period for those powers delegated to the Commission for matters of a technical nature or international standards, Member States in the Working Group are seeking that the powers should not be for an indeterminate period and are in alignment with the Fruit Juice Directive agreed earlier in the year; so should be for a fixed period of 5 years, with extension as necessary. It is expected that the European Parliament will agree this position and it was noted in the Working Group discussions that the Commission thought it would be unlikely that they would receive indeterminate powers.

It is in the interest of Member States that provisions which are generally technical in nature can be updated and amended relatively quickly to take account of technical progress or in line with changes to other international standards. The position taken in the Working Group has been similar to that taken when negotiating the Fruit Juice Directive. Member States agreed not to confer powers on the Commission to amend definitions or product names as these are considered essential elements of the Directive, and should be subject to the co-decision procedure. This stance is reflected in the Presidency's proposal.

It is anticipated that the European Parliament will react favourably to the Presidency text compared to the Commission's, as it leaves scope for adaptation through the ordinary legislative procedure rather than delegated powers.

Overall, we do not foresee there being any controversial issues with this dossier.

2 November 2012

Letter from the Chairman to David Heath MP

Thank you for your letter dated 2 November 2012, which was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 21 November 2012.

We note that relatively quick progress has been made on this Lisbon alignment proposal, which is welcome. In advance of adoption at Council on 7 December, we are content to release the proposal from scrutiny.

In due course, we would welcome confirmation of the outcome of discussions between the Council and European Parliament.

22 November 2012

PROGRAMME FOR THE ENVIRONMENT AND CLIMATE (LIFE) (18627/11)

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

Further to my letter of 14 May 2012, and your response of 23 May 2012, I am writing to update you on these negotiations. In the interim my officials were in regular touch with yours as the discussions developed under the Cyprus Presidency. Our overall approach has been to continue to look to create more opportunities from the new Regulation.

TIMETABLE

Good progress was made by the Cyprus Presidency and at one point it seemed that we might reach a partial general agreement. However a third trilogue failed in early December because some central issues remained unresolved, including:

- All budget-related provisions
- Indicative national allocations
- Co-financing rates
- Inclusion of Overseas Countries and Territories
- Budgetary resources for Nature and Biodiversity projects
- Length and control over multiannual work programme and
- Inter-institutional matters (the balance between Delegated and Implementing Acts).

Nonetheless provisional agreement was reached on Integrated Projects including mainstreaming and complementarity, VAT and staff costs, subject to agreement on the overall compromise package.

We are uncertain how the future Presidencies will deal with the dossier, although Ireland's initial indication is that they will await the conclusion of the Multiannual Financial Framework (MFF) negotiation before deciding whether to progress further. A key consideration for the Irish Presidency will be timing, i.e., whether there is sufficient time following the conclusion of MFF discussion to secure an agreement on LIFE. A further issue will be the level of funding agreed for LIFE. If the amount proposed in the Commission's proposal is significantly reduced this may result in the reopening of debate on other issues, for example Integrated Projects. In this scenario it is unlikely the Irish Presidency will seek to progress negotiations and it would then be for Lithuania to take forward.

Although the budget for LIFE will be determined as part of the MFF, the Commission's communication for the MFF proposes that environmental and climate action should largely be addressed as an integral part of all the main instruments. This context is important in framing the role for LIFE with the Commission clearly recognising the importance of mainstreaming climate change action and environmental protection in a range of instruments in other policy areas in order to achieve its ambitions.

PROGRESS ON THE UK POSITION

MULTI-ANNUAL WORK PROGRAMME AND INTER-INSTITUTIONAL MATTERS (DELEGATED AND IMPLEMENTING ACTS)

In general the Commission and Parliament are seeking to use more delegated acts to make decisions during the LIFE programme. We and the Cyprus Presidency argued for delegated acts to be limited to performance indicators.

INTEGRATED PROJECTS

In principle the concept of Integrated Projects (IPs) and their aim to promote a more strategic approach in specific priority areas and better alignment with other EU and national funds sounds very sensible and is one we welcome. However, the Council under the Cyprus Presidency argued that there should not be a requirement for projects to secure other EU funds. The EP position is that the mobilisation of other EU funds should be essential. A compromise has been found requiring prospective projects to have a financial plan and letters of intent from other sources of EU, domestic

or private funding. We think that achieving this in practice may be difficult as we suspect that fund managers may not want to make such commitments far in advance and this may prevent good projects coming to fruition. Whilst we do not support this, we have indicated a willingness to accept it as part of an overall compromise agreement.

TERRITORIAL SCOPE – PARTICULARLY OVERSEAS COUNTRIES AND TERRITORIES (OCTS)

The Commission proposes to expand the range of countries able to participate in the new LIFE programme to include countries covered by the EU Neighbourhood Policy. We and France argued for the express inclusion of the eligibility of OCTs in an article of the regulation. Netherlands although sympathetic to our view believe a recital is sufficient. Council Legal Services have opined that OCTs are, and have been, eligible but we are keen to see the promotion of this in the main text because the Commission are opposed to extending LIFE to OCTs. Other Member States without OCTs have reluctantly agreed to the Presidency compromise that includes reference to OCTs and the specific link to the 'parent' Member States' indicative national allocation. We will continue to press for access by our OCTs.

SIMPLIFICATION PROCESS - VAT AND PERMANENT STAFF TIME AS ELIGIBLE COSTS AND CO-FINANCING RATES

The Commission initially sought to make VAT and permanent staff time ineligible, introducing higher co-financing rates to compensate in an effort to simplify financial management. Disagreement from nearly all Member States resulted in these costs being reinstated but with the Commission and EP requiring co-financing rates to reduce to current levels. A majority of Member States have attempted to keep the co-financing rate up. We have accepted the Presidency's position in the interest of achieving a compromise agreement.

NATIONAL ALLOCATIONS AND GEOGRAPHIC BALANCE

The Commission proposes to remove the system of indicative national allocations for the new LIFE programme. They argue that funding for traditional projects is based solely on merit. This would tend to favour Member States that submit a very high number of proposals, and disadvantage Member States that submit fewer (such as the UK) or have less capacity to generate high quality proposals. They are also recommending a system of geographical balance for Integrated Projects based on a minimum number per Member State. We have therefore been arguing that the current system should be rolled forward whereby indicative funding for traditional projects is divided between Member States on the basis of clear criteria with all projects having to meet a minimum threshold (thereby providing reassurance as to the quality of projects). This is a red-line issue for the Commission and an amendment to reintroduce allocations was narrowly defeated in the Parliamentary Committee. However most Member States remain in favour and we strongly support the Presidency position to maintain national allocations for traditional projects, especially given the link to gaining support for OCTs.

BUDGET

The Commission has proposed an increase to the Programme budget from €2.1 billion in the current programme period to €3.6 billion between 2014- 2020 in commitment terms. The UK Government's overriding priority for the Multiannual Financial Framework (MFF) is to secure budgetary restraint, thereby ensuring that the EU budget contributes to domestic fiscal consolidation. We cannot therefore support a real-terms increase in the LIFE programme, as proposed by the Commission. However, negotiations concerning the budget have not been included in discussions so far, pending agreement on the MFF.

The Commission has hinted that any large cut in budget would lead to them having to re-design the programme with the likely casualty being integrated projects.

NEXT STEPS

Negotiations are on hold until the Multiannual Financial Framework has been agreed. We expect an increase in activity perhaps during the last part of the Irish Presidency, if there is MFF agreement. If not, it seems unlikely that a new LIFE programme will be in place for the start of the next seven years period and some interim transitional arrangement will be required.

17 January 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 17 January 2013 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 30 January 2013.

Thank you for your detailed and informative reply. We note the substantial progress made over the last few months although note too that significant details remain to be resolved, not least the budget.

The issue of national allocations and geographic balance appears to be a particularly challenging one, especially if it is a red line for the European Commission. We would be interested to know why there are fewer applications for projects from some Member States, including the UK, than others. Is this largely an issue of lack of awareness?

Given the significant details remaining to be resolved, we will retain the proposal under scrutiny and look forward to a further update in due course, including a response to the above query.

31 January 2013

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated the 31 January 2013 on the LIFE dossier.

You asked about the variation in number of applications between Member States and their success rates. Whilst we cannot be certain, it seems that some MS are more interventionist than others in applying different strategies, with differing degrees of success. Some have dedicated and long term experience which they draw upon to support projects and in other cases we understand specific funds are set aside as potential sources of match funding for applicants. In other MS they encourage a very large number of applicants but have a low rate of success. In the UK we have largely played an enabling role, which has resulted in varying degrees of success. Applications have numbered between 16 and 44 in recent years with success rates ranging between 18% and 44%. The numbers of applicants and success rate for the UK are comparable with averages across the EU: for example the overall acceptance rate for LIFE applications in 2011 was approximately 20%. These factors considered, we are far from complacent and are taking steps to improve the UK record.

The modest number of applications and success rates are not considered to be a result of lack of awareness, but a reflection of the considerable amount of time and dedication required to create a successful bid. The guidelines are very stringent and all bids need to build a strong logical case. In addition to this applicants have to find match funding, often for a project that may run over a few financial years, involving a range of beneficiaries that can cost up to a few million pounds per year – again quite a challenge. In the UK we have a small scale contract with Beta Technology to support the FP7 programme and LIFE. Beta have a mailing list of over 800 people and with their support we have been one of the very few Member States that have held ‘Information Days’ last year and this year. We attracted close to 100 people last year but had a smaller audience this year as the application period is unusually short in this final year of the current programme.

At present we are taking a number of steps to improve our position and have already received informal positive comments from the Commission reference the number of successful applications from the 2012 call (figures due to be released in next few months). We have become more proactive in identifying prospective applicants: this year we will be offering them tailored support including a small scale pilot of mentoring from our Agencies, for example the Environment Agency and Natural England. We will continue to focus our efforts on the most promising projects and develop their bids, rather than seeking to maximise the overall number of applications. We consider that this will be a good way of building success in the shorter term and will create a good set of examples for future years. In parallel we are looking more long term and are raising the awareness of LIFE within the Department as well as with the Devolved Administrations. We recognise that overall this is a long term investment in enhancing our capacity for the future and one that will be quite testing in the current financial circumstances.

In relation to the negotiation for the new LIFE Regulation, we will of course come back with more detail once this is known.

28 February 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 28 February 2013 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 13 March 2013.

Thank you for your clear response to our query relating to the variation in applications and success rates between Member States in terms of accessing funding. You refer to the considerable amount of time and dedication required to create a successful bid. This concern that administrative requirements can represent an obstacle to bidding for EU funding is not a new one. We would welcome assurances from you that you are continuing to make representations on that matter.

We will continue to retain the proposal under scrutiny and look forward to a further update in due course on the negotiation of this dossier.

14 March 2013

PROTECTION OF ANIMALS DURING TRANSPORT (16798/11)

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

Thank you for your letter of 18 October to Lord de Mauley in which you asked for an update on the EU Commission's proposals on a new annual reporting template and the more consistent use of satellite tracking equipment on board long journey vehicles.

I apologise to the Committee for not providing an update sooner but this is largely due to the fact that there has been relatively little progress to report. The Commission appears to have abandoned all efforts in relation to satellite tracking, in the light of a comitology issue concerning the need for the European Council to agree to any change and because there is such a wide divergence of views amongst Member States on what needs to be done. With regards to the reporting template, the Commission is attempting to reach agreement on a draft Commission Implementing Decision but support for their latest proposal is uncertain, given that they have abandoned further discussion at Commission Working Group level. From our perspective, its latest proposal is much improved on earlier drafts, although we still have a major concern on whether the changes necessary in reporting can be implemented successfully and in the timescale envisaged within Great Britain.

I will keep you informed if and when there is any majority agreement on the Commission's Implementing Decision

19 December 2012

Letter from the Chairman to David Heath MP

Your letter of 19 December 2012 on the above Report was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 9 January 2013.

We are grateful for your response updating the Committee on progress on the EU Commission's proposals. The Committee is disappointed to note that the Commission appears to have abandoned all efforts in relation to satellite tracking, and that support for the latest reporting template proposal is uncertain. What are the Government doing to reinvigorate the process?

Your letter notes that whilst the Commission's latest proposal for the reporting template is much improved, the Government are still concerned about whether the changes necessary in reporting can be implemented successfully and in the timescale envisaged within the UK. How has the Commission responded to your concerns and are they shared by other Member States?

We look forward to your response to the above point and an update on progress in due course.

10 January 2013

PROTECTION OF JUVENILES OF MARINE ORGANISMS (13076/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 7 November 2012.

The Committee understands that the Government have no insight to the Commission's reasoning for bringing this alignment proposal at the same time as making substantive proposals to the same legislation (EM 11915/12).

We are pleased to note that the Cypriot Presidency has not prioritised discussions on this dossier, allowing for more urgent work on the transitional measures to take precedence, giving officials the opportunity to concentrate on the process of addressing the substantive amendment.

The Committee looks forward to your report on the details of the agreed Council negotiating mandate to agree a compromise proposal with the European Parliament to go forward for adoption of the more substantive amendment.

We will retain the proposal under scrutiny and look forward to a response in due course.

8 November 2012

Letter from Richard Benyon MP to the Chairman

Further to your letter of 8 November on this dossier I can confirm that in line with expectation this Lisbon alignment proposal, which remains under scrutiny, will be actively considered under the Irish Presidency in the first half of this year.

As you know, in this example the alignment process does not relate to fishing opportunities, so we have no procedural problem with the features of this proposal relating to powers that essentially the Commission already has under Regulation 850/98. However, the UK's position on the use of delegated acts remains that the power should be time limited rather than conferred for an indeterminate period, as is proposed.

Although it has already cleared scrutiny I thought it may also be helpful to update you on progress with the substantive amendment of the EU technical conservation regulation 850/98 to incorporate the transitional measures (EM 11915/12 refers).

As you know the European Commission proposed to incorporate the transitional measures into an amendment of Regulation 850/98 to take effect as of 1 January 2013. Although Council and European Parliament had agreed the measures, voting was blocked at the final stages in the European Parliament in an attempt to prompt resolution of the impasse over agreeing multiannual management plans.

This was triggered due to the intended action, to be taken by the Council at the December Fisheries Council, in agreeing to amend the fishing opportunities elements of the Cod Recovery Plan unilaterally, rather than awaiting co-decision with the Parliament. In pre-emptive retaliation the Parliament delayed the vote on legislation on technical conservation measures. This left a legal vacuum for these measures from 1 January 2013.

While I agree there is a need to resolve the inter-institutional issues on management plans, the European Parliament's action on this proposal is disappointing. The agreed dossier is actually a good example of the work of the PECH Committee rapporteur which enabled the Council and EP to agree a compromise solution in a timely way. The failure to finalise this dossier at plenary level in November represents a failure to meet the needs of fishermen and the marine environment. There are a number of protective measures in this dossier that relate to conservation of commercial fish stocks, vulnerable species and vulnerable marine ecosystems. These measures should not have been allowed to lapse due to inter-institutional issues not related to this legislation.

Nevertheless the European Parliament now appear keen to put the amendment to the vote at the earliest opportunity in January, which should mean that there will only be a short period of a few weeks before these transitional measures are reinstated. I will write to you again shortly to confirm the adoption of the substantive amendment.

1 February 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 1 February on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 13 February 2013.

Thank you for your informative reply. We are also grateful for your update on the already cleared item relating to the substantive amendment of the EU technical conservation regulation 850/98 to incorporate the transitional measures (EM 11915/12).

We agree that the Commission's powers should be time limited, and not conferred for an indeterminate period, as is proposed.

We shall continue to retain this proposal under scrutiny, pending further updates as progress during the Irish Presidency becomes clearer. We look forward to your response in due course.

13 February 2013

PROTECTION OF SOIL (13388/06, 13401/06)

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

Thank you for your letter dated 24 July 2012, where you asked for an update on the progress of the proposed Soil Framework Directive dossier in due course.

The Directive was not tabled for negotiation during the previous Cypriot presidency and is also not on the agenda for the current Irish presidency. We are however closely monitoring the Commission's push for soil protection through a myriad of other EU initiatives. Current negotiations are focused on the Commission's proposal for a 7th Environmental Action Programme, which was proposed in November 2012. The Irish Presidency is pushing for a 1st reading deal on this proposal in the hope of reaching agreement in June before the end of their Presidency. The Soil Framework Directive was originally proposed as part of the 6th Environmental Action Programme and the Commission are using the 7th EAP to renew calls for European legislation on soil protection. The blocking minority on the Soil Framework Directive are unanimous in opposing such references in the 7th EAP and we are continuing to push for the removal of these references in Working Group.

