



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 4 June 2013- 4 December 2014

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

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

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#### AID SCHEME FOR THE SUPPLY OF FRUIT AND VEGETABLES, BANANAS AND MILK IN THE EDUCATIONAL ESTABLISHMENTS (5958/14, 6054/14)

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

Further to my letter of 24 March 2014, I wanted to provide you with an update following the latest discussions in Council. Following the end of the Greek Presidency the main issues that remain to be resolved are the legal basis for the proposal, the objective and scope of the regime, and the provisions on financing.

You will recall that there are two elements to the Commission's proposals. First, an amendment to the new regulation establishing the Common Market Organisation (CMO) Regulation, which was adopted as part of the Common Agricultural Policy reform (Regulation (EC) No 1308/2013). This amendment aims to streamline the existing schemes with a view to increasing their efficiency and effectiveness and reducing the administrative burden. Secondly, as a supplement to this proposal, the Commission has also tabled a proposal amending the Regulation determining measures on fixing certain aids and refunds related to the CMO (Regulation (EC) No 1370/2103).

Following discussions in Council under the Greek Presidency, there are several key issues that remain to be addressed:-

- The legal basis of the proposals. The UK has joined with other delegations in unanimously supporting the Council Legal Service's view that Article 43(3) TFEU (Council competence) – and not Article 43(2) TFEU (ordinary legislative procedure) – is the correct legal basis for fixing the level of aid which is available under the scheme.
- The objective and the scope of the regime. Along with the majority of Member States, we support the Commission's objective of merging the school schemes, with a view to increasing their efficiency and effectiveness and developing a consolidated legal and financial framework. However, we have

argued that the proposal to reduce the scope of the scheme is unsatisfactory and we prefer the scope of the existing scheme, which would allow us to offer subsidised yoghurt and cheese rather than drinking milk alone. This view is supported by most Member States and by stakeholders in our domestic dairy industry.

- Financing provisions: on financial discipline grounds, we have argued in support of having fixed financial "envelopes" for fruit and vegetables, bananas, and milk which reflect current expenditure. However, the proposed criteria for the allocation of EU aid amongst Member States have been the subject of much debate. Several delegations have contested the choice of a criterion which reflects "the historical use of funds under previous schemes for the supply of milk and milk products to children" to determine allocations under the milk envelope. There is concern that this could be detrimental to those Member States that so far have not fully benefited from the school milk scheme or have no historical record having joined the EU only recently. A number of other delegations feel that this historical allocation key is particularly important to ensure that there is no disruption in the delivery of the school milk scheme in their Member State. The UK has supported the Commission's original proposal.

The European Parliament is expected to start work on the proposal in early autumn, after the electoral recess. I am not expecting any further, substantial developments before then. However, we can expect this dossier to be a priority for the Italian Presidency.

We regularly discuss these proposals with the UK industry, and we have asked for any initial feedback through a written consultation exercise. Those people and organisations who responded to our letter stressed the need to minimise administrative burdens associated with the scheme. Most people think that any revised school milk scheme should additionally support the distribution of cheese and yoghurt. We also received a number of questions and concerns about the accompanying educational measures, the proposed system for allocating aid, and requirements for evaluation and monitoring. These views will help to inform our negotiating position in the autumn.

*17 July 2014*

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

Your letter of 17 July 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 July 2014.

You were initially somewhat sceptical of the Commission's Proposal, querying whether it was necessary to introduce such an amendment at this stage given that the two schemes were revised during last year's negotiations on reform of the Common Agricultural Policy. In response, we asked that you express a view that the criticisms of the European Court of Auditors, which sparked this Proposal, had been satisfactorily addressed.

We note that you have refrained from answering our query directly but that you have since adopted a position that is generally favourable to the Commission proposal. Notably, you now agree that there is merit in merging the schemes, as recommended by the ECA.

On the issue of the proposed reduction in the milk scheme to focus on drinking milk, our understanding is that the ECA considered that the scheme should focus on its core products. The lack of such a focus has reduced its impact in the past and the ECA also argued that products have been supported which would otherwise have been purchased from the market. We would welcome clarification of your position in this respect. What proportion of spending on the scheme in the UK is devoted to products other than drinking milk? How do the Government ensure that, where products such as yoghurt and cheese are supported, they would not otherwise have been purchased by a school canteen?