We are also continuing to closely monitor the French position following their elections last year. Bilateral Ministerial discussions and lobbying from officials appears to have been successful, at least in the short term, in arguing that France's interests would be better served by remaining in the blocking minority and negotiating collectively. However, France continues to be the weakest member of the blocking minority and the most likely to change position on the dossier. Looking further forward, Germany has also indicated that it could change its position following its elections in October this year.

Our focus continues to be to keep the blocking minority intact for as long as possible and persuade other Member States of the UK's concerns to improve our negotiating position should formal negotiations resume.

15 April 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 15 April 2013 on the above documents was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We take note of the current state of play and observe that the blocking minority remains in place but that it is increasingly fragile. We continue to support your position that EU legislation in this area is inappropriate. Action by Member States is clearly vital. We would find it helpful if you could briefly set out the current state of play in relation to the UK Government's approach to soil protection.

We will continue to hold the documents under scrutiny and look forward to a response to our letter within ten working days, as well as a further update on the progress of the dossier in due course.

You refer to possible references in the 7th Environmental Action Programme (EAP) to the need for EU legislation on soil protection. As you will be aware, the 7th EAP remains under scrutiny and we would expect relevant information on this issue to be included within that strand of correspondence.

25 April 2013

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

In his letter of 25 April, your predecessor Lord Roper requested to be kept informed of any significant developments associated with the Strategy.

Since the last update, which was provided by Sir Jim Paice MP, there has been little progress on this dossier. The European Commission has still to finally decide on whether to proceed with a simplified statutory framework to support animal welfare policy in the European Union or whether to focus on non-legislative solutions. At this point therefore, it is difficult to anticipate whether we will need to press for a more robust approach on its part. Either way, however, we do not expect to see any specific proposals until the end of 2013 at the earliest.

In the meantime, the Commission will be concentrating its attention on improving the application of the existing regime. It has just approved funding for an EU project which will test the scope for a network of so-called 'reference centres' that will both pool and disseminate scientific and technical expertise on animal welfare and best husbandry practice (recognising that stockmanship is the single most important influence on farm animal wellbeing). The University of Bristol is a major partner in the project, with the Universities of Cardiff and Reading also involved, so the UK will have a key influence on the outcome. At present, the full detail of what will be involved is unclear, but once the proposed project board is in operation by the New Year, we will be able to provide your Committee with a more substantial explanation.

At the same time, we should be able to update you on the other EU-funded project also due to begin in January, on improving consumer awareness and raising welfare standards amongst animal keepers.

12 December 2012

Letter from the Chairman to Lord De Mauley

Your letter of 12 December replying to our letter of 25 April to your predecessor was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 19 December 2012.

We note that there has been little progress since your Department's last letter to us and that specific proposals would not be expected until the end of 2013 at the earliest. As you will be aware, the Commission's Work Programme is silent on this subject, which may be significant.

You mention the fact that, in the meantime, the Commission will be concentrating its attention on improving the application of the existing regime. No doubt you will be aware that a new opportunity for such enforcement will arise as of 1 January 2013, when Council Directive 2001/88/EC introducing a partial ban on the use of sow stalls for pig production will come into force across the EU. We understand that the majority of producers in the UK are likely to be compliant but that there are concerns about compliance levels elsewhere. This could potentially place British producers at a competitive disadvantage if lower cost non-compliant pork, is imported into the UK.

We would welcome your view on pan-EU compliance with the Directive and the extent to which it affects your position that a voluntary approach is generally preferable to a regulatory approach to animal welfare.

Since the last letter from Defra, the UK Government have launched their Review of the Balance of EU Competences. The call for evidence relating to animal health, welfare and food safety was launched on 27 November, with a deadline for submissions of 28 February 2013. In his letter to us, Owen Paterson MP noted that a key question will be whether the benefits to the UK of protecting the functioning of the internal market justify the high level of protection in this area.

As a Committee, we will not be submitting a response to the Call for Evidence but we would urge you to ensure that you seek the views of stakeholders on all sides of this debate, which will hopefully prove helpful to the Department in determining its future policy as regards EU animal welfare policy.

We look forward to a response within ten working days.

19 December 2012

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

Thank you for your letter dated 19 December to Lord de Mauley.

Clearly it is extremely disappointing that there is likely to be large-scale non-compliance with the sow stall ban across the European Union when it comes into force on 1 January 2013. It is a significant animal welfare advance and one which the UK actively supports.

Our unilateral action to ban sow stalls in 1999 placed a heavy financial burden on the pig industry, so we do not wish to see our producers disadvantaged further by what will be illegal production in other Member States after 1 January. We will therefore be pressing the Commission to do all it can to drive compliance across Europe and to begin formal infringement proceedings in January against any non-compliant Member States.

This experience has however further convinced us that to be fully effective, any new or improved on-farm management regime should be developed with the industry's full co-operation and that voluntary adherence on their part will increase the potential for the necessary compliance.

Turning to the Review of the Balance of EU Competences, I can assure you that in addition to the general call for responses, we have specifically sought the views of a wide range of key stakeholders to ensure we fully reflect the broad spectrum of opinions on this subject.

3 January 2013

Letter from the Chairman to David Heath MP

Your letter of 3 January replying to our letter of 19 December to your predecessor was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 16 January 2013.

You refer to a large scale non-compliance with the sow stall ban. We would welcome further details from you on the level of compliance as they become available and information on how the Commission has responded to your approach. Do you intend to raise your concerns with other Member States, perhaps at a meeting of the Agriculture Council?

The sow stall ban is an excellent example of an animal welfare issue on which the UK has led from the front, with the support of its own industry. We note your comment that voluntary approaches are likely to be more successful than regulatory approaches. This is a subject that we intend to raise with your colleague, the Secretary of State, during a session which we plan to hold with him in the next few months.

On the issue of the Review of the Balance of EU Competences, we are re-assured by your response and look forward, later in the year, to reading your analysis of submissions received.

We look forward to your response in due course.

17 January 2013

Letter from David Heath MP to the Chairman

Thank you for your letter dated 17 January in which asked for further updates.

At the Agriculture Council of Ministers on Monday 28 January, the Commission disappointingly reported that 17 Member States are not compliant with the sow stall ban which came into force on 1 January 2013. The figures are changing rapidly, but as of 15 January, 10 Member States were over 90% compliant, 3 Member States were less than 90% compliant and 4 Member States were less than 75% compliant. At Council, the Secretary of State led a call for the Commission to vigorously pursue a level playing field so that compliant producers would not be disadvantaged by inaction elsewhere in Europe. The Commission urged Member States to apply dissuasive sanctions to non-compliant producers.

Whilst the Commission has been very clear that it would not allow Member States to impose unilateral trade restrictions, it has said that it will commence formal infraction proceedings against non-compliant Member States at the end of February. The Commission has asked for regular updates from non-compliant Member States.

We will continue to use every opportunity to press the Commission to take a firm stand as our priority must be to protect UK producers from illegal production.

6 February 2013

Letter from the Chairman to David Heath MP

Your letter of 6 February was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 13 February 2013.

Thank you for your informative reply.

We were disappointed to note the Commission's report that 17 Member States are not compliant with the sow stall ban, although we also note your comment that the situation is changing rapidly and that 10 of those 17 Member States are over 90% compliant. We appreciate your reassurance that the Government will continue to press the Commission to take a firm stand against Member States who fail to comply.

Please mark this strand of correspondence as closed.

13 February 2013

QUALITY OF PETROL AND DIESEL FUELS AND RENEWABLE SOURCES OF ENERGY (15189/12)

Letter from the Chairman to Norman Baker MP, Parliamentary Under-Secretary of State, Department for Transport

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 28 November 2012.

Regarding the proposed 5% cap on the amount of food crop derived biofuel, the Committee would be interested to know how the European Commission arrived at this figure. Furthermore, could you please inform the Committee of when this cap is expected to come into force, and procedure by which the enforcement will take place?

The EM notes that the Government and European Commission believe it to be sensible for these amendments to be made at EU level, rather than national. Have any other Member States have expressed their own views on this matter, including any support or potential objections?

In the EM, it is stated that the Government believes ILUC should be addressed through 'ILUC factors'. Some have criticised the feasibility of this approach, and so the Committee would be grateful if you could please elaborate on how this method would work in practice.

We note that the new Annex IX sets out a list of non-food crop and advanced biofuels. Could you clarify whether this is an exhaustive list of those non-food crop and advanced biofuels that can be used to meet the 10% RED transport target?

The Committee notes that one of the aims of the proposal is to "encourage greater market penetration of advanced biofuels". We would be grateful if you could please provide us with any information regarding the current advanced biofuel market within the UK, including its present size and potential for growth. We would also welcome information from you on the extent of ongoing research in the UK into advanced biofuels, and how it is being supported by the Government.

The Committee is pleased that the Government are seeking to engage with various stakeholders, including industry, academics and NGOs. We would appreciate summary information on the responses that you receive, including whether there is an overall consensus, or even if views are very much mixed.

New Annex IX appears to include food waste. Do the Government yet have a proposed timetable for a ban on placing food waste in landfill?

Finally, the EM notes that the Government are still considering their response to the proposal. We would be grateful for an update on your position once you have had the opportunity to consider the proposal further,

In the meantime we shall retain the proposal under scrutiny, and look forward to your initial response within ten working days.

30 November 2012

Letter from the Chairman to Norman Baker MP to the Chairman

I am writing in response to your letter of 30 November 2012. You asked for some additional information on the proposal and I have provided this below. I also wanted to briefly update you on how the Irish Presidency intends to handle negotiations. I understand that both the Energy and Environment Council are likely to consider the proposal, but believe it has not yet been determined exactly how this progress will work or how final agreement will be reached between these Councils.

You asked how the European Commission arrived at the proposed 5% cap, when the cap is expected to come into force and the procedure by which the enforcement will take place.

The European Commission based this figure on the estimated share of biofuels from cereals and other starch rich crops, sugars and oil crops at the end of 2011 in an attempt to balance action on Indirect Land Use Change (ILUC) with protection for existing industry. In the European Commission's Explanatory Memorandum on the proposed Directive they summarise the main features of the proposal in their view. The first feature is:

'the introduction of a limit to the contribution made from biofuels and bioliquids produced from food crops...to the Renewable Energy Directive targets to current consumption levels...'

It should be noted that Member States have a range of biofuel target levels around the average. Therefore, while the overall EU consumption of biofuels (primarily derived from the food crops mentioned above) was approximately 5% some Member States will have higher levels of use and others lower. The UK currently mandates lower levels of biofuel than the EU average (at 4.5% by volume).

You note that the EM states the Government and European Commission believe it is sensible for these amendments to be made at EU level and ask whether other Member States have expressed their own views on this matter, including any support or potential objections.

I am not aware of any Member States that have objected to these amendments being made at an EU level but I am also not aware of any that have expressed support. Any views expressed by other Member States have focussed on the substance of the proposal, such as views on the appropriateness of the cap and what level it should be set at, rather than the appropriateness of it being introduced at all.

You state in your letter than some have criticised the feasibility of addressing ILUC through 'ILUC factors' and have asked me to elaborate on how they would work in practice.

Under the current Renewable Energy Directive (RED) and Fuel Quality Directive (FQD) all biofuels supplied to meet targets must meet minimum sustainability standards, including saving a certain level of greenhouse gas (GHG) emissions relative to fossil fuel. In order to determine whether biofuels meet these criteria, producers must calculate the lifecycle GHG emissions of biofuel they supply including GHG emitted when growing, producing and transporting the fuel. This makes up the 'direct' emissions of a given biofuel.

An 'ILUC factors' approach seeks to attribute a value to the 'indirect' emissions of a given biofuel feedstock and then add this to the 'direct' emissions in order to calculate the complete GHG impact of that biofuel. The process of calculating this would be relatively straightforward. The European Commission has set out three different 'ILUC factors' that should apply to three different feedstock groups (cereals and other starch crops; sugars; oil crops). These need to be added to the direct emissions to give the total value.

Some of the controversy over an 'ILUC factors' approach lies in the fact that ILUC cannot be measured but has to be modelled on a global basis. Complex models have been built to calculate the impacts and while they broadly conclude that oil crops have a much higher ILUC impact than sugar/ starch crops there is some disagreement over the exact values that should be attributed to all of these groups.

You note in your letter that the new 'Annex IX' sets out a list of non-food crop and advanced biofuels and ask for clarification on whether this is an exhaustive list of such feedstocks that can be used to meet the 10% RED transport target.

This is not an exhaustive list of feedstocks to count towards the RED transport target. The RED and FQD allow biofuel produced from many feedstocks to count towards targets as long as they can meet the sustainability criteria. The feedstocks listed at Annex IX of the proposal are those that would count four times towards the transport target and this is proposed to be an exhaustive list of those feedstocks. (Although the proposed Directive empowers the Commission to adopt delegated acts so

as to amend the list of feedstocks set out in Annex IX so that the list may be adapted to scientific and technical progress.)

You ask for information on the current advanced biofuel market within the UK, including potential size, potential for growth, extent of ongoing research in the UK into advanced biofuels and how it is being supported by the Government.

There is no settled definition of 'advanced' in the context of biofuels. It can be used to refer to feedstocks, generally to mean non-food or waste feedstocks, as well as processes and technologies, where it is used to refer to advanced biofuel production methods such as gasification or pyrolysis. These advanced technologies have the advantage of being able to use feedstocks that cannot be used to produce biofuel through current processes (e.g. municipal waste). They can also produce a range of end products, potentially producing aviation fuel.

Currently in the UK, some non-food feedstocks are used to make biofuels. For instance, the majority of biodiesel is currently produced from Used Cooking Oil (UCO). Our most recent data shows that from April 2012 to July 2012 UCO accounted for 22% of biofuel produced in the UK (for which Renewable Transport Fuel Certificates had been awarded) at an average greenhouse gas saving of 84%.

Production of biofuels from advanced processes is not yet commercially viable, although there are several large scale plants in the advanced stages of development around the world. A number of developers have expressed an interest in developing advanced processes in the UK. However, most investment to date has taken place in the US with Government support (e.g. capital grants and loan guarantees).

The UK Government supports some advanced biofuels through the Renewable Transport Fuels Obligation (RTFO) which offers twice the incentive to biofuels made from waste, residues and some cellulosic material to that made from crops.

You have asked for a summary of stakeholder views on the proposal.

At a high level there are divided views on the proposed Directive among stakeholders and it seems that on the one hand certain stakeholders believe that the proposal goes too far and on the other hand other stakeholders think the proposal does not go far enough

Environmental, development and humanitarian NGOs have supported the acknowledgment that ILUC exists and that biofuels can have an impact on food prices. However, they have told us they believe that the cap on crop biofuels is too high and should be set at 0% and that only biofuels from waste feedstocks should be supported.

UK industry has expressed concerns that the cap is too low and should be increased. They tell us that the proposal will stop any further investment in biofuels in the UK and will impact on plants currently in operation. The bioethanol industry have raised concerns that the proposal caps all biofuels made from food crops, essentially treating them all the same even though some save more GHG emissions than others.

The National Farmers Union (NFU) have told us they are concerned that the proposal will impact its members who produce both biodiesel and bioethanol feedstocks as both markets are potentially impacted.

You have asked if the Government have a proposed timetable for a ban on placing food waste in landfill.

I understand that Defra have committed to reviewing the case for restrictions on sending particular materials to landfill over the course of this Parliament, including looking specifically at wood, textiles and biodegradable waste. Defra have just completed a Call for Evidence on wood waste, fulfilling the first part of this commitment. This is now being analysed, with a view to making publicly available a summary of responses. Before bringing forward proposals on restricting any materials, the Government will need to be content that restrictions are the best-value way of moving material up the waste hierarchy and that the costs to the economy, businesses and the public sector are affordable.

I will write again to update you on development of the UK position on this proposal and will keep you informed of progress in negotiations.

19 December 2012

Letter from the Chairman to Norman Baker MP to the Chairman

Your letter of 19 December 2012 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 9 January 2013.

Thank you for your detailed and informative response to our questions. We understand the current uncertainties over handling of the dossier in Council and would welcome an update on that issue, including implications for timing, when it becomes clearer.

We note that the European Commission based the 5% cap figure on current consumption figures. It was not clear from your letter when the cap is expected to come into force, and the procedure by which it will be enforced. We would welcome clarity on these points.

Regarding the 'ILUC factors' approach, we are grateful for your explanation of how this would work in practice, and wonder whether any other Member States have expressed support or opposition to this approach?

We understand that the new Annex IX is not an exhaustive list of feedstocks to count towards the RED transport target, but rather, are those that would count four times towards the transport target.

We were interested to note that the majority of biodiesel is currently produced from Used Cooking Oil (UCO), accounting for 22% of biofuel in the UK at an average greenhouse gas saving of 84%. However, we are disappointed to observe that the production of biofuels from advanced processes is not yet commercially viable. Your letter notes that the UK Government currently support some advanced biofuels through the Renewable Transport Fuels Obligation (RTFO). Are there any plans to increase support in this area in the future and do your plans recognise the cost differences between biodiesel and bioethanol?

Your letter notes that Defra have just completed a Call for Evidence on wood waste, which is now being analysed – do you know when the summary of responses will be published?

We recognise that there are divided views on the proposed Directive among stakeholders, a division which will no doubt be reflected in the debates in the Council and European Parliament. We look forward to information from you on the development of the UK position and the emerging consensus in negotiations.

We will continue to retain the Proposal under scrutiny, and look forward to your initial response within 10 working days.

10 January 2013

Letter from Norman Baker MP to the Chairman

Thank you for your letter of 10 January 2013. I am writing to provide you with an update on negotiations on this proposal and respond to the questions you asked in your letter.

It is now confirmed that this proposed Directive will be considered by both the Energy and Environment Councils. The first instances of this will be at the Energy and Environment Councils on 22 February and 21 March respectively where I understand the Irish Presidency hope to hold orientation debates and hear high level Member State positions. As I lead on biofuels policy for the UK I will of course work with Ministerial colleagues in the Departments for Energy and Climate Change and Environment Food and Rural Affairs in this regard. I am not yet aware of the European Parliament's plans or timetable for considering this proposal.

I now turn to your specific questions.

You noted that the European Commission based the 5% cap on current consumption figures and asked for clarity on when the cap is expected to come into force, and the procedure by which it will be enforced.

The Renewable Energy Directive (RED) requires that 15% of energy must come from renewable sources by 2020. It also contains a sub-target requiring that 10% of energy in transport must be renewable by the same date.

If the proposed 5% cap on biofuel derived from food crops were agreed at a European level it would apply to limit the contribution of those biofuels to both the transport sub-target and the overall RED target in 2020. It would not prevent more than this amount of biofuel derived from food crops from being supplied but would prevent Member States from counting more than this amount towards targets.

Regarding enforcement, it would be for each Member State to decide whether, and if so how best, to reflect the cap in the design of their national biofuel incentive schemes, in order to enable them to meet the target cost effectively.

Regarding the 'ILUC factors' approach, you wondered whether any other Member States have expressed support or opposition to the approach I set out.

Most Member States have not yet publicly stated their position, however I do know there is little support for ILUC factors among Member States.

Several Member States have stated support for other approaches including support for the 'cap' approach included in the proposed Directive. Some have called for a higher cap.

A number of other Member States are likely to oppose any action to address ILUC.

Noting that the UK Government currently support some advanced biofuels through the Renewable Transport Fuels Obligation (RTFO), you asked if there were any plans to increase support in this area in the future and if our plans recognised the cost differences between biodiesel and bioethanol?

The Government believes that the development of advanced biofuels has the potential to provide renewable fuel for use in different transport sectors with fewer of the sustainability concerns that limit the desirability of some first generation biofuels. The Government's Bioenergy Strategy, published last year, set out that we would consider how to enable the development of advanced conversion technologies for the production of biofuels and this work is ongoing. Meanwhile, the Government welcomes the intention which the European Commission has shown in encouraging advanced biofuels.

The RTFO mandates the supply of biofuel which meets the current sustainability criteria set out in the RED and Fuel Quality Directive, but does not further differentiate between type of biofuel supplied. This allows suppliers the flexibility to supply the fuel that is most cost effective and therefore avoids potential pressure on fuel prices. The Government has no current plans to change this approach.

You asked in respect of Defra's Call for Evidence on wood waste when the summary of responses might be published?

I understand that Defra is aiming to publish the summary of responses shortly, but has not yet set a date.

I also wanted to clarify one further point. You stated in your letter that 'We understand that the new Annex IX is not an exhaustive list of feedstocks to count towards the RED transport target, but rather, are those that would count four times towards the transport target'. I should clarify that Annex IX actually has two lists: part A setting out a list of feedstocks that will count four times towards the Directive, and part B setting out feedstocks to be counted twice. The list of feedstocks that will count twice is very similar to the list of feedstocks that count twice under the current Directive.

I will write again to provide you with further information on the development of the UK position and development of negotiations.

23 January 2013

Letter from the Chairman to Norman Baker MP

Your letter of 23 January on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 6 February 2013.

Thank you for your informative reply.

We note that the dossier will be considered by both the Energy and Environment Councils, with the first instances on 22 February and 21 March respectively. We would appreciate an update of the results of these Councils when available.

Your letter states that a number of Member States are likely to oppose any action to address ILUC. As positions become clearer, we would welcome a further analysis from you on the balance of views in Council. If you are able to share the information, we would be interested to know which countries oppose any action to address ILUC.

We will continue to retain the proposal under scrutiny and look forward to a response in due course.

7 February 2013

Letter from Norman Baker MP to the Chairman

Thank you for your letter of 7 February 2013. I am writing to provide you with an update on the negotiation of the proposal and to respond to the specific points raised in your letter.

THE PROPOSAL

You will remember that the European Commission published their proposed Directive to address the impacts of indirect land use change (ILUC) in October 2012. The key elements of the proposed Directive included introducing:

- A 5% cap on the amount of food crop derived biofuel that can contribute to the 10% RED transport target,
- Multiple counting of the contribution that biofuels made from certain feedstocks make to the transport RED target (but not the overall RED or FQD targets):
 - double counting of wastes and residues currently used in biofuel production, e.g. used cooking oil
 - Quadruple counting for other non-crop biofuels that generally required advanced processing techniques
- A minimum GHG saving for new installations of 60% from July 2014 in both the RED and FQD, and
- A requirement for the GHG emissions from ILUC to be reported, which applies to both directives.

COSTS AND BENEFITS

In the wake of the proposed Directive's publication analysis was undertaken to consider the costs and benefits of the Directive. This analysis can be found at Annex A and focuses on the following affected groups:

- Crop-derived biofuel producers/developers
- Quadruple counted producers/developers
- Double counted biofuel producers/developers
- Food consumers
- Transport fuel suppliers and consumers
- Wider energy suppliers and consumers

The headlines for the major changes in the proposed Directive are:

5% CAP ON BIOFUELS AND BIOLIQUIDS

The higher the cap the less effective the measure is in addressing ILUC impacts but the greater the contribution to RED and FQD targets. The lower the cap the more effective the measures becomes but it makes targets hard to meet due to potential lack of feedstocks.

DOUBLE COUNTED FEEDSTOCKS

The RED transport sub-target can be met with less biofuel supply and therefore more cost effectively. However, large increases in demand for double counted feedstocks could drive up their price and risk unintended consequences, e.g. fraud in used cooking oil.

QUADRUPLE COUNTED FEEDSTOCKS

Major benefits in terms of meeting targets and the cost involved. Increased incentives would be expected to lead to increased supply. A flexible approach is needed so that feedstocks can be removed from the list if they have distorting impacts.

This is initial analysis that analysts are continually working to keep up to date.

UK POSITION

A UK Government position on the proposed Directive has been agreed which, I feel, addresses in a robust manner the pressing issue of ILUC and ensures that the cost of compliance for Member States is kept to a minimum.

The UK position includes the introduction of 'ILUC factors' for accounting and reporting purposes into both the RED and FQD. 'ILUC factors' attempt to quantify indirect GHG emissions allowing the full GHG impact of a given biofuel to be understood.

In order to minimise the cost of compliance the UK are also supporting the extension of multiple counting to cross-sectoral RED and FQD targets. Under the proposal as little as 2.5% biofuel could be enough to meet the RED target which could open a 'gap' in the overall target. This gap would have to be met by the deployment of other, often more expensive, technologies.

COUNCIL

ENERGY COUNCIL ORIENTATION DEBATE – FEBRUARY 22ND

The Energy Council debate saw three main groupings emerge on the strength of action sought to combat ILUC. The UK was joined by five other Member States in calling for robust action, including either ILUC factors or some differentiation between bioethanol and biodiesel. One Member State appeared broadly content with a cap at the level proposed by the Commission while the remaining Member States want a higher cap or no cap at all.

On the issue of supporting 'non-land using', or 'advanced', biofuels through multiple counting, the UK position seeking to extend the multipliers to the overall RED and FQD targets to minimise the costs of the proposed Directive appeared to be receiving growing support. This support involved a slightly different coalition with six other Member States.

ENVIRONMENT COUNCIL ORIENTATION DEBATE – MARCH 21ST

The orientation debate in the Environment Council began with Commissioner Hedegaard introducing the Commission's proposal before defending the proposed level of cap to be applied to crop-based biofuels. She stated that anything higher than the proposed 5% would have grave ILUC risks.

Once again the UK outlined our desire to see ILUC factors introduced as a means of accounting for the ILUC impacts of a given biofuel feedstock. Member State positions remained broadly the same as at the Energy Council debate. The UK received support from three Member States while three others were sympathetic. Most other countries, however, expressed a preference for the Commission's proposed cap approach but disagreed on the level.

On the issue of support for 'advanced' biofuels, most countries supported the Commission's multiplier approach. In this instance the UK's position was supported by three Member States. Only a handful of countries opposed multipliers altogether.

IRISH PRESIDENCY – PROPOSED TEXT

The Irish Presidency has proposed two options to address concerns expressed by delegations over the proposed cap. The first option would see the 5% cap applied to oil crops only and would extend the double and quadruple counting of certain feedstocks to the 15% overall cross-sectoral RED target. The second option would see an increase in the level of the 5% cap with the precise level left open for discussion. Officials are currently analysing the options prior to formulating a UK position.

The proposed options reflect the views of the majority of Member States who do not want to take robust action on ILUC. Neither option is as environmentally robust as the UK Government agreed position, or even as the Commission's original proposal. An official level working group on March 26th provided an insight into initial Member State views. The first option was favoured by three Member States, with two others recognising its merits. The second option was favoured by nine Member States.

The 'extension of multiple counting' in Option A was included as a result of wording proposed by the UK. Encouragingly a number of other Member States suggested it warranted consideration independently of options A and B and others expressed interest in considering it further.

PARLIAMENT

European Parliament consideration is lead by ENVI with ITRE having additional powers under 'rule 50'. A further five committees will give their opinions, TRAN, INTA, REGI, AGRI, and DEVE.

The committees' published opinions have provided initial indications of the where they stand on the proposal. These are diverse, offering a range of amendments. ILUC factors are supported by ENVI while ITRE and AGRI want all reference to them removed. On multiple counting ENVI agree with the current proposal while ENVI and AGRI want multiple counting removed.

NEGOTIATION TIMETABLE

The next Energy and Environment Councils that have ILUC on the agenda are scheduled for the 7th and 18th June respectively. We are not expecting the Irish Presidency to try and agree a 'General Approach' for these Council but instead to give a progress update ahead of handing the issue to the Lithuanian Presidency. The Lithuanians haven't yet indicated the priority they will give to the dossier but initial indications suggest they will not consider it as high a priority as the Irish.

The lead committees in the Parliament will consider the draft report and amendments in May and June with ENVI voting on July 10th and ITRE voting on June 20th. There will be a plenary vote on the first reading of the ILUC dossier in the European Parliament in November of this year. I will of course continue to keep your Committee informed of further developments.

7 May 2013

FUEL QUALITY DIRECTIVE

Letter from the Chairman to Norman Baker MP, Parliamentary Under-Secretary of State, Department for Transport

I am writing to provide you with an update on the progress of negotiations on implementing measures for Article 7a of the Fuel Quality Directive (98/70/EC, as amended by Directive 2009/30/EC), which relates to the implementing measures required to measure the lifecycle greenhouse gas intensity of fossil fuels. I last updated your Committee on these negotiations in a letter dated 14th May 2012.

As the Committee may recall, the Commission's proposal for implementing measures under Article 7a of the Fuel Quality Directive (FQD) was voted on at a meeting on 23 February 2012. Along with a number of other Member States, the UK abstained from the vote with the result that under the Qualified Majority Voting rules a 'no opinion' result was delivered. As a consequence the Commission must forward the proposal to the Environment Council for consideration.

Prior to forwarding to Council the Commission is undertaking an impact assessment of the proposed measures. Officials at DG Clima shared the early stages of this impact assessment with stakeholders, including Member State officials, on 20th December.

At this stage the assessment has identified six options for implementing Article 7a of the FQD. These six options will be screened down to a final three, all of which will undergo full cost-benefit analyses. We expect the impact assessment to complete by this spring, but probably not before May. Publication of the impact assessment and the Commission's revised proposal is likely to occur simultaneously, and both documents will be subject to Parliamentary scrutiny.

We are continuing to work with the Commission to ensure that the impact assessment takes account of all key issues and that the final proposal is fit for purpose and can be implemented effectively across Europe.

I shall, of course, continue to keep you informed. However, I do not expect that there will be any further developments to report until the Commission's impact assessment becomes available.

8 February 2013

RECOVERY OF THE STOCK OF EUROPEAN EEL (12989/12)

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

The draft instrument above was published by the Commission on 30 July 2012. Regrettably it was not deposited for scrutiny at the time and hence an Explanatory Memorandum was not submitted for the

Committee's attention. With my apologies, please find the Explanatory Memorandum attached to this letter.

The Cabinet Office, which deposits items for scrutiny on behalf of Departments, did not deposit this item at the time in the usual manner. Officials in the Department realised the need for scrutiny on this item on 31 January 2013 and alerted the Cabinet Office and Committee Clerks of the error immediately, though it should have been identified before now. For this please accept my apology.

This proposal is in the early stages of the process. Timing will primarily be dictated by the European Parliament process through Committee and plenary votes. Some Member States have disagreed with the suggested use of delegated acts in the proposed legislative amendments; notably there has also been disagreement over use of delegated acts in other legislative proposals. If this issue is not solved satisfactorily it is likely to delay the overall process, so timings remain unclear. I will of course update the Committees with any developments as and when they become known.

13 February 2013

Letter from the Chairman to Richard Benyon MP

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 13 March 2013.

We are grateful for your letter explaining why the EM on this Proposal was delayed, and are aware that such incidents are rare. Thankfully, on this occasion, there have been no adverse policy or scrutiny consequences. We would, however, stress that such an error could have been identified sooner had policy officials in your Department pressed their scrutiny units on why an EM had not been produced. We suggest that, in future, policy officials should automatically contact their scrutiny units if they receive no such request for an EM as soon as they become aware of a proposal.

Although you note that the Government have no substantive concerns, your EM does stress that delegated powers should be conferred on a time-limited basis, and not on an indeterminate period as proposed by the Commission. We agree and would be grateful for a report from you on your progress in negotiating that change.

Whilst the Committee is inclined to agree with the Government's position that there are no substantive issues identified with this Proposal, the Northern Irish Assembly has raised with us three specific concerns.

First, they are concerned that the proposed blanket suspension on eel fishing by the European Parliament's Fisheries Committee's Rapporteur, Isabella Lövin MEP, would damage industry in Northern Ireland and have a negative impact on the Lough Neagh economy. Their view is that such an instrument should not be applied without widely-supported scientific evidence. We note that the Rapporteur's amendments are based on scientific advice by ICES, which has concluded that the status of the stock is critical. What is your view of the amendments proposed by the Rapporteur and of the ICES advice on which her amendments are based?

Second, the proposed amendment to allow the Commission to establish a delegated and implementing power is a move away from the existing mechanism that sees these powers overseen by committees of Member State experts through comitology. Although the Northern Irish Assembly acknowledge that there are flaws in the present system, there are anxieties about these powers being exercised without the input of local expertise. Can you confirm that Member State experts will still play a role in the adoption of delegated and implementing legislation, allowing local knowledge to be taken into account?