As regards the financing provisions, we observe that the Commission proposal is based not only on a historical allocation but also on the proportion of six- to ten-year old children in the population. It would be helpful to know how much discussion has taken place in relation to the latter provision, and how it might be developed further, particularly with a view to resolving the concerns of those Member States with little or no history of using the school milk scheme.

We shall continue to retain the Proposal under scrutiny and look forward to your response by 29 August 2014.

*30 July 2014*

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

Thank you for your letter of 30 July. In my Explanatory Memorandum I pointed out that the Commission's proposals go beyond the recent CAP 2020 political agreement and that there would be a need to consider if further changes are justified at this stage. Since then, I have received detailed proposals from the Commission which I can now broadly support. I am still concerned about some key elements of it; in particular, the requirements for more stringent monitoring and compulsory educational measures which could be costly to deliver. However, I am content with the requirement to submit a strategy setting out how the scheme will be implemented and to target recipients of the scheme more precisely. In my view, this is an important mechanism which will enable the Commission to determine whether or not Member States are putting forward effective schemes which address key concerns of the ECA.

You also asked for clarification of the Government's position on the proposal to reduce the scope of the EU school milk scheme to focus solely on drinking milk.

Within the UK, the main proportion of expenditure under the scheme has historically been for plain milk. In the 2013-14 school year, 93% of the total subsidy was spent on milk. Yoghurt accounted for only 0.05% of total spending.

In our approach to the negotiations we have taken account of views from the dairy industry. Dairy UK has made the case that yoghurt and milk should also be included in the proposed scheme so that children can benefit from the full range of nutrients dairy products provide. I support the view that milk, cheese and yoghurt are all important parts of a healthy diet. On the other hand, I also recognise that we need to design a scheme which is cost effective and simple for people to claim. As above, under the new proposals, all Member States will be required to develop a targeted national strategy for the delivery of milk to schoolchildren in order to qualify for EU aid. This will require us to set clear priorities and targets to ensure the effective delivery of the revised scheme within the UK. The strategy will be developed in consultation with industry, schools, Department of Health colleagues and the Rural Payments Agency. It will provide a way to deliver improvements in efficiency and effectiveness in line with the EAC's recommendations. However, I have made clear in the negotiations that an enlarged scope cannot justify an increased budget.

You also asked about the financial elements of the proposals; in particular, the inclusion of a historical allocation key. This issue has been discussed extensively, with opposition from those Member States that have not yet fully benefited from the scheme, or have no historical record of participation having joined the EU only recently. The Commission has said that it will look again at the specific situation of new Member States and has agreed to provide more information on future national envelopes under the proposed scheme, in order to address concerns about the practical consequences resulting from the implementation of the new allocation criteria. This is likely to be one of the main issues to be discussed at the next Commission Working Group this month.

I will of course update the Committee as the debate on the Commission's proposals develop.

*3 September 2014*

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

Your letter of 3 September 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We are grateful for your response to our queries and note the outstanding issues. We look forward to a further update in due course as negotiations progress.

In the meantime, we will retain the Proposal under scrutiny.

*10 September 2014*

## AGRICULTURE AND FISHERIES COUNCIL: 13-14 OCTOBER 2014

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

I will represent the UK at the next Agriculture and Fisheries Council. Richard Lochhead MSP will also attend.

On agriculture, there will be an exchange of views on African swine fever, an update from the Commission on international agricultural trade issues and a policy debate on the Europe 2020 Strategy mid-term review. There will also be a lunch hosted by the Presidency to discuss the agriculture aspects of the policy framework for climate and energy in the period 2020 to 2030.

On fisheries, agreement of the Council Regulation fixing fishing opportunities for the Baltic Sea in 2015 is expected. There will also be an exchange of views ahead of the annual meeting of the International Commission for the Conservation of Atlantic Tunas, and a discussion on priorities for the 2015 EU-Norway fisheries agreement ahead of the first round of negotiations in November. The impact of the Russian trade restrictions on EU fisheries and agriculture products will also be discussed.

3 October 2014

## AGRICULTURE COUNCIL: 14 JULY 2014 (UNNUMBERED)

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

I represented the UK at the Agriculture and Fisheries Council on 14 July in Brussels.