Third, they believe this proposal raises an issue of subsidiarity, expressing the concern that the Commission has not given proper consideration to the views of Member States, particular in devolved regions. While the subsidiarity principle does not apply in this instance as the proposal relates to an area of exclusive competence, we would nevertheless welcome your view on the level of consultation that has taken place with Member States and devolved administrations.

More generally, we would be grateful for any reassurance that you are able to offer about the possible implications of the proposal in Northern Ireland. Have you held any discussions with the Northern Irish Assembly or with the Northern Ireland Executive regarding the concerns expressed by the Assembly? We would also be interested to know your views on the implications of this proposal for the remainder of the UK.

Finally, the Committee would be interested to know what assessment the Government have made of the success of the Regulation since its adoption in 2007.

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

14 March 2013

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 14 March.

With regards to the delay to the Explanatory Memorandum (EM) for the proposal, you suggest that in future policy officials contact their scrutiny units if no request for an EM is received as soon as they become aware of a proposal. As you rightly say, the error in this case is regrettable and we need to ensure that systems are in place to make sure similar errors are spotted at an early stage. This is both about the Department's capability in relation to scrutiny, which we are addressing as part of our work on EU skills across the Department, and integrating our EU and scrutiny systems more fully to identify issues more quickly, including regular tracking meetings. As you say, this sort of situation is fortunately rare but it is one I am keen does not happen again.

You raise a number of points regarding the proposal that I will now address in turn. You ask for a report on progress in negotiating changes to the proposal such that the proposed delegated powers are introduced for a time-limited and not an indeterminate period. Negotiations are currently ongoing and we are not alone in supporting the use of time limits on delegated acts. It is also worth noting that various Member States have disagreed with the proposed use of delegated acts altogether, stating a preference for an implementing act: resolving this issue is likely to slow the whole process.

You also relay three concerns voiced by the Northern Ireland Assembly. Firstly, they express a concern about the impact a blanket ban on eel fishing would have on the Lough Neagh economy. You asked for our views on the amendments proposed by the rapporteur and the International Council for the Exploration of the Sea (ICES) advice on they are based.

Before responding on this, it is worth clarifying that the rapporteur's proposals were in a recent report to the Fisheries Committee of the European Parliament rather than the proposal itself, and were made after the EM was deposited. There has been close liaison between Defra officials and those in Northern Ireland throughout the development of this proposal.

We believe that the suggested amendments proposed by the rapporteur go beyond the scope of the original proposal. Whilst we would support discussions on ways to improve eel stock recovery, the proposed new amendments have not been subject to any form of stakeholder consultation nor an impact assessment. No proposal which impacts directly on individuals, businesses and communities within the European Union should be introduced without an appropriate impact assessment and we believe that the proposed new amendments should be rejected until such an impact assessment has been completed. The new amendments also assumed that fishing is the key anthropogenic impact and that banning fishing for eel will solve the problem. There are, however, other factors which impact on eel mortality, such as physical obstructions to their migration and pollution, and focussing on banning fishing could divert limited resources away from addressing such issues. Suspension of fishing will also result in a cessation of restocking programmes, and while the scientific evidence on the effectiveness of restocking remains uncertain, it may prove to be an important component of the overall suite of stock recovery measures.

The ICES advice released in November 2012 was that the status of European eel remains critical and that urgent action is needed. ICES reiterated that all anthropogenic mortality should be reduced to as close to zero as possible until there is clear evidence that both recruitment and the adult stock are increasing. The ICES advice is undoubtedly important in understanding the status of the stock, in particular given that the European eel stock is homogenous (eel do not return to 'natal' rivers and there is no genetic distinction between different regions). However, action is already being taken to address anthropogenic impacts. Council Regulation 1100/2007 requires Member States with natural habitat for eel to develop and implement Eel Management Plans (EMPs) for individual River Basin Districts within their jurisdiction to effect recovery of the stock. The Regulation is goal-setting, i.e. it sets a long-term target for recovery and allows Member States to develop appropriate measures to address any significant anthropogenic impacts (other impacts such as obstructions, pollution and lack of available habitat can all impact on eel) at a river basin level. The Commission are currently evaluating the first three-yearly EMP progress reports from Member States. ICES will report an international stock assessment to the Commission in October 2013, ahead of the Commission report to the Parliament on progress against the EMPs. At that stage we will be in a better position to consider what further measures, if any, are necessary to effect stock recovery.

The Committee expressed concerns that the powers given to the Commission to adopt delegated and implementing acts would be a move away from the current mechanism of oversight by Member State expert. You ask for confirmation of whether Member State experts will still play a role in the adoption of delegated and implementing legislation, allowing local knowledge to be taken into account.

The scope of and procedure for delegated acts are set out in Article 290 of the Treaty on the Functioning of the European Union (TFEU). There is no requirement in Article 290 TFEU for the Commission to consult Member States, the Council or the European Parliament before adopting a delegated act. However, the Commission has undertaken in a "Communication" and in a "Common Understanding" with the Council and the European Parliament to carry out prior consultation procedure "at expert level". The Commission has informally indicated that where it decides to consult industry, it will do so before consulting the Member States to ensure that the Member States have the last word. It is in the Commission's interest to consult prior to adoption to avoid the Council or the European Parliament formally objecting to the delegated act later in the procedure. The UK Government attaches particular importance to consultation and pushes for the following text to be included in the recitals to the measure conferring the delegated power, as agreed in the Common Understanding: "It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level". This is included in the proposed Regulation to amend Council Regulation 1100/2007, and supports the line we have taken in reaction to the new amendments proposed by the rapporteur, i.e. that any proposals cannot be accepted without the appropriate impact assessments being undertaken.

The third concern is on an issue of subsidiarity, and that the Commission has not given proper consideration to the views of Member States, particularly in devolved regions. You ask for my view on the level of consultation that has taken place with Member States and Devolved Administrations.

We would normally expect the Commission formally to consult Member State experts on any proposal that would potentially impact upon Member States, financially or otherwise, and within the UK we would ensure all devolved administrations were fully consulted. However, when the original proposal for a regulation to amend Council Regulation 1100/2007 was published there was no formal consultation as the proposal was considered a straightforward administrative upgrade to bring the Regulation in line with TFEU, and it was thus not considered to have financial or other impacts upon Member States. Member States and devolved administrations have however had opportunities to input throughout the process and the UK has submitted briefings for all Fisheries Committee and Commission Working Party meetings. Defra officials have consulted officials in Northern Ireland, Wales and Scotland to elicit their input and gain clearance for finalised briefs, and have conducted informal liaison with them wherever appropriate.

With regards to the recent amendments proposed by the rapporteur, we have significant concerns. Northern Ireland officials have contacted us expressing their concerns about the proposed blanket ban on eel fishing, and Carál Ni Chuilin, Minister of Culture, Arts and Leisure in Northern Ireland has written to me about these issues specifically, which I have recently replied to. We have therefore emphasised in our briefing to MEPs that any proposal from the Commission that impacts directly on businesses and people within the UK should be underpinned by sound science and an appropriate socio-economic impact assessment, and that the Commission should not therefore consider this proposal as part of the proposed amendments to Council Regulation 1100/2007.

Further to this you ask for reassurance about the possible implications of the proposal for Northern Ireland, any discussions with the Northern Ireland Assembly or Northern Ireland Executive, and ask for my views about the possible implications of the proposal for the rest of the UK.

In terms of the implications for Northern Ireland, and for the rest of the UK, the original proposal is a purely technical amendment, and there are no particularly problematic implications, but we are playing close attention to this as it moves forward. The proposals put forward by the rapporteur are of potential concern. Eel fisheries make a significant contribution to rural economies in England, Wales and Northern Ireland so these proposals have implications across the UK. As such we will continue to emphasise our view that any such proposals should not proceed without full appropriate assessments of the potential socio-economic impacts.

Finally, you ask what assessment the Government has made of the success of the Regulation since its adoption in 2007.

The eel's lifespan can be up to around twenty years; indeed it was intended that the 40% target be set for the longer term, given the fact of the eel's longevity. We have only relatively recently submitted reports on the first three years of progress in implementing our Eel Management Plans. Furthermore and as previously mentioned, ICES will report to the Commission on its updated stock assessment later this year, and the Commission will then report to the Parliament on their evaluation of progress

against the EMPs. On the basis of these considerations it may at this moment in time be premature to judge the success of the Regulation. We might note that the Regulation has facilitated action across Europe, particularly important given the homogenous nature of the eel stock. But there are still undoubtedly significant challenges ahead. Stock assessments continue to show eel recruitment to be very low compared to historic levels. Only one river basin district in England and Wales was achieving the 40% target, for example, with some others performing very poorly and worse than we understood them to be when developing the EMPs. As such we await the latest assessments, the next round of ICES advice to the Commission, and the reaction of the Commission, who we understand to be considering more substantial amendments to the Council Regulation in the longer term, with some interest.

25 March 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 25 March 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 24 April 2013.

We welcome your comments in relation to the regrettable delay to the EM for this Proposal.

We note your helpful comments in response to our letter of 14 March and are pleased to hear in particular about your close liaison with the Northern Ireland Executive at both official and ministerial level. We would urge to you to maintain close liaison with allies in the European Parliament (EP), as it appears that the most significant issues relating to this dossier derive from work in the EP's Fisheries Committee. In that light, we trust that you will consult with stakeholders across the UK as developments in the European Parliament become clearer.

We were alarmed to hear that stock assessments continue to show eel recruitment to be very low compared to historic levels. This demonstrates the need for urgent further action, potentially including more substantial amendments to the Council Regulation.

Finally, we would ask that you keep us updated on developments on this dossier.

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

25 April 2013

REDUCING INCIDENTAL CATCHES OF SEABIRDS IN FISHING GEARS (16518/12)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 December 2012.

We welcome the initiative and agree with you that it is overdue. We will retain the Communication under scrutiny and would welcome further information from you on a number of points.

First, one suggestion by the Commission is to progress designation of Special Protection Areas under the Birds Directive. At what stage is the designation of such areas in the UK?

Second, we would welcome your view on whether the proposed minimum 10% observer coverage where information is lacking or uncertain is realistic.

Third, the Commission appears to question whether the monitoring of seabird bycatch could be included under the new Data Collection Framework. It notes that input from experts and the costing of such an extension are still needed. Do you consider that there is any reason why seabird bycatch should not be included under that Framework and, if it isn't, how a robust framework for the collection and reporting of data will otherwise be put in place.

Fourth, the Commission will encourage Member States to transpose the EU-POA into national legislation. Is this something that the UK will consider?

Fifth, what use do the Government plan to make of the current European Fisheries Fund and future European Maritime and Fisheries Fund to assist with efforts to tackle the issue?

Sixth, you note that it will be vital to work with the fishing industry to ensure outcomes are effective, and one of the Commission's objectives is to address the lack of incentive for fishermen to adopt

mitigation measures. Do you have any ideas as to the shape that such incentives might take? Do you have any sense from your experience that fishermen will be willing to work with you to ensure the effectiveness of outcomes?

Finally, and linked to the latter point, how do you consider that awareness can be promoted among stakeholders and the general public?

We look forward to your response within twenty working days.

19 December 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 19 December 2012 in which you set out a number of points raised by the Committee which I have addressed below.

WHAT STAGE IS THE DESIGNATION OF SPECIAL PROTECTION AREAS (SPAs) AT IN THE UK?

The UK has established a marine SPA programme to deliver on our obligations under the EU Wild Birds Directive. To date 107 SPAs with marine components have been established and this programme will further identify, and where possible classify, the remaining suitable seabird territories in the UK which qualify as SPAs by the end of 2015 in order to complete the network.

IS THE PROPOSED MINIMUM 10% OBSERVER COVERAGE IN FISHERIES WHERE INFORMATION ON SEABIRD BYCATCH IS LACKING OR UNCERTAIN REALISTIC?

It is too early to determine whether this is realistic or indeed the best way to collect relevant data in the UK. Defra officials are working closely with the Joint Nature Conservation Committee (JNCC) to develop a clear understanding of the current evidence base and to commission appropriate research into establishing the likely risk to seabirds from bycatch in UK Waters. In conjunction, work is also underway to determine whether more is needed in the UK to meet our obligations under the Marine Strategy Framework Directive (Member States are required to put in place fit for purpose programmes of monitoring by 2014).

IS THERE ANY REASON WHY SEABIRD BYCATCH SHOULD NOT BE INCLUDED UNDER THE NEW DATA COLLECTION FRAMEWORK?

As I set out in the Explanatory Memorandum, the systematic collection and reporting of data on seabird bycatch is essential if we are to fully understand the extent of the problem and ensure targeted measures are implemented. I am supportive in principle of using existing frameworks, such as the Data Collection Framework, as an efficient means of meeting emerging data needs, not least because it would keep bureaucracy to a minimum and exploit synergies with other data requirements. However, at this time it is prudent to await the outcome of expert considerations and cost estimates in order that an informed decision can be taken as to whether an extension to the current Data Collection Framework is the best approach.

WILL THE UK CONSIDER TRANSPOSING THE EU-PLAN OF ACTION INTO NATIONAL LEGISLATION?

Over the coming months we will be considering how the UK can best respond and deliver the goals of the PoA, including in discussion with the Commission, stakeholders and other Member States. However, as the PoA is not in itself a legislative proposal, transposition of the document into UK legislation is not appropriate. As I described in the Explanatory Memorandum, the PoA envisages implementation through various means, including measures already enshrined within existing legislation as well as future regulatory measures, e.g. a reformed Common Fisheries Policy (CFP), the Habitats and Birds Directives, the Marine Strategy Framework Directive (MSFD), Regional Fisheries Management Organisations, and the Convention on Migratory Species Agreement on the Conservation of Albatrosses and Petrels.

WHAT USE DO THE GOVERNMENT PLAN TO MAKE OF THE CURRENT EUROPEAN FISHERIES FUND AND FUTURE EUROPEAN MARITIME AND FISHERIES FUND TO ASSIST WITH EFFORTS TO TACKLE THE ISSUE?

The current European Fisheries Fund is an important source of additional funding to help the fisheries industry adapt to changing requirements under the Common Fisheries Policy and for which the UK government strongly and actively promotes both public and private sector applications. The new

European Maritime and Fisheries Fund is scheduled to be introduced in 2014 and may provide further opportunities to fund work important in tackling the issue of seabird bycatch, which the UK will seek to use effectively in light of all UK priorities.

ONE OF THE COMMISSION'S OBJECTIVES IS TO ADDRESS THE LACK OF INCENTIVE FOR FISHERMEN TO ADOPT MITIGATION MEASURES - WHAT SHAPE MIGHT THESE TAKE AND WILL FISHERMEN BE WILLING TO WORK WITH YOU TO ENSURE THE EFFECTIVENESS OF OUTCOMES?

Successful delivery of the PoA will be, in a large part, dependent on industry adopting mitigation measures where seabird bycatch is considered a problem. The first step however is to ensure we have a robust evidence base in place to enable us to establish where measures might be needed so we can work with fishermen to determine what might work effectively in particular cases. We also want to look at what exists already; the Impact Assessment carried out by the Commission highlights the fact that several practical, simple, and effective measures to reduce seabird bycatch are already adopted by some of the EU fleet. These measures are considered cost effective and even beneficial in some cases since they can result in increased catches of the target species and reduce damage to fishing gear and lost bait.

I am keen that all stakeholders are afforded the opportunity to participate in the development and delivery of the PoA going forward.

HOW DO YOU CONSIDER THAT AWARENESS OF THE POA CAN BE PROMOTED AMONG STAKEHOLDERS AND THE GENERAL PUBLIC?

Officials will be seeking to identify and engage relevant stakeholders in line with our usual practice for policy development, potentially with focussed meetings to ensure all stakeholders have the opportunity to shape the approach taken and to embed a sense of ownership. I also understand the EU will be running a stakeholder workshop early in 2013 where some of these issues can be addressed. Important information will be disseminated through the UK government website and stakeholders themselves can play an important role in raising the profile with the public, as we have seen with the RSPB campaign for a PoA.

Finally, I should stress that we are at an early stage in this process and will be working closely with stakeholders in the UK and EU to look at the detail, develop the next steps, and ensure we get this right.

16 January 2013

Letter from the Chairman to Richard Benyon MP

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

Thank you for your informative reply.

Your letter notes that it is too early to determine whether the proposed minimum 10% observer coverage in fisheries where information on seabird bycatch is lacking or uncertain is realistic, highlighting work Defra officials are carrying out with the Joint Nature Conservation Committee (JNCC). You also mention the work underway to determine whether more is needed in the UK to meet our obligations under the Marine Strategy Framework Directive. We would be grateful for summaries of the findings in each of the respective areas.

Similarly, it is noted in your letter that you are awaiting the outcome of expert considerations and cost estimates, in order to make an informed decision on whether seabird bycatch should be included under the new Data Collection Framework. Again, the Committee would appreciate being updated on the progress of this issue when the information is available.

You indicate that you will not respond positively to encouragement from the Commission to transpose the EU Plan of Action into national legislation. We note, however, that you will be willing to consider how the UK can best respond and deliver the goals of the Plan of Action. This is helpful as it seems highly unlikely that the Commission would be able to deliver this initiative without action by Member States. We would welcome further information from you once you have had an opportunity to give further consideration to how the UK can most effectively contribute.

Finally, your letter notes that you will be seeking to identify and engage with the relevant stakeholders, in addition to the EU-run stakeholder workshop to be held in early 2013. As you note in your letter, delivery of the Plan of Action will, in large part, depend on the willingness of the

industry to take appropriate action. We would be grateful to be informed of the results of your discussions with stakeholders, including the main issues raised.

We will continue to retain the communication under scrutiny, and look forward to your response in due course.

31 January 2013

REMOVAL OF FINS OF SHARKS ON BOARD VESSELS (17486/11)

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

Thank you for your letter of 26 July 2012. I am pleased to provide the Committee with a positive update on progress made on the Commission's proposal to amend Council Regulation (EC) No 1185/2003. The intention of the amendment is to remove a derogation that currently allows Member States to issue, subject to certain requirements, special fishing permits for the removal of shark fins at sea. The proposal was endorsed by the Council earlier in 2012, with strong support from the UK.

European Parliament amendments to the Commission's proposal were presented by the Rapporteur Maria do Céu Patrão Neves, which would have maintained the current loophole and potentially permitted illegal finning to occur. These were successfully defeated by majority vote at the Strasbourg European Parliament plenary session on 22 November 2012.

This is a welcome outcome and one the UK has long been pushing hard for, playing a leading role in delivering success. In line with the Ordinary Legislative Procedure, this will now return to the Council who will review the outcome from the European Parliament. We anticipate the amended regulation, which would require all vessels operating in EU waters and all EU vessels globally to land sharks with their fins still naturally attached, to be in place in early 2013.

4 December 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 4 December 2012 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 12 December 2012.

We found your update to be helpful and we are pleased to note that attempts in the European Parliament to maintain the current loophole in the rules were rejected by a majority of MEPs.

We would welcome a further update from you after discussion in Council. When doing so, could you please indicate whether non-EU vessels operating a shark fishery outside the EU face regulatory requirements of a similar nature?

13 December 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 13 December 2012, which sought a further update on the progress of the above proposal when appropriate. You will recall that the intention of this amendment is to remove a derogation that currently allows Member States to issue special fishing permits for the removal of shark fins at sea. In my letter of 4 December I reported that we had seen off attempts by the European Parliament to maintain the current loophole, potentially leading to illegal shark finning. The Council was due to review the outcome in early 2013 with implementation following swiftly.

Unfortunately, the final step has been delayed for procedural reasons: following the successful outcome at the European Parliament, a number of linguistic changes were made by Lawyer-Linguists finalising the text. Although this has not changed the fundamental principle agreed, the Council and European Parliament are discussing whether these changes are significant enough to warrant the text being revisited by relevant bodies to ensure it is an accurate reflection of the agreement.

This delay is extremely frustrating for all those who have been so closely involved. However, given that the European Parliament has already endorsed the principle of 'Fins Naturally Attached', we trust that if action is considered necessary, it will be a formality only and will not reopen discussion on the fundamental purpose of the proposal. We understand this is being handled at highest levels of the Council, who are seeking to resolve the issue. Nevertheless, we will be watching this very carefully,

and officials continue to raise the delay in a number of forums, calling for the text to be finalised and implemented quickly. I will of course keep you updated.

As you know, when finalised, this will require all sharks caught in EU waters, and anywhere globally by EU vessels, to be landed with their fins still naturally attached. You asked whether non-EU vessels catching sharks outside the EU face the same regulatory requirements. This depends largely on where they are fishing. For example, the US and some Central and South American countries require a 'Fins Naturally Attached' approach, but it varies greatly. However, when the EU completes the process to fully adopt a Fins Naturally Attached approach for EU vessels, it will be possible to press for it to be adopted in the Regional Fisheries Management Organisations such as ICCAT (International Commission for the Conservation of Atlantic Tunas) and IOTC (Indian Ocean Tuna Commission). This will make a significant difference. The EU has previously had to abstain from supporting such an approach when tabled.

15 April 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 15 April 2013 on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We are grateful for your helpful response and would ask that you confirm once the final text has, in due course, been adopted.

25 April 2013

REPORTING ON GREENHOUSE GAS EMISSIONS (17549/11)

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

Your letter of 25 October 2012 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 31 October 2012.

Thank you for the additional information that you have now provided on the differences between the European Parliament and the Council positions. We would agree that reporting should be aligned with international obligations and that the EU Regulation should retain flexibility to allow for reporting to be updated in accordance with any international decisions made.

We are now content to release the proposal from scrutiny and would request that you update us on the outcome of the trilogue negotiations in due course.

1 November 2012

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

Thank you for your letter on the 1st November releasing this proposal from scrutiny. I am of course happy to give an update on the trilogue negotiations in due course and keep you updated on the proposal. Since I last wrote there has been another trilogue and further discussion with the European Parliament. The European Parliament are now moving towards the Council position and we expect to see a compromise that will be acceptable. The shape of any compromise agreement should see reporting linked with international decisions, with additional reporting agreed in areas where there is scope to report in, or where reporting requirements already exist. The Council (including the UK), the Commission and the European Parliament have all indicated that they would like to achieve a first reading deal on this proposal. If successful, we expect the first reading deal to take place in early January.

20 November 2012

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

Your letter of 20 November 2012 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 28 November 2012.

The Committee is grateful for your letter updating us on the progress of this Proposal – in particular, that there has been another trilogue and further discussion with the European Parliament since your last letter.

We note that the European Parliament are now moving towards the Council position, and that the compromise is expected to be acceptable to the UK. We are pleased to note that the Council (including the UK), the European Commission and European Parliament have all indicated that they would like to achieve a first reading deal on this proposal, which, if successful, should mean a first reading deal to take place in early January.

We would like to thank you for your letter and look forward to the further updates you offered to provide in due course.

30 November 2012

Letter from Rt. Hon Gregory Barker MP to the Chairman

Thank you for your letter on the 1st November 2012 releasing this proposal from scrutiny, and your letter of the 30th November 2012 asking for further updates in due course. I am now in a position to give you an update on the proposal.

Since I last wrote the trilogue negotiations in Brussels concluded on the 19th December 2012. These trilogue negotiations saw the European Parliament, Commission and the Council (including the UK) reach a compromise agreement that all areas were content with. The shape of the compromise agreement outcome sees reporting clearly linked with international decisions, and the additional reporting that was agreed was clearly justified and in areas where there is scope for the UK to report in. The end text agreed was consistent with the UK cleared negotiating position. The Council (including the UK) indicated on the 21st December that they would be voting in favour of the agreed proposal. The Council (including the UK), the Commission and the European Parliament are confident a first reading deal on this proposal will be achieved.

The indicative date for the European Parliament plenary vote is scheduled for the 12th March 2013. Further details as to the content of the Implementing and Delegated Acts in be made under the proposal will be made clear March 2013.

13 February 2013

Letter from the Chairman to Rt. Hon Gregory Barker MP

Your letter of 13 February on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 February.

Thank you for your letter informing the Committee that the trilogue negotiations resulted in a compromise agreement.

We are content to close this strand of correspondence permitting no problems arise during the European Parliament plenary vote (scheduled for 12 March).

28 February 2013

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

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

The former Minister of State, Sir James Paice, wrote to Lord Roper on 1 September 2011 enclosing an Impact Assessment for this proposal, which became Council Regulation 470/2009. He explained that we would be carrying out a further consultation of interest groups over twelve weeks to see whether they could assess the impact of the legislation more accurately two years after its introduction.

Two substantive responses were received from the 340 organisations consulted. These were from the National Farmers' Union and the National Office of Animal Health (NOAH), which represents around 90% of veterinary pharmaceutical business in the UK.

NOAH felt that adoption of Codex MRLs, where the EU agrees the science, will benefit their members by virtue of these MRLs being applicable in different regions of the world. NOAH also felt that extrapolation could lead to greater product availability for minor uses and minor species (which includes bees). The NFU agreed, adding that EU adoption of internationally recognised MRLs would help to ensure competitive equality and trade opportunities for UK produce. Both organisations felt that the setting of Reference Points for Action (RPAs) for certain substances unauthorised or prohibited from use in the EU is a positive measure and should reduce the presence of these substances in food imported into the EU.

Jim Paice's earlier letter also explained that there was a lot of activity planned by the Commission in respect of other legislation affecting veterinary medicines and promised to keep you in touch with these developments. Progress on these has, in fact, been very slow but I can now inform you that the Commission expects to produce proposals for the review of the Veterinary Medicines Directives 2001/82/EC and the Medicated Feedingstuffs Directive 90/167/EC in the late spring/early summer of 2013.

The review of Directive 2001/82, which controls the authorisation, distribution and use of veterinary medicinal products aims to reduce the administrative burden associated with introducing new products and increase availability. The review of Directive 90/167 aims to clarify the scope of the legislation, and in particular the relationship between administration via medicines (e.g. injections) and via medicated feed.

We will, of course, keep you in touch with developments.

5 April 2013

REVIEW OF THE EUROPEAN WATER SCARCITY AND DROUGHTS POLICY (16547/12)

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 January 2013.

The points raised in this Communication can largely be taken forward in our scrutiny of the Commission's Blueprint. There is, however, one outstanding point. In our report on EU freshwater policy, we recommended that the EU should encourage the development of national water scarcity and drought management plans. In response, the Government agreed that the EU should encourage the development in Member States of planning to address the impacts of water scarcity and droughts. Could you please clarify how you intend to work with the Commission to encourage such planning, and how do you think the Commission should do so?

We remain concerned that the Government are failing to take seriously the concept of universal water metering, and would ask that you inform us how you are working with water companies to ensure the widest possible application of water metering.

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

10 January 2013

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 10 January in response to the Explanatory Memorandum (EM) on the above report.

The UK has welcomed the actions proposed by the Commission in its Blueprint to Safeguard Europe's Water Resources, which were adopted at the Environment Council on the 17 December 2012. The Blueprint contains various actions that will provide better integration of water policy objectives into other policy area's objectives. The UK believes that both water scarcity and drought can be handled by the processes in the River Basin Planning Framework under the Water Framework Directive (WFD) and will continue to encourage the EU to take forward and develop this policy. Specific actions in the area to address the impacts of water scarcity and drought include:

- developing Common Implementation Strategy Guidance on water accounts (and ecological flow); and

- enforcing WFD requirements relevant to drought risk management.

The UK sees no need for further Europe-wide legislation to deal with issues of water scarcity and drought.

With regards to universal water metering, I should point out that the position on metering is formal Government policy as set out in the Water White Paper (WWP). As highlighted in the WWP and the Government's response to the House of Lord's report, the Government recognises that the costs and benefits of increasing levels of water metering to help reduce demand will vary from region to region, depending on the level of water stress. It made clear that because of these complexities, the Government will not impose a blanket approach to metering across the country. The Government believes that water companies are best placed to find an appropriate local solution in discussion with their customers. Where companies are in areas designated as seriously water stressed they must consider introducing universal metering as part of their Water Resources Management Plans.

Water companies will be consulting on new draft water resources management plans in spring 2013; this will set out how the companies propose to manage water resources to ensure a sustainable water supply and demand balance over a period of at least 25 years from April 2015.

17 January 2013

Letter from the Chairman to Richard Benyon MP

Your letter dated 17 January on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 January 2013.

Thank you for your reply and helpful response. We are content to pursue these issues within the context of our scrutiny of the Blueprint to Safeguard Europe's Water Resources.

Please consider this strand of correspondence to be closed.

31 January 2013

SAFETY OF OFFSHORE OIL AND GAS PROSPECTION, EXPLORATION AND PRODUCTION (16175/11)

Letter from John Hayes MP, Minister of State, Department for Energy and Climate Change, to the Chairman

I am writing to inform you of progress on this matter. Although discussions have taken place at official level within Council for several months there has been little in the way of significant change to report. However, there are now moves, particularly on the main issue which the Explanatory Memorandum covered; that of a change in the form of the proposal from a Regulation to a Directive.

In the European Parliament both the ITRE (energy) and ENVI (environment) committees have now voted in favour of a Directive. There is widespread support for the UK's view on Directive vs Regulation amongst most EU industry, trade unions and a significant number of other Member States. In Council, support for a Directive is such that the Cypriot Presidency has drafted an alternative proposal in the form of a Directive and officials and the European Commission are continuing their discussions on the basis of that document although the Commission itself has yet to formally accept a Directive. I am hopeful that we will see a formal transition to a Directive before the end of the year, maybe even very shortly. We would then move towards the normal discussions with the three parties, Council, Commission and Parliament.

Three issues which continue to be debated and in which the UK has a strong interest are:

- Proposals by some parties for a European body to hold some role in the regulation of the offshore industry in Europe. As stated in the Explanatory Memorandum, the UK will continue to oppose such moves.
- Proposals to make structural splits in the bodies which currently regulate the offshore industry at national level – possibly involving machinery of government changes. Once again we will argue that the present UK system does not lead to any conflict of interest and is fit-for-purpose and that it should be for Member States to determine the best arrangements for their own regulatory bodies.

- Proposals for the European Commission to have delegated powers - we will continue to resist the use of delegated powers to essential elements of this European legislation.

I understand that the Cypriot Presidency is increasing the frequency of officials' meetings on this issue with a view to moving to the trilogue phase before the end of this year. However the speed of that progress will depend upon formal resolution of the Directive point, further work on the issues above and several technical details which still remain to be solved (such as the varying terminology used in various Member States for those who operate installations and questions on liability).

I would welcome any further questions you may have and, bearing in mind the movement on the main issue of Regulation vs Directive, whether the Committee might wish to consider lifting its scrutiny reservation?

1 November 2012

Letter from the Chairman to John Hayes MP

Your letter of 1 November 2012 on the above issue was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 14 November 2012.

We are grateful for your letter informing the Committee of the progress of this Proposal, particularly in regard to how the Proposal has changed from a Regulation to a Directive. The Committee also notes that both the ITRE (energy) and ENVI (environment) committees in the European Parliament have voted in favour of a Directive, as well as widespread support from most EU industry, trade unions and several other Member States.

In your letter, it states that the UK will oppose any such moves for a European body to hold some role in the regulation of the offshore industry in Europe. Without such a body, the Committee would like to know if the Government has a view on how cooperation between Member States would occur in the case of a serious incident or disaster, both before and after.

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

14 November 2012

Letter from John Hayes MP to the Chairman

Thank you for your letter of the 14th November. You asked for further information on how cooperation between the Member States would occur in the case of a serious incident or disaster in the absence of a new European authority.

I would like to reassure you that Member States have well established mechanisms to ensure cooperation between them, and Industry, in their response after a major incident. In addition to the normal relationships between the coastguards of member states and the more formal bilateral arrangements which many states already have in place to deal with such incidents, there is also an existing body, the Bonn Agreement, which seeks to build International cooperation in prevention of maritime disasters and in cleaning up after such events. In addition to these arrangements, Member States will be able to request assistance, should they so wish, from the European Maritime Safety Agency (EMSA) to support them in responding effectively to an oilspill incident (once the EMSA Regulation is updated).

When considering cooperation on oil and gas operation and response issues before and after an incident, the European Commission has also set up a European Union Offshore Authorities Group (EUOAG). This group is chaired by the Commission but attended by representatives of Member States with offshore oil and gas industries. Officials from DECC and HSE normally attend meetings of this group. In addition to serving as a forum for disseminating best practice and operational intelligence, raising standards throughout Europe and advising the Commission on regulatory reform, this group will serve as a vehicle for information exchange and such exchanges would build the close relationships and understanding necessary to enable the cooperation required in times of a major incident. This Group's work will complement the work of other fora, such as the North Sea Offshore Authorities Forum.