#### AGRICULTURE

##### THE FUTURE OF THE DAIRY SECTOR

Germany, Austria and the Netherlands tabled a revised proposal on the future of the dairy sector and a “soft landing” on the end of milk quotas. I restated that we should stick to the rules we have already agreed which provided certainty for all producers. Despite the amended text, Member States remained divided and therefore, following a round table discussion, the Presidency determined that Council Conclusions could not be adopted.

#### ORGANIC FARMING

The Commission presented its proposal for a new regulation on organic farming. I, along with a number of other Member States, raised concerns with the plans to rapidly remove all exemptions, as this would damage the sector. Commissioner Ciolos argued that this was necessary to stimulate innovation and drive compliance in the sector. The majority of Member States also opposed the extent of the delegation of powers to the Commission through its proposal.

#### FOOD CONTROL AND FOOD FRAUD (AOB)

Sweden requested an update from the Commission on action taken to prevent food fraud since the horsemeat incident last year. In response the Commission underlined that cross-border co-operation was essential and that new legislation on controls and sanctions was being prepared by the Commission.

#### PESTICIDES (AOB)

The Netherlands urged the Commission to request an opinion from the European Food Safety Authority (EFSA) on a recent study which identified a correlation between the use of the

neonicotinoid imidacloprid and a decline in the population of insectivorous birds. The Commission said it would ensure a detailed analysis of this study was undertaken and make an approach to EFSA if appropriate.

#### INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS (ICANN) DOMAINS (AOB)

The Presidency raised ICAAN's decision to assign generic domain names, particularly '.wine', as it is concerned with the lack of protection for producers of geographical indications. Spain, Portugal, France, Greece, Slovenia and Luxembourg echoed these concerns. The Commission underlined that it would oppose the planned allocation of generic names.

#### FISHERIES

##### FISHING OPPORTUNITIES FOR 2015

The Commission introduced its policy statement on setting fishing opportunities in 2015. Commissioner Damanaki said there was a lot of positive news on fish stocks but the challenge now would be to set fishing opportunities according to Maximum Sustainable Yield (MSY) targets by 2015 wherever possible. Member States generally welcomed the messages in the Commission's policy statement. I agreed that much progress had been made on sustainability of stocks and that we should reach MSY targets by 2015 wherever possible. However, exceptions might be necessary such as the need to minimise discards of by-catch in mixed fisheries. Many other Member States, particularly those fishing in the Mediterranean and Black Sea, argued for a longer-term approach to meeting MSY targets, with a final deadline of 2020.

##### FISHERIES PROTOCOLS MOROCCO AND MAURITANIA (AOB)

Lithuania raised concerns with the progress of the Fisheries Protocols with Morocco and Mauritania and urged the Commission to ensure they were taken forward as soon as possible. Commissioner Damanaki was hopeful that the Morocco Protocol would be signed within days. She was however more pessimistic regarding the ongoing negotiations to renew the Mauritania protocol, citing a disagreement between the EU and Mauritania as to the date on which the current protocol expires.

*28 July 2014*

## ANIMAL HEALTH (9468/13)

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

Since my last letter of 27 January 2014 and your reply of 14 February there has been some movement on this dossier, which forms part of the EU's Smarter Rules for Safer Food package. I thought an update at this point would therefore be helpful, particularly to advise you on progress made over the last six months and how we foresee the proposal developing under the incoming Italian Presidency.

The Working Party of Veterinary Experts (Animal Health) met six times under the Greek Presidency. The Presidency worked hard to make progress with the Regulation and have successfully completed a second technical read of the proposal, with a large number of technical concerns being resolved. It was, however, not possible to realise Greece's original ambition of arriving at a stable compromise text at working level by the end of their Presidency. A number of key issues continue to be the subject of debate, including:

#### LISTING OF SPECIES AND DISEASES AND DISEASE CATEGORISATION

Discussion on the listing of species and diseases and the categorisation of diseases to which the Regulation will apply remains inconclusive.

The Legal Services of the Council consider that lists of diseases and species represent an essential element of the Regulation which must, in accordance with the Treaties, be included in the base text,



to be amended by delegated act if necessary. The Commission's Legal Services continue to assert the validity of their original proposal to list diseases and species by implementing act. Regardless of the legal position, it is clear from recent experiences of similar EU negotiations that there can be more than one valid approach to dealing with listing in this type of framework Regulation. We continue to argue and seek support for the original Commission proposal, in particular as regards the categorisation of diseases, which I consider provides the flexibility needed for the EU to be able to adapt its regulatory framework to new and emerging diseases in a timely and science based way while assuring adequate Member State oversight.