I would welcome any further questions you may have. As I indicated in my earlier letter, the Cypriot Presidency is increasing the frequency of officials' meetings on this issue with a view to moving to the trilogue phase before the end of this year. I now understand that the first trilogue may take place at the end of this month.

I repeat my invitation to the Committee to consider lifting its scrutiny reservation.

19 November 2012

Letter from the Chairman to John Hayes MP

Your letter of 19 November 2012 on the above Proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 28 November 2012.

Thank you for your detailed and informative letter updating the Committee on this Proposal. The Committee appreciates the reassurance you have provided that Member States already have well established mechanisms to ensure cooperation between them, and industry – such as formal bilateral arrangements and the Bonn Agreement.

We were also interested to learn about the European Union Offshore Authorities Group (EUOAG) when considering cooperation on oil and gas operation and response issues (before and after an incident), whereby Member States are represented and officials from DECC and HSE are regular attendees.

The Committee is interested to know, however, whether a reporting mechanism exists whereby potential problems/solutions and best practice identified in EUOAG can be disseminated to interested parties that are not present?

We are content to release this Proposal from scrutiny, but look forward to your reply within ten working days.

30 November 2012

Letter from to John Hayes MP to the Chairman

Thank you for your letter of the 30th November and for your agreement to lift scrutiny on this proposal.

You asked whether there is a reporting mechanism by which finding of best practice or of potential problems or solutions could be disseminated from the European Union Offshore Authorities Group (EUOAG).

Whilst recalling that the EUOAG is still essentially in the process of formation and held its second meeting only last week I understand that the communication of such knowledge is a prime purpose of the group and that it has already taken some steps to facilitate this. As the group is chaired by the European Commission itself there is not a “reporting mechanism” as such, however the practical achievement of the dissemination of best practice and other issues is being addressed as follows:

- The prime, and most important mechanism is direct feedback from the representatives of Member State Competent Authorities who attend EUOAG to their industries and other stakeholders.
- There is a plan for a web portal the “EUOAG Web Portal”. It is proposed that this portal contain minutes of meetings of the EUOAG, safety alerts, news items, examples of best practice, standards and safety performance statistics.
- Third parties may be invited to EUOAG meetings to present issues for discussion and interact with members directly. I understand, for example, that representatives of labour unions and the offshore industry were invited to the most recent EUOAG meeting.
- Finally, the Group is also considering the organisation of Workshops open to the wider stakeholder community that will also aid in achieving the dissemination of findings and best practice.

I hope you find this information useful.

10 December 2012

Letter from the Chairman to John Hayes MP

Your letter of 10 December was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 19 December 2012.

Thank you for your useful letter in response to the Committee's query regarding a 'reporting mechanism' for the European Union Offshore Authorities Group (EUOAG). The Committee appreciates that EUOAG is still in the formation process, but we are pleased to note that there is a process for the dissemination of information.

Negotiations are ongoing and we would welcome an update in due course when movement towards a final outcome is clearer.

19 December 2012

Letter from John Hayes MP to the Chairman

You asked to be kept updated on the progress of this proposal. I am happy to inform you that the proposal, now in the form of a Directive, reached political agreement on 21st February of this year. The UK has achieved all of its main policy objectives in these negotiations and we understand that there should be no significant impediment to the Directive completing the remaining formal stages of agreement by European Energy Ministers and the European Parliament.

The EU Offshore Authorities Group which you mentioned in your last letter has not met since you wrote, so there is nothing further to report.

I hope you find this information helpful.

19 March 2013

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

The letter of 19 March 2013 from your predecessor on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We are grateful for your helpful response updating us on the progress of this Proposal. We are particularly pleased to note that the Proposal (now in the form of a Directive) reached political agreement, and that the UK achieved all of its main policy objectives.

We would be grateful to be kept updated with the progress of the Directive, particularly in terms of agreement by energy ministers and the European Parliament.

We look forward to your response in due course.

25 April 2013

SCHEME FOR GREENHOUSE GAS EMISSION ALLOWANCE TRADING (16723/12)

Letter from the Chairman to John Hayes MP, Minister of State, Department for Energy and Climate Change

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

The Committee understands that the Government are supportive of this proposal, and believe that it will allow the International Civil Aviation Organisation (ICAO) the necessary time to make progress on a global approach to tackling aviation emissions. We are aware that this has been an ongoing issue, and would like to stress our view that we are only content with this proposal providing that the suspension lasts no longer than one year. Whilst we are content to release this proposal from scrutiny, we do have a couple of queries.

The EM notes that you have started to engage with interested parties – which have included the Devolved Administrations throughout the process. We would be grateful for further information on the parties with which you are consulting, and whether there is an emerging consensus on the proposal.

Furthermore, your EM notes that given the urgent international nature of the draft proposal, not all Member States were approached during the initial consultation. We would be interested to know whether all Member States have now been consulted, and whether any countries have expressed opposition to the proposal – and if so, why?

The Committee would appreciate being kept informed of any further developments as they become available.

We look forward to your response within 10 working days.

17 January 2013

Letter from to John Hayes MP to the Chairman

Thank you for your letter to John Hayes dated 17 January 2013 clearing the Explanatory Memorandum (EM) on the above proposal. I am replying as this matter falls within my portfolio.

We are working closely on this proposal with the Department for Transport (DfT), which shares the policy lead for the inclusion of aviation in the EU Emissions Trading System (EU ETS). This includes official level engagement with a wide range of stakeholders including the British Air Transport Association (BATA) and the Board of Airline Representatives UK, as well as individual airlines. Officials have also met with the UK Emissions Trading Group (ETG), the key stakeholder group for industry covered by the EU ETS. In addition to these industry stakeholders officials have met with ICSA (the International Coalition for Sustainable Aviation) as well as individual NGOs to discuss the proposal and the negotiations at the International Civil Aviation Organisation (ICAO).

The Foreign and Commonwealth Office (FCO) have been closely involved in terms of briefing key overseas posts and gathering intelligence on the international reaction to this proposal. Recently the UK EU ETS regulators, the Environment Agency and the Scottish Environment Protection Agency, wrote to all the aircraft operators the UK regulates under the EU ETS. This letter was part of a co-ordinated EU action to explain how the compliance obligations of aircraft operators would be affected by the proposal.

Our assessment of this engagement is that, although there are individual concerns expressed, there is an emerging consensus that the proposal to 'stop the clock' in the aviation EU ETS is appropriate to give the ICAO process time to make progress on a global agreement.

The European Commission published their proposal on 20 November 2012 and since then there have been regular discussions involving all Member States. This has been at both an informal and formal (via Council working groups) level. In these discussions Member States at official level have raised technical concerns with the Commission, which have now, for the most part, been resolved. All Member States have indicated their support for the proposal and its intention to facilitate the ICAO negotiations.

As you mention in your letter this is an ongoing issue and we will ensure that the House of Lords European Committee is kept informed of any further developments.

30 January 2013

Letter from the Chairman to John Hayes MP

Your letter of 30 January on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 6 February 2013.

Thank you for your informative reply.

We are pleased to note from your letter that the Government are working with a number of stakeholders and NGOs. We are reassured to see that the Government have also been consulting the Department for Transport and the Foreign and Commonwealth Office.

We understand that despite individual concerns, the Government's assessment of their engagement is that there is an emerging consensus that the proposal is appropriate in helping to make progress on a global agreement. The Committee does not entirely share your confidence that a global agreement will be reached. We would therefore like to stress our view that the 'stop the clock' measure should not extend beyond a year.

We are content to release this proposal from scrutiny, and would be grateful for an update on the progress of this matter when available. We look forward to a response in due course.

7 February 2013

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

I am writing to update you since Greg Barker's letter of 30 January on progress regarding the European Commission's 'Stop the Clock' proposal to derogate from the Aviation Emissions Trading System (ETS), including the outcome of the trilogue.

As you may recall, the Commission announced its proposal to temporarily 'Stop the Clock' on enforcement of the EU ETS obligations of international aircraft operators, in relation to flights into and out of Europe, on 20 November 2012. The intention is to reinforce the positive momentum at UN-level negotiations towards a global, market-based solution to tackle aviation greenhouse gas emissions.

The European Parliament has now considered the proposal at Committee level. The Committee on the Environment, Public Health and Food Safety, having received an opinion from the Committee on Transport and Tourism, voted in favour of 17 amendments to the proposal at its meeting on 26 February 2013 and gave the Rapporteur (Mr Peter Liese) a mandate to begin informal negotiations with the Council. The amendments were related to three main areas: use of revenues generated by the Aviation EU ETS, the scope and modalities of the derogation (particularly regarding the exclusion of Switzerland from the derogation), and the expected outcome of the UN negotiations.

The Council Working Party on the Environment considered the Commission proposal at its meetings on 29 November 2012, 7 and 25 January 2013, 20 February 2013 and 1 March 2013. Amendments agreed at official level by the Member States were largely for clarification purposes, or technical in nature to reflect auctioning and allowance-return processes.

The first informal trilogue between the European Parliament, European Commission and Presidency took place on 12 March 2013. Agreement was reached on a proposed compromise text that took into account some of the Parliament's amendments on UN outcomes and the need for bilateral air service agreements to take account of Union legislation, but rejected the proposed text on use of revenues and the proposal that Switzerland should be included in the scope of the derogation. This proposed compromise text is expected to be acceptable to almost all Member States. The UK supports this text and is content with the final outcome. A copy of the text is attached at Annex A.

NEXT STEPS

The European Parliament is scheduled to vote on the final proposal at the 15 – 18 April Plenary, and the Council vote is planned for 21 – 22 April. The Decision is expected to come into force shortly after this on approximately 24 April, before the compliance deadline on 30 April, by which aircraft operators must surrender carbon allowances equivalent to their 2012 carbon emissions.

Consequent amendments to UK Regulations to reflect the 'Stop the Clock' Decision have been consulted upon, and are expected to be laid before Parliament on approximately 25 April.

11 April 2013

Letter from the Chairman to Rt. Hon Michael Fallon MP

Your letter of 11 April on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 17 April 2013.

Thank you for the information that you have provided on the position negotiated between the European Parliament and the Council. We are pleased to see strengthened reference to an international agreement and that the 'stop the clock' measure will be restricted to a year.

At this point, we are content to close this strand of correspondence.

24 April 2013

"STRESS TESTS" OF NUCLEAR POWER PLANTS (14400/12)

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 31 October 2012.

The Committee was pleased to note the efforts being made to ensure that the lessons from Fukushima are implemented. We observe that the Commission is expected to make formal proposals on the subject, and so we would be grateful if you would please keep us informed of any progress on the proposals, or timescales that you become aware of.

You express concerns in relation to attempts by the Commission to expand its competence in the area but offer no analysis to support your concern. We would appreciate such analysis, clarifying whether your concerns relate to Commission or Community competence and identifying specific areas where the EURATOM Treaty fails to provide for action.

We note that you have not consulted externally and would appreciate clarity on whether you intend to do so at a future date.

You express an intention to work with the Commission and other Member States. We would be interested to learn whether your concerns related to Commission, or Community, competence are shared by others.

Finally, the Commission observes that twelve Member States failed to transpose the current Nuclear Safety Directive by the deadline of 22 July 2011, including the UK, although the UK and nine others now done so. The Commission has yet to assess the transposition measures. Given that the Government believe that the current framework is fit to respond to the changes necessary following the Fukushima accident, why was UK transposition delayed and when do you expect the Commission to complete its assessment of transposition measures by Member States?

The Committee will retain this Communication under scrutiny, and we look forward to your response within 10 working days.

1 November 2012

Letter from Baroness Verma to the Chairman

Thank you for your letter of 1st November in response to the Committee's consideration of the Explanatory Memorandum on the above Commission Communication. You raised a number of points that I have sought to address below in the order you raised them.

I will of course be pleased to keep the Committee informed of developments with this Dossier. While the timings are still to be confirmed we anticipate that the Commission will submit its proposed revisions to the Directive to the EURATOM Treaty Article 31 Expert Advisory Group this month. It is then expected that the Commission will seek Inter-Service clearance so that they are able to present their formal proposal to amend the Nuclear Safety Directive to the March 2013 European Council. We will continue to liaise with the Commission to ensure we are notified of any changes to the proposed timescales and will in turn notify the Committee of any substantial deviations to these anticipated timescales.

The UK position is that we are committed to nuclear safety and its continuous improvement. We believe that the current nuclear safety arrangements are sufficient to require Member States to act on the lessons learned from the accident at Fukushima and the results of the EU Stress Tests. This is primarily due to the goal setting in nature of the Nuclear Safety Directive which was specifically drafted to set the 'Framework' in which all Member States (and thereby nuclear operators) will operate rather than being prescriptive. The current Directive was only transposed by Member States in July 2011 so its impact on nuclear safety is yet to be fully understood. It is therefore our belief, as supported by a number of other Member States that the Commission's focus should be on the implementation and delivery of the objectives of the current regime rather than amending it.

However, until we have the Commission's proposed amended text for the Nuclear Safety Directive we cannot definitively state what the impact of the Communication will be in relation to Community or Commission competence. That said, based on the statements and actions of the Commission and the tone of the Communication we are concerned that the Directive will seek to ensure greater involvement by the Commission in nuclear safety and reserved security matters. We will therefore be seeking to influence the Commission's thinking, and scrutinising any proposals to ensure that there is no shift or blurring of competence. As part of this work my officials will be consulting relevant stakeholders including the regulators, other Member States and the UK's nuclear industry.

The UK, with the exception of Gibraltar, transposed the Directive within the July 2011 deadline using the UK's existing nuclear safety regulatory regime. Transposition in Gibraltar was delay largely due to the Government elections in Gibraltar and other pressures on their administration. The relevant provisions of the Directive were transposed in Gibraltar in March 2012. The UK was subsequently notified on the 17th April 2012 that the Commission had recommended that the infraction case

against the UK should be closed. The issue of Transposition on the mainland UK was never in question but because of the delay by Gibraltar the UK was listed as having not fully transposed the Directive.

I am afraid we are unable to comment in any detail on the Commission's proposal to undertake a 'further in depth review' of Member States' transposition measures for the Nuclear Safety Directive as it is unclear what the aim or purpose of such a review would be. The Commission have already, as mentioned above, closed their infraction proceedings against the UK so we can only assume that they propose, as part of their on-going role to ensure continued compliance with EU/Euratom Directives, that Commission will be seeking to better understand how domestic legislation works in practice to give effect to the objectives of the Directive. This would not be unusual for the Commission to do and could, if conducted appropriately, in fact prove to be useful as it should either provide evidence on the effectiveness of the current Directive.

21 November 2012

Letter from the Chairman to Baroness Verma

Your letter of 21 November on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 28 November 2012.

Thank you for your detailed and informative reply. The Committee is grateful for your offer to keep us informed of the developments with this dossier, and appreciate that the timings are still yet to be confirmed. We are also pleased to note that the Government will continue to liaise with the European Commission in the mean time to ensure they are notified of any potential changes.

We are grateful for your reassurance that the current nuclear safety arrangements are sufficient to require Member States to act on the lessons learned from the incident at Fukushima and the results of the EU Stress Tests. Your letter notes that the current Directive was only transposed by Member States in July 2011, meaning its impact on nuclear safety is yet to be fully understood. The Committee would be grateful to be kept informed of any updates or progress in regards to the impact of this Directive, if (and when) it becomes available.

The Committee observes the Government's concerns that from the statements and actions of the Commission, and the tone of the Communication, the Directive may seek to ensure greater involvement of the European Commission in nuclear safety and reserved scrutiny matters. We appreciate that the Government will seek to influence the Commission's thinking, as well as engage with relevant stakeholders (including the regulators), other Member States and the UK's nuclear industry. The Committee would be grateful to be updated on the results of this engagement.

We understand that the reason for the UK's delayed transposition of the Directive was primarily due to the delay in Gibraltar (as a consequence of Government elections and administrative pressures), and that mainland UK transposed on time. The Committee appreciates this clarification, and is pleased to note that on 17 April 2012 the European Commission recommended that the infraction case against the UK should be closed.

The Committee is content to release this Communication from scrutiny, and look forward to your response in due course.

30 November 2012

Letter from Baroness Verma to the Chairman

In response to several EU dossiers and the subsequent submission of Explanatory Memoranda you have written asking to be kept informed of their progress through the EU negotiation process. I thought now would be an appropriate time to provide you with such an update.

EMI4400/12 COMMUNICATION FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN PARLIAMENT ON THE COMPREHENSIVE RISKS AND SAFETY ASSESSMENTS ("STRESS TESTS") OF NUCLEAR POWER PLANTS IN THE EUROPEAN UNION AND RELATED ACTIVITIES

Thank you for releasing the Communication from scrutiny. As you know during 2011/12 the EU Member States undertook EU Stress Test exercise to address lessons learned from the Fukushima accident in relation to beyond design basis accidents. The results of the stress test were peer reviewed by the European Nuclear Safety Regulators Group (ENSREG) and who produced a report on the outcome of the stress test exercise. The Commissions subsequently issued a communication

(in October 2012) that outlined areas of the Nuclear Safety Directive they believed should be enhanced/revised.

As part of preparing to make a formal proposal to amend the Nuclear Safety Directive the Commission have produced a working draft revision of the Directive. We, (ie EU Member States), are yet to formally receive a copy of the proposal – this is normal as the Commission are still formally consulting ENSREG and the EURATOM Article 31 Group of radiation protection experts on the draft. The draft is now, we understand, going through the Commission's inter-service consultation process before it can/will be formally submitted to Council for consideration. We also understand that it is planned that the proposal will be submitted to the 22nd May European Council Meeting. Once the proposal has formally been submitted to Council it will be formally be considered by Member States via the usual route of the Atomic Questions Group and COROPER before being submitted to Council for adoption.

From the early drafts that have been seen by DECC officials the draft is not likely to be acceptable as it is overly prescriptive, lacks a robust evidence base and implies a shift in competence. DECC have therefore been working at both official and Ministerial level with other likeminded Member States to agree common positions to ensure that any amendment to the Nuclear Safety Directive is appropriate and is supported by robust evidence. Thus far a number of Member States have signalled their support for the UK position. We will continue to work with these Member States to influence any proposal. I will continue to ensure that you are kept informed of significant developments on this work.

25 April 2013

SYSTEM FOR REGISTRATION OF CARRIERS OF RADIOACTIVE MATERIALS (I3684/11, I4398/12)

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

I wrote to you on 11 October outlining the position with the above Commission proposal and said that we would prepare an impact assessment for the committees consideration; that impact assessment is now attached.

I would also like to clarify that the commission original proposal covered by I3684/11 has been withdrawn and replaced by I4398/12. Only I4398/12 will be taken forward.

14 January 2013

***Letter from the Chairman to Baroness Verma**

Thank you for your letter of 14 January 2013 on the above proposal. This was considered by EU Sub-Committee B on the Internal Market, Infrastructure and Employment at its meeting on 11 February 2013.

The Committee considers that the impact assessment included with your letter on 14 January supports your assertion that the Commission's proposal would have a negative impact on carriers of radioactive waste in the UK.

As this is a proposal with important implications for UK businesses, we retain this document under scrutiny, and would be grateful for further updates on negotiations on the proposal as they occur.

I look forward to a response in due course.

26 February 2013

THE STATE OF THE EUROPEAN CARBON MARKET IN 2012 (I6537/12)

Letter from the Chairman to John Hayes MP, Minister of State, Department for Energy and Climate Change

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 December 2012.

We are content to release from scrutiny, but there are a number of issues on which we would welcome your response.

Your EM notes that the Government have been pushing for a move to an EU 30% 2020 reduction target and for the immediate cancellation of an ambitious volume of allowances from the EU ETS. Do you sense any appetite among the recalcitrant Member States to shift their position?

The Government state that they are disappointed in the lack of information about the steps the Commission plans to take next. This is a position with which we sympathise. We would appreciate information on representations that you are making to the Commission on this issue.

We understand that the Government intend to continue consulting with other Member States and the European Parliament to ensure that the options contained within the Report are fully appraised and discussed without delay. The Committee would be grateful if you could please keep us informed of the progress of these discussions.

The Committee would be additionally grateful if you could also update us, when available, on progress made in relation to the Government's plan to seek views on the Commission's Carbon Market Report from UK EU ETS participants.

You will be aware that the Committee is currently conducting an inquiry into "EU Energy: decarbonisation and economic competitiveness", in which the EU ETS is featuring strongly. We will therefore be following this matter with great interest.

We look forward to your initial response within 10 working days.

19 December 2012

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

Thank you for your letter of 19 December to John Hayes, informing him that the Agriculture, Fisheries, Environment and Energy Sub-Committee has cleared the Explanatory Memorandum submitted on the Report from the Commission to the European Parliament and the Council: the state of the European carbon market in 2012.

You asked whether there is a sense of any appetite among the recalcitrant Member States to shift their position regarding the immediate cancellation of an ambitious volume of allowances from the EU ETS. My sense is that there is unlikely to be any shift in position as part of the current negotiations on "back-loading" (the formal proposal for which I will write to you about later this month). However, several Member States have indicated informally that they are willing seriously to consider cancellation of allowances as part of more medium-term discussions on structural reform of the EU ETS, which commenced with the publication of the aforementioned Report and on which the Commission are consulting until the end of February 2013.

You sympathised with the Government's disappointment over the lack of information from the Commission over plans for next steps. We have raised this issue several times with the Commission in both informal settings at official-level bilateral meetings, and in formal negotiations of the Climate Change Committee and Environment Council. The Secretary of State has also pressed the need for more clarity on Climate Commissioner Hedegaard directly in one-to-one conversations. We will continue to make such representations as negotiations on both back-loading and the Carbon Market Report progress.

I note your requests to be kept updated on the progress of discussions on the options contained within the Carbon Market Report, as well as on progress regarding seeking views on the Report from UK EU ETS participants. I am happy to write to you on both of these issues once further information is available.

8 January 2013

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

Your letter of 8 January in response to our letter of 19 December to your colleague John Hayes MP on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 January 2013.

We are pleased to note that the Government have been making representations to the Commission regarding their disappointment over the lack of information from the Commission over plans for next

steps. Has the Commission responded to these representations, and has it since provided further details of its plans for next steps?

We look forward to your response to that issue within 10 working days and to further updates in due course.

31 January 2013

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

I am writing to you firstly with an update on progress towards the agreement of the package of measures proposed by the Commission on 25 July 2012 in relation to the EU Emissions Trading System (EU ETS), and the recently agreed UK Government position on the subsequent draft amendment to the EU ETS auctioning regulation.

As you are aware, the July package of measures included a proposal to amend the EU ETS Directive to provide legal clarity that the Commission has the powers to amend the EU ETS Auctioning Regulation to specify when EU ETS allowances will be auctioned in Phase III of the EU ETS (2013-2020). This has been developed with the aim of temporarily addressing the current over-supply of allowances and low carbon price within the EU ETS which the UK supports.

On 12 November 2012, the Commission published a draft amendment to the EU ETS Auctioning Regulation, proposing to back-load 900m allowances by taking them out over the first three years of Phase III (2013-15), and returning them in the last two (2019-2020). I am now able to confirm the UK position in relation to this amendment.

We will only be able to support back-loading subject to certain conditions being met. As we would have preferred a much more ambitious proposal than the 900m allowances proposed. We will align ourselves with those Member States calling for 1.2bn allowances to be back-loaded. We have made clear to the Commission and other Member States that we need much more reassurance on the links between back-loading and structural reform. We believe that the easiest way to secure such a link would be for the Commission to provide a comprehensive timetable setting out their next steps following publication of the Carbon Market Report and the launch of the public consultation, which should include details on discussing the options, gathering evidence, putting together an impact assessment and adopting a formal proposal.

In addition, we are developing a UK paper to propose that the back-loaded allowances only return in the early years of Phase IV (ie after 2020), rather than the later years of Phase III. This would require minor amendments to the Commission proposals for both the EU ETS Directive and the Auctioning Regulation. However, it would delay the negative price impacts associated with the return of the allowances, and allow us much more time to discuss and implement structural reform before the threat of a further price crash materialises.

Any amendments to the EU ETS Directive will need to be agreed by the Council and the European Parliament through co-decision. The substantive amendment to the Auctioning Regulation will be agreed by the Member States through comitology and will require a Qualified Majority. I will keep you updated on this issue as views from other Member States emerge.

In addition, you wrote to me on January 31 to ask if the Commission had responded to our representations regarding next steps for the Carbon Market Report. Unfortunately the Commission have maintained their stance that they are not able to provide a detailed timetable to take forward the options set out in the Report; however, in addition to their public consultation (which closes on the 28 February 2013) the Commission have recently committed to holding two stakeholder workshops on the Report: one on 1 March 2013 and the second on the 19 April 2013. The UK Government welcomes these developments and will participate fully in the discussions, while still making representations to the Commission on the need for a fuller timetable.

11 February 2013

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

Your letter of 11 February on the above proposal and report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 27 February.

Thank you for your informative reply updating the Committee on progress towards the agreement of the package of measures proposed by the Commission in relation to the EU Emissions Trading System (EU ETS), and the agreed UK Government position on the subsequent draft amendment to

the EU ETS auction regulation. We shall take these views into consideration when preparing our report on EU energy policy.

We would be grateful for an update on the progress of these dossiers when possible and look forward to your response in due course.

28 February 2013

TRANS-EUROPEAN INFRASTRUCTURE REGULATION (15813/11)

Letter from the Chairman to John Hayes MP, Minister of State, Department of Energy & Climate Change

Your letter of 18 October 2012 on the above issue was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 31 October 2012.

We are grateful for your letter updating the Committee on the progress of the Trans-European Energy Infrastructure Regulation. We are pleased that the concerns raised by the Government earlier on in negotiations have now been accommodated, particularly in light of the UK's devolved administrative arrangements.

You refer to the Connecting Europe Facility, which will be the main source of EU funding to support the development of Trans-European Energy Infrastructure Regulation. It is our understanding that the final agreed budget for Connecting Europe is likely to be much smaller than initially proposed by the Commission. Should that be the outcome of negotiations on the Multiannual Financial Framework, are the Government confident that the objectives of the Regulation can be realised?

We are content to release this dossier from scrutiny. The Committee would, however, appreciate further updates and information as they become available.

1 November 2012

Letter from John Hayes MP to the Chairman

Thank you for your letter of 1 November 2012 confirming that the Sub-Committee on Agriculture, Fisheries, Environment and Energy has released the Trans-European Energy Infrastructure Regulation from scrutiny.

I am pleased to inform you that agreement ('First Reading Deal') was reached on a text of the Regulation at the final trilogue session at the end of November between the European Parliament's ITRE Committee leading on the dossier, the Commission and the Presidency. Next steps will be the formal European Parliament vote in plenary session to confirm this - likely to be early March. A subsequent Ministerial Council will acknowledge this as an 'A' point (i.e. no discussion); the way will then be clear for eventual publication and entry into force possibly late Spring.

As indicated previously, the text has undergone significant changes since the original proposals and is now a balanced deal which, inter alia, respects Member State competences and national planning arrangements including our devolved arrangements.

You asked if the final agreed budget for the Connecting Europe Facility fund is much smaller than originally envisaged, whether that would have implications for the objectives of the Regulation. The overall aim of the Energy Infrastructure Regulation is to remove the main barriers to investment: delays in obtaining cross border planning and permitting consents; differences in cross border regulatory regimes; and difficulties in agreeing cost allocations for cross-border projects. The Regulation addresses these barriers and establishes a process for identifying Projects of Common Interest (PCIs). Project promoters of PCIs will benefit from streamlined consenting regimes (with a one stop shop type of consenting regime) and an overall time limit to reach a final planning decision within 3 years 6 months with a possible extension to 4 yrs 3 months if necessary. European transmission operators have already been tasked to provide a framework mechanism for agreeing cross-border allocation of costs if needed and this work is being overseen by ACER (board of national regulators).

Whatever the size of the eventual budget, it is expected that the vast majority of energy projects will be commercially viable and therefore self financing. Grants will be available for feasibility studies but grants for works will only be allocated in exceptional cases where a PCI has cross-border impact, is not otherwise commercially viable but benefits (as defined in the Energy Infrastructure Regulation)

significantly outweigh costs. PCIs may also be eligible for other financial instruments e.g. project bonds; this will be managed by EIB.

16 January 2013

Letter from the Chairman to John Hayes MP

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

Thank you for your informative reply. We are pleased to note that a First Reading deal was reached between the European Parliament's ITRE Committee, the Commission and the Presidency. You state in your letter that the next step will be the formal European Parliament vote in plenary session to confirm this, and that it is likely to be in early March. Please do inform us of the result of the vote, which will hopefully confirm the agreement reached between representatives of the co-legislators.

We note your comments about the financing of infrastructure. This is an issue that we have explored in some depth in our inquiry into EU Energy Policy, and we will take forward the detail of your points with your colleague, the Secretary of State, when he gives evidence to us on 13 February.

We look forward to your response, confirming the result of the European Parliament vote, in due course.

31 January 2013

Letter from John Hayes MP to the Chairman

In your letter of 31 January 2013 you asked me to let you know of the outcome of the European Parliament (EP) plenary vote on the proposed text of the Trans-European Energy Infrastructure Regulation.

I am pleased to inform you that the EP plenary vote on 12 March confirmed agreement of the proposed text. Next steps will be the formal tabling of the text as an 'A' point (i.e. no discussion) at a future Ministerial Council. Once all translations and other administrative procedures are complete, the Regulation will be published in the EU Official Journal with entry into force twenty days later – likely to be around mid / late Spring.

As indicated previously, the text has undergone significant changes since the original proposals and is now a balanced deal which, inter alia, respects Member State competences and national planning arrangements including our devolved arrangements.

18 March 2013

Letter from the Chairman to Rt. Hon Michael Fallon MP

The letter of 18 March 2013 from your predecessor on the above dossier was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 24 April 2013.

We are grateful for your helpful response informing us that the EP plenary vote on 12 March 2013 confirmed agreement of the proposed text. We are particularly pleased to note that the text is now more balanced, respecting Member State competences and national planning arrangements, including the devolved administrations.

Please consider this strand of correspondence as now closed.

25 April 2013

TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES

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

Your letter of 24 October on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 31 October 2012.

Thank you for the additional information that you have provided and we note that there is no target date as yet for the validation of a diagnostic protocol to detect the presence of poultry and porcine material in feed.

When your predecessor wrote to us on 27 July, he noted that the European Parliament and Council would have three months to scrutinise the proposal following its receipt of a qualified majority at the Standing Committee on the Food Chain and Animal Health Biological Safety meeting on 18 July. Now that three months have passed, can you confirm that neither the Council nor European Parliament have objected and that the Regulation will therefore come into force in June 2013 as expected?

We look forward to a response within ten working days.

1 November 2012

Letter from David Heath MP to the Chairman

Thank you for your letter dated 1 November, requesting information regarding the outcome of the three month scrutiny period for the above proposal.

In Lord Taylor's letter of 27 July he outlined that the three month scrutiny period would start in September. In my letter of 28 September to the chair of the European Scrutiny Committee I explained that this was expected to conclude by November, though it is now expected to conclude in December. However, we have been informed by the UK Representation in Brussels that the deadline for delegations' comments on the proposal has now passed and no opposition has been notified to the Presidency or to the General Secretariat of the Council. Consequently, the Council's decision not to oppose the proposal is deemed to be taken upon the expiry of the three month deadline on 26 December 2012. The measure is still expected to come into force in June 2013.

12 November 2012

Letter from the Chairman to David Heath MP

Your letter of 12 November on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 21 November 2012.

The Committee is grateful for your letter informing us that the deadline for delegations' comments on the proposal has now passed, and that no opposition was notified to the Presidency or to the General Secretariat of the Council, meaning that the measure is expected to come into force in June 2013.

Please mark this strand of correspondence as closed.

22 November 2012

USE OF LACTIC ACID TO REDUCE MICROBIOLOGICAL SURFACE CONTAMINATION ON BOVINE CARCASES (14571/12)

Letter from the Chairman to Anna Soubry MP, Parliamentary Under-Secretary of State for Health (Public Health), Department of Health

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 7 November 2012.

The Committee appreciates the Government's position on the use of lactic acid on bovine carcasses and agrees with the stance taken, particularly given the scientific evidence that has been used to support the proposal. We note that it would not be a mandatory measure.