#### TERTIARY LEGISLATION

The draft Animal Health Regulation is intended as a framework to set down the fundamental principles for animal health, leaving detailed technical rules for delegated and implementing acts. While this allows flexibility, it makes the impacts of the Regulation difficult to assess in advance of the adoption of these detailed rules, as the initial Explanatory Memorandum for this proposal explained. We have still seen no samples of the tertiary legislation the Commission intends to adopt and the Commission has suggested that any discussion of tertiary legislation before the adoption of the base Regulation would be legally questionable.

Redrafted text presented by the Greek Presidency has, however, made welcome reductions in the overall number of delegated acts and has narrowed the scope of many others, particularly as regards veterinary medicinal products and rules on imports into the EU. This is something for which the UK has been calling. We have also enjoyed some success in subjecting powers delegated to the Commission to tighter control by the legislator. The European Parliament has proposed to limit the duration of the delegation of power to five years and to require the Commission to submit a report on its exercise of delegated powers at the expiry of this term. A similar provision has found support in Council. The Parliament's first reading position also introduces a general requirement for delegated acts to be based on scientific evidence, take account of the opinions of the European Food Safety Authority (EFSA) and be adopted after due consultation with stakeholders and experts. I consider this a helpful step towards ensuring that the powers delegated to the Commission are used responsibly and will look to build support for such an amendment in Council.

#### SCOPE OF THE REGULATION

In view of the recent adoption of Regulation 576/2013 on the non-commercial movement of pets, the European Parliament has proposed to delete provisions on such movements from the Animal Health Regulation and maintain 576/2013 in force. This position has also found some support in Council. The Parliament also wishes to delete provisions on the identification of cattle, sheep, goats and pigs for reasons connected with the recent amendments to Regulation 1760/2000 on bovine identification and meat labelling, though this proposal has not yet found much favour in Council. I consider that the benefits for better regulation anticipated from the consolidation of more than forty existing pieces of European animal health legislation into a single framework regulation would be compromised by the removal of these provisions from the scope of the Regulation. In particular, livestock identification requirements form a keystone of any animal health regime; their omission would do serious damage to the coherence of the proposal. We shall look to build support in Council to prevent this.

#### EUROPEAN PARLIAMENT CONSIDERATION

The European Parliament adopted its first reading position in plenary session on 15 April. More than three hundred amendments to the Regulation were voted through, the most notable of which I have already discussed above. A large number of the amendments voted by the Parliament are welcome, for example:

- Amendments recognising the importance of biodiversity and the conservation of farm animal genetic resources;
- The removal of requirements for Member States to submit eradication programmes to the Commission for approval where no EU co-financing is sought and no trade restrictions are to be imposed;

- More subsidiarity concerning the proposal for regular veterinary visits to holdings; and
- Recognition of the role of bee health professionals and more subsidiarity concerning the delegation of official activities to veterinarians and animal health professionals.

On the other hand, some amendments were also passed which I consider unhelpful, including:

- An amendment requiring Member States to establish national databases for pet dogs as a precursor to the creation of a single EU dog database;
- The removal of derogations from registration and record-keeping requirements for small-scale and hobby keepers and transporters posing a very low disease risk and
- Highly prescriptive requirements concerning antimicrobial resistance, which, while an extremely important issue, should in my view be dealt with under the upcoming review of the Veterinary Medicines Directive rather than in the framework of the Animal Health Regulation.

Since the European Parliament position was adopted by the last plenary session of the 2009-14 legislature, it will be necessary for the newly elected Parliament to confirm it at a vote in the early autumn. Naturally, it remains open to the Parliament to reject the position and recommence its consideration of the proposal, though I do not consider this likely. In any case, it seems probable that there will be major differences between the European Parliament's position and that finally agreed in Council. Considerable work will be necessary to reconcile them.

#### FORWARD LOOK

The incoming Italian Presidency has indicated that it considers the proposal a priority. Italy has stated the highly ambitious goal of reaching political agreement on the dossier by the end of its Presidency in December. This would likely require trilogue discussions to take place between the Council, the Commission and the European Parliament in October and November. If events were to move according to this timetable, I would expect to have to seek your clearance of this proposal from scrutiny before the end of the calendar year, ahead of a vote at the December Council of Ministers.

I do not, however, consider this to be a realistic timetable. As I have explained, there remain major differences of opinion among the Member States concerning a number of key issues. The incoming Presidency has provisionally scheduled Working Party meetings for two days in July and September; this seems unlikely to provide enough time to resolve these differences. The amendments presented by the European Parliament would also have to be discussed at working level before a formal mandate could be put to a vote in Coreper. I would expect, therefore, that negotiations will continue at least into the Latvian Presidency in the first half of 2015.

I hope the Committee find this update helpful. I will, of course, write again if the pace of negotiations increases significantly or if there are other important developments.

*9 July 2014*

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

Your letter of 9 July on the above proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 July 2014.

We are grateful for the comprehensive update on the progress of discussions in both the European Parliament and the Council on this Proposal.

We are largely supportive of the position that you are taking.

On the issue of tertiary legislation, we are disturbed by the Commission's reported attitude. While it is clearly legally impossible for tertiary legislation to be adopted before the legislation permitting such adoption has been finalised, consideration of the main points to be covered in such acts can be discussed informally. Indeed, that approach is being followed in discussions of other elements of the animal and plant health package. This signal of incoherent consideration of the different Proposals that constitute

the package is particularly worrying. I would remind you of our overall position across the package, which is that the strategic aim of simplification and delivering a safe environment must not become lost during the negotiation of detail. Please confirm: that you support the argument that the Proposals must be negotiated in a coherent fashion with the objective of simplification; that you have put this argument to the Commission; the Commission's response; and the approach of other Member States. We would ask that you do not contemplate support for the Proposal without satisfactory resolution of this fundamental aspect, without which simplification across the package cannot be guaranteed.

A second point relates to the amendments by the European Parliament of which you are supportive. On two separate occasions you refer to European Parliamentary amendments that introduce "more subsidiarity" into the proposal's operation; we do not recognise the use of this term in this context. One either believes that action is being taken at the appropriate level or not. There is no room for flexibility in this aspect of the principle's application. In this instance, the principle applies to the decision as to whether the EU legislation should include any provisions on veterinary visits and the delegation of official activities to veterinarians. It is possible that your concern may pertain to the related term "proportionality", under which you would agree that some guidance on these issues should be set out in EU legislation, but with a sufficient degree of flexibility left to permit Member States to deliver the obligation appropriately. Could you please set out the specific European Parliament amendments with which you are content and your preferred ultimate outcomes on these issues.

We will maintain the proposal under scrutiny and look forward to your response by 29 August 2014.

30 July 2014

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

Thank you for your letter of 30 July. I am pleased to hear that you broadly support the position I have adopted on this dossier.

I agree entirely that it is vital that the proposals in the Smarter Rules for Safer Food package be negotiated in a coherent fashion with the aim of simplification in mind. I made this point in the June Agriculture and Fisheries Council and Defra officials have continued to emphasise the need for coherence and simplification throughout the negotiations. Commissioner Borg and officials of the Commission share this view and have recalled on a number of occasions the overarching objective of simplification to reduce burden on administrations and businesses. I have no reason to believe that any Member State opposes these fundamental objectives.

I do not believe that the Commission's attitude on the question of tertiary legislation gives substantial cause for concern. As I mentioned in my letter of 27 January and as Jane Ellison described in her letter to you of 4 July, the Commission has indeed indicated informally that most of the delegated and implementing acts it intends to adopt pursuant to both the Animal Health and Official Controls proposals will largely re-enact existing regulations and directives. In this respect, its approach has been consistent across the Smarter Rules for Safer Food package.

The Commission has also emphasised its desire to have the flexibility to re-examine existing legislation, simplifying and improving where possible. This is a goal that I support. As you mention, however, this process of re-examination cannot take place until the legislation permitting it is finalised, which necessarily introduces a degree of uncertainty as to the outcome. In view of this and in line with the UK's approach to other EU proposals since the Lisbon Treaty, we have sought to ensure that empowerments to adopt tertiary legislation are conferred only where there is a clear need for flexibility and that the split of powers between delegated and implementing acts is appropriate on an individual basis.

Thank you for the clarification you add on the issue of subsidiarity in the context of the amendments proposed by the European Parliament. As you point out, this is in fact a question of proportionality and of the degree of flexibility afforded to Member States. On the issue of veterinary visits, I am content with Amendments 130 and 133, which delete the empowerment for the Commission to adopt delegated acts laying down detailed rules for the content and frequency of veterinary visits and instead require the competent authority to establish such rules. In my view, the implementation of these visits will require careful consideration of risk and close partnership with farmers if they are to produce genuine benefits for animal health and not impose undue burdens on industry or

Government. Detailed rules laid down at European level would not just be disproportionate but could also be counterproductive.

I also consider Amendments 109 and 110 on the delegation of official activities to veterinarians and other professionals a helpful step. Across the package, the UK has argued for flexibility to allow official activities to be carried out by those persons who can do so most efficiently, so long as they are adequately trained and qualified. These persons may include official veterinarians, private veterinarians and lay professionals with specialised expertise (for example, the UK's Bee Health Inspectors). Some Member States may choose not to make use of such professionals for a variety of reasons. I support, therefore, an outcome that permits Member States the flexibility to continue to delegate official activities in the way that suits their individual circumstances best, provided always that the objective of delivering a safe environment is not compromised.

I will continue to keep you updated as negotiations progress.

*17 August 2014*

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

Your letter of 17 August 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

You have helpfully clarified the Government's approach to the European Parliament amendments. Any further light that you are able to shed on the nature of lay professionals, in addition to bee inspectors, would be helpful.

While we note your contentment with the Commission's approach to tertiary legislation, our concerns had initially been raised by the statement in your letter of 9 July that you had "still seen no samples of the tertiary legislation the Commission intends to adopt and the Commission has suggested that any discussion of tertiary legislation before the adoption of the base Regulation would be legally questionable". Your most recent letter would appear to imply that the Commission has reversed that position. We would welcome clarity, notably on whether the Commission is indeed content to discuss possible tertiary legislation on an informal basis before the adoption of the base Regulation.

We will retain the proposal under scrutiny and look forward to your response by 6 October 2014.

*10 September 2014*

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

Thank you for your letter of 10 September 2014. This response provides the information you requested on the proposed Regulation on Animal Health and includes a brief update on recent developments, which I thought you would be interested to hear about.

You asked for more information on 'lay professionals'. This term is particularly significant in the proposed Regulation in relation to aquatic animal health, where the Fish Health Inspectorates play an important role in performing official controls in the UK. Fish Health Inspectors are typically not veterinarians, but hold degrees in biology or a fisheries discipline and have acquired experience in the aquaculture sector before their appointment. The use of non-veterinarians in fish health is recognised in the *Aquatic Code* of the World Organisation for Animal Health (OIE), where they are described as 'aquatic animal health professionals'. This terminology is adopted by the proposed Regulation.

Some lay paraprofessionals may also perform certain official activities in relation to terrestrial animals under exemption orders made pursuant to section 19(4)(e) of the Veterinary Surgeons Act 1966. These activities include, for example, testing bovine animals for tuberculosis. These paraprofessionals are employees of the competent authority and operate under the direction of official veterinarians. I have sought to ensure that the proposed Regulation does not impose changes to the status quo with regard to such professionals and paraprofessionals, while leaving open possibilities for future change.

I hope that I can shed some further light on the issue of tertiary legislation. Commission officials have been happy to give informal indications of how they might seek to use the empowerments granted, both verbally and in writing. On the other hand, these brief indications (for example that the Commission would seek to put more emphasis on prevention than in existing legislation) often do not

give a clear picture of the actual impact the measures would have. For this reason, a number of Member States asked the Commission if it could begin work on drafting some key delegated acts even before the base Regulation is agreed. As I mentioned in my letter of 9 July 2014, however, the Commission did not consider this a viable course of action. Some uncertainty with regard to the tertiary legislation to be adopted is still inevitable at this stage.

In view of this, we have pressed to reduce the overall number of empowerments and to constrain their scope more tightly. This position has enjoyed some success. The Greek and Italian Presidencies have removed a significant number of the empowerments contained in the original Commission proposal and have curtailed the scope of several others. Furthermore, Commission officials have committed to consult extensively with Member State experts in the drafting of delegated acts and to carry out impact assessments for individual delegated acts making significant changes to the existing animal health regime. As a general rule, communication from Commission officials on this dossier has never been less than frank and open. I believe, therefore, that the issue of tertiary legislation has been largely resolved and should not prove a barrier to future progress.

Across the Smarter Rules for Safer Food package, the Commission's position has been essentially consistent. UK officials working on the various proposals are in regular contact with one another and have not observed any significant differences in approach.

In recent weeks, there have been some further developments on the proposed Regulation about which I thought you should be informed. Since the beginning of the Italian Presidency in July, there have been two meetings of the Council Working Party considering the proposal, at which there was some discussion of the amendments proposed by the European Parliament in its first-reading position. The Presidency also organised a discussion of key outstanding issues at the informal meeting of Chief Veterinary Officers in Milan on 1 October. I referred to these issues, notably the listing of diseases and species, the categorisation of diseases and the scope of the Regulation in my letter of 9 July 2014.

The discussion was fruitful and made some progress towards reaching a compromise among the Member States on these difficult and important issues. While we have not yet seen detailed proposals, the broad lines of this compromise seem likely to be acceptable. The Presidency has scheduled three meetings of the expert working party over the next two months, at which it hopes to translate the direction given by the CVOs into a more concrete agreed position. Negotiations may therefore begin to move somewhat more rapidly over the coming weeks. While I still do not expect the proposal to reach a vote in Council before the end of the year, I thought you should be aware of this increase in pace. I shall write again with further updates as the negotiations progress.

*3 October 2014*

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

Your letter of 3 October 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We are grateful for your response, which clarifies the issues that we raised in earlier correspondence.

We note your explanation of the latest developments in the negotiation of this Proposal. A further update in due course as the key elements of the compromise emerge would be helpful.

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

*16 October 2014*

#### **BALANCE OF COMPETENCES REVIEW (UNNUMBERED)**

##### **Letter from David Lidington MP, Minister for Europe, Foreign and Commonwealth Office, to the Chairman**

I am writing to update you on progress of the Balance of Competences Review. This follows my update to you on 22 May. I am pleased to inform you that the reports for semester three – covering Agriculture, Cohesion Policy, Competition and Consumer Policy, Energy, EU Budget, Fisheries, Fundamental Rights, Single Market: Financial Services and Free Movement of Capital, Single Market:

Free Movement of Services, Social and Employment Policy, and Single Market: Free Movement of Persons - have today been published at <https://www.gov.uk/review-of-the-balance-of-competences>. The reports were written by departments leading on these particular policy areas.

As with previous semesters, calls for evidence for semester three reports were open for three months from October 2013. We saw a high level of interest and received over 800 contributions, including from business groups, professional bodies, the Devolved Administrations, Crown Dependencies, Members of Parliament, Members of the European Parliament, think tanks and academics.

The reports have undergone rigorous internal challenge to ensure they are balanced, robust and evidence-based. Evidence submitted (subject to the provisions of the Data Protection Act) has been published alongside the reports on the gov.uk website to ensure transparency. With publication of the third semester, 25 of the 32 reports are now complete. By bringing all the evidence together in one place, the review enables people to judge for themselves how the current arrangements are working, as well as providing a valuable contribution to the wider debate on EU reform.

The call for evidence period for semester four reports closed in July 2014. Reports in this semester cover: Economic and Monetary Policy; Education, Vocational Training and Youth; Enlargement;

Information Rights; Police and Criminal Justice; Subsidiarity and Proportionality; and Voting, Consular and Statistics. The final reports are expected to be published by the end of 2014.

I would like to thank you again for your continued interest in the Review and for submitting the European Union Select Committee's previous relevant work as evidence, which we encouraged departments to draw on. I would also like to thank you for the separate piece of evidence the Committee has submitted on the fourth semester Subsidiarity and Proportionality report. If you would like to receive further updates or to discuss the published reports, I can arrange an informal briefing by officials.

22 July 2014

## CASEINS AND CASEINATES INTENDED FOR HUMAN CONSUMPTION AND REPEALING COUNCIL DIRECTIVE 83/417/EEC (8099/14)

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

Thank you for your letter of 8 May supporting our position with regards to the proposal to repeal Directive 83/417/EEC and replace with new text on edible casein and caseinates that takes into account more recent legislation on food law and adjusts compositional requirements to mirror the CODEX standard.

We believe that the proposal to repeal this Directive and replace it with a new Directive is justified in accordance with the principles of subsidiarity as set out in Article 5 of the EC Treaty. Such proposals can be better achieved by action at an EU level.

Negotiations at Council Working Party support our view that the changes laid out in the new proposal