Your EM noted that progress is being blocked by some Member States. The Committee would appreciate any information on the reasons why some Member States are slowing progress, and what steps the Government have taken, or plan to take, to try and reassure those Member States.

The Committee is content to clear this proposal from scrutiny, and we look forward to your initial response within ten working days.

We would also be grateful for updates on the progress of negotiations as they become available, including those of a potential EU-US Free Trade Agreement.

8 November 2012

Letter from the Chairman to Anna Soubry MP

Thank you for informing me that your Committee is content to clear the above proposal from Scrutiny. I note your request for additional information on the reasons why some Member States are slowing progress on this Council proposal and what steps the Government has taken to try to reassure those Member States.

The majority of Member States support the Council Regulation, viewing this surface decontamination treatment as safe for both consumers and the environment, and effective in reducing foodborne health risks. However, some Member States remain cautious and have raised concerns, as below, and detailed in the separate Annex to this letter. I would ask the Committee to keep the Annex information in confidence so as not to prejudice negotiations and relations with individual Member States. In general terms, Member States concerns are that:

- Authorisation could lead to a drop in hygiene standards
- Lactic acid treatment should only take place after the health mark has been applied/the carcass has been declared fit for human consumption
- Sampling requirements could cause technical difficulties
- Any meat treated with lactic acid must be clearly labelled as such.

HYGIENE STANDARDS

Some Member States are concerned that the use of lactic acid will mask poor hygienic practices (e.g. it could be used to clean up 'dirty' meat with visible faecal contamination) and lead to a drop in hygiene standards in Europe. The UK has maintained at EU Standing Committee that, rather than masking poor hygiene, the science is clear that lactic acid treatment will make the meat safer for consumers. The proposal clearly states that lactic acid solution can only be applied to carcasses that are free of visible faecal contamination. The UK has explained to other Member States that this is the key point to ensure that the solution is not used to clean 'dirty' meat. The responsibility for ensuring that carcasses are free of contamination rests with the Food Business Operator and this is a clear requirement in the existing Hygiene Regulations. Hygiene practices in slaughterhouses are already required to be fully documented and Official Inspectors are present to carefully monitor hygiene practices at all times and to verify that the Food Business Operator is complying with the requirements.

Timing of application until after the health mark has been applied: Some Member States are concerned that use of lactic acid could lead to a drop of hygiene standards (as above) and that assurance of maintaining current standards can only be met by delaying application until after the carcass has been declared fit for human consumption and the health mark has been applied. The UK maintains that flexibility in the timing of the application of lactic acid is important to ensure that those businesses that choose to use lactic acid can do so at a point in their specific process when it is most effective. The Annex of the proposal sets out conditions which make it clear that lactic acid solution is only to be used as an integrated part of the operators' HACCP (Hazard Analysis Critical Control Points) system. This means that lactic acid cannot be used to mask poor hygiene and may only be used to reduce risk at critical points. In most cases the critical control point for the application of lactic acid will be straight after the hide has been removed from the carcass as this is a high risk element of the process, where bacteria can be transferred from the hide to the carcass through handling and further cross contamination. As businesses are responsible for identifying the critical control points in their particular business, it is important that they have the flexibility on timing of application of treatment to make sure it is most effective.

SAMPLING FOR MICROBIOLOGICAL SURFACE CONTAMINATION:

A very small number of Member States have raised concerns that processing plants using the lactic acid treatment would encounter practical difficulties in meeting the requirement to sample untreated carcasses in line with requirements under Microbiological Criteria legislation. However, the Commission has clarified that only 5 samples per week are required so it would be possible for a business to switch off the lactic acid spray for a short time to allow samples to be taken. The UK and the majority of Member States don't view this as a significant difficulty, especially as it would only apply to those businesses that opted to use lactic acid treatments. Food business operators will retain the ability to sample at random, choosing untreated carcasses for sampling purposes, and Official Veterinarians may sample for verification purposes.

Labelling: Some Member States are concerned that the proposal does not provide for the labelling of products and that consumers would expect meat treated with lactic acid to be labelled. The UI(and majority of Member 'States support the Commission's view that mandatory consumer labelling is not required due to the disproportionate burden this would place on businesses. The Commission's reasoning arises from the EFSA Scientific Opinion that the treatment would be of no safety concern provided that the substance used complies with EU specifications for food additives. Very small quantities of lactic acid are left on the meat when used as specified in the proposal, and it cannot be differentiated from naturally occurring lactic acid already present on the meat which could lead to difficulties with enforcement of any mandatory labelling. The proposal is clear that businesses using lactic acid must inform businesses that buy their product that lactic acid has been used. Furthermore, the Commission has been clear that food businesses could choose to label if consumers demand this, which should reassure those minority Member States that are concerned about this issue.

The use of lactic acid rinses on beef carcasses continues to be a politically sensitive issue, owing to the consumer and trade sensitivities around its use, and the wider trade implications stemming from its widespread use by some of the world's major trading countries.

The Government's position has been communicated to all UK Members of the European Parliament and there is ongoing discussion supporting the approval of this treatment with Members of the European Parliament, stakeholder organisations (including those representing consumers and the agri-food sector), and other Member State representatives.

The proposal will be presented for an opinion at the Agriculture and Fisheries Council on 28/29 November and I will inform you of the outcome in due course. I can reassure you that the UK Government is doing all we can, both at Council and European Parliament level, to make sure these issues can be resolved.

29 November 2012

Letter from the Chairman to Anna Soubry MP

Your letter of 29 November on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 12 December 2012.

The Committee is grateful for your useful and informative letter, particularly in elaborating on the reasons why some Member States remain cautious. We understand that this is primarily due to: concerns of a drop in hygiene standards; that such treatment should only take place after the health mark has been applied/the carcass has been declared fit for consumption; sampling requirements could cause technical difficulties; and that such treatment should be clearly labelled.

We also appreciate that the Government have communicated their position to all UK MEPs and that you are continuing to hold discussions supporting the proposals with MEPs, stakeholders and other Member State representatives. The Committee would welcome an update on these discussions, and progress of the proposal, when they become available.

Your letter offers to provide the Committee with an update of the outcome of the 28/29 November Agriculture and Fisheries Council. Although your letter was dated 29 November, it did not include the update, and so we would be grateful if you could provide us with information on the conclusions of the Council.

We look forward to your initial response within 10 working days.

13 December 2012

Letter from Anna Soubry MP to the Chairman

Further to my letter of 29 November, and in reply to your letter of 13 December, I would like to inform you that Member States maintained their earlier voting positions resulting in "no opinion" on the above proposal at the 28/29 November Agriculture and Fisheries Council meeting i.e. neither a qualified majority for the Council proposal nor a qualified majority against.

I would also like to make you aware that objections to the draft Council Regulation were considered by the European Parliament's Environment, Public Health and Food Safety (ENVI) committee on 28 November, but these objections were rejected and thus will not be considered by the European Parliament in plenary session.

As a result of the Council vote ('no opinion'), and provided there are no further objections by the European Parliament, the proposal will be referred back to the European Commission to adopt once

the European Parliamentary scrutiny period expires on 3 February 2013. This would be a very good outcome for the UK and reflects the strong position the UK has maintained throughout the negotiating process for this additional slaughterhouse hygiene tool to improve public health.

9 January 2013

Letter from the Chairman to Anna Soubry MP

Your letter of 9 January on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 January 2013.

Thank you for your letter informing the Committee that Member States maintained their earlier voting positions resulting in 'no opinion' on the above proposal at the 28/29 November Agriculture and Fisheries Council meeting. We understand that the proposal will now be referred back to the European Commission to adopt once the European Parliamentary scrutiny period expires on 3 February 2013.

Please mark this strand of correspondence as closed.

31 January 2013

WATER POLICY (6018/12, 6019/12)

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

I am writing to update you on progress with the above proposal since April.

The Commission proposal concerns the review of the list of priority substances in the field of water policy. Priority substances are those identified as presenting a significant risk to or via the aquatic environment. The main policy implications of the proposal are associated with the introduction of new priority substances. In particular, the proposal newly regulates the environmental concentrations in water of estradiol (E2, a naturally occurring steroid, also used as a medicine), plus two pharmaceuticals: diclofenac (a non-steroidal anti-inflammatory drug) and ethinylestradiol (EE2, used in the birth control pill). For priority substances, the proposal sets environmental quality standards (EQS) in surface waters, which provide upper limits on concentrations in the environment.

In the meantime, the Commission is not proposing EU-wide use control measures for these three pharmaceuticals and is instead leaving it to Member States to decide how to reduce emissions to water in order to meet the proposed EQS. Achievement of the EQS could be achieved through national measures to reduce use of these pharmaceuticals. However, the scope for this appears limited given that any restriction on the use of these pharmaceuticals could have a major impact on public health in the UK, or require substitution for alternative substances which could have a less well understood impact on the environment. It is therefore much more likely that the EQS would have to be met through treating wastewater as the main entry point of these substances into water bodies. Estimates suggest that this would cost approximately £30 billion over 20 years for England and Wales.

The UK is opposed to the inclusion of E2, EE2 and diclofenac in the priority substances list at the present time. More evidence is required of the need for action at an EU level, including for the Commission to provide a more robust impact assessment to take account of the costs and benefits of measures required to achieve the environmental quality standards proposed.

PROGRESS SINCE APRIL

Since Council discussions began, there has been a significant shift in views. Initially the UK was isolated in its opposition to inclusion of E2, EE2 and diclofenac in the priority substances list at the present time. However, the majority of Member States now also oppose the inclusion of these substances. I understand that the lead taken by the UK, in highlighting the insubstantial evidence of benefits and extremely high costs of addressing E2 and the pharmaceuticals, have been instrumental in persuading other Member States to change their position.

The Rapporteur produced a draft report for the European Parliament during the summer, in which he suggested that E2, EE2 and diclofenac be retained on the list of priority substances but without EQS. In their amendments, a number of MEPs suggested deletion of the substances from the list altogether. In their vote on 28th November, the ENVI committee voted in support of the Rapporteur's

suggestion, with EQS to be set at the next review of the Directive in 2016. Measures to achieve these revised EQS would need to be incorporated in the third cycle of river basin management planning under the Water Framework Directive, from 2021-27.

I expect the proposal to go to negotiation in the New Year under the Irish Presidency, with the aim of completing a first reading agreement by the summer. Such a timetable is required for the revised Directive to be incorporated into the second cycle of river basin management planning under the Water Framework Directive, which commences in 2015.

I submitted a draft impact assessment in April this year and I recognise you will be interested in receiving the final version, which will be forwarded once the outcome of negotiations becomes clear. Mean time, the most significant potential impact of the proposal would be the inclusion of the pharmaceuticals, as costs for several of the proposed priority substances have already been taken into account under other source control legislation. If however, the proposal were agreed with E2, EE2 and diclofenac set as priority substances but without EQS, at the present time the costs associated with these substances would mainly be those for monitoring. Significant costs could remain though, in the proposed lowering of the EQS for a group of brominated diphenylethers (BDEs – congener numbers 28, 47, 99, 100, 153 and 154). These costs are still being assessed as BDEs are already priority hazardous substances, for which source controls apply, and the Commission has recognised the difficulty of reaching the proposed EQS in identifying them as “ubiquitous persistent, bioaccumulative and toxic” pollutants, for which there would be reduced monitoring requirements.

I also wanted to update you on the DG SANCO report into the effect of pharmaceuticals on the environment, which is expected to be published mid-2013. I expect this report to contain recommendations for possible amendments to the current regulatory framework for medicines, specifically the Environmental Risk Assessment which is required when applying for a Marketing Authorisation.

12 December 2012

Letter from the Chairman to Richard Benyon MP

Your letter of 12 December 2012 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 December 2012.

We are pleased to note that some progress has been made as regards the inclusion of E2, EE2 and diclofenac in the list of Priority Substances. As you will be aware, this was an issue to which we referred in our May 2012 report on EU Freshwater Policy. In particular, we recommended that more knowledge needed to be acquired of the risks posed, principally by the pharmaceutical substances that it is proposed to add to the list, and of cost-effective methods of reducing this risk before effluent containing the substances requires wastewater treatment.

We note the possible compromise of placing the substances on the list without setting Environmental Quality Standards. You note that this would only incur monitoring costs. Is it correct to understand that monitoring of the substances would take place but against no particular standard, although a standard would be set at a later stage? How practical would you consider such a compromise to be?

We shall be very interested in the outcome of the Commission’s work on the effect of pharmaceuticals on the environment, including possible amendments to the current regulatory framework for medicines. As we noted in our report, it must be surely be more sensible to tackle them at source rather than at the treatment point

We look forward to a further report from you in due course on the progress of negotiations with the European Parliament.

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

19 December 2012

Letter from Richard Benyon MP to the Chairman

Thank you for your letter dated 19 December 2012. I am writing to update you on progress with negotiations on the above proposal.

The Commission proposal concerns the review of the list of priority substances in the field of water policy. Priority substances are those identified as presenting a significant risk to or via the aquatic environment. The main policy implications of the proposal are associated with the introduction of new priority substances for which environmental quality standards (EQS) are set.

There is a strong Council majority against the inclusion of estradiol (E2), ethinylestradiol (EE2) and diclofenac (“the pharmaceuticals”) on the list of priority substances. Significant concerns for other Member States remain around the dates for implementation and the “watch list” mechanism for identification of emerging pollutants. Many Member States would like to see implementation in the third river basin management planning cycle under the Water Framework Directive (2021-27) rather than the second (2015-21) and some are concerned by the costs of the watch list for analysing a few (less than 25) samples once or twice a year for up to 25 emerging pollutants. I am less concerned about these issues as the exemption mechanism under the Water Framework Directive can be used to address difficulties with implementation in the short term, while the watch list is a useful and relatively cheap way to derive evidence for the prioritisation process, and place future reviews of the priority list on a better platform.

The European Parliament position for E2, EE2 and Diclofenac, which is for them to be listed as priority substances but without EQS, remains as the outcome of the ENVI Committee vote in November. You were interested in the practicalities of this proposal, given that the EQS would be set later. Such a compromise would be unsatisfactory since the monitoring would be required at all WFD monitoring stations, twelve times a year. The European Parliament amendment suggests this would allow EQS to be set in 2016 – however EQS have already been set in the current process and been independently reviewed by the Scientific Committee on Health and Environmental Risks (SCHER): for E2 and EE2 the main issue is less around the value of the EQS than that monitoring data would only be available for two and three Member States, which undermines the requirement for EU-wide action.

Some helpful amendments have been put forward, promoting a more strategic approach to considering pharmaceuticals and towards clarifying the relationship between the Water Framework Directive and sectoral legislation for source control (such as REACH 1907/2006). The European Parliament supports the watch list and wants implementation to commence in the second cycle of river basin planning from 2015-21.

The intention is to achieve a first reading agreement. To date there have been two trilogues with a third planned on 20 March. It is not yet clear whether a deal can be done. Council holds a strong position in relation to the pharmaceuticals which is at odds with the European Parliament position. Concern around implementation dates would lead many Member States to want slower progress in negotiations, since the impact of doing so would by default push implementation into the third cycle of river basin planning, from 2021-2027.

The Commission’s work on the effect of pharmaceuticals in the environment has not had a direct effect on the negotiation, but recognition that a more strategic approach is required has led to amendments on the need to develop a strategy in this area.

The key UK concern with the proposal is that environmental quality standards are being set for E2, EE2 and diclofenac on the basis of a poor evidence base, and the cost implications of those standards are potentially very high. At the current stage of negotiation, it appears that standards may not be set, addressing our main concern. It is however not certain whether this would be a postponement until a further review in 2016 or, preferably, an outcome improving evidence throughout the prioritisation process. It is also not clear that negotiations will succeed in reaching a first reading agreement.

6 March 2013

Letter from the Chairman to Richard Benyon MP

Your letter of 6 March 2013 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 13 March 2013.

We note that considerable doubts remain as to the outcome of this negotiation. We are, however, content with the UK Government position that you have set out and are grateful for the responses that you have provided to our specific queries.

The chemicals under particular discussion are clearly of a hazardous public health nature. While we agree with the concerns relating to costs of water treatment, we would emphasise the importance of effective monitoring in order to build a more substantial evidence base. We hope that the watch list proposal can be effective in that regard.

At this stage, we are content to release the proposal and the report from scrutiny and would ask that you let us know the outcome of negotiations in due course, including whether it proved possible to reach a first reading agreement.

14 March 2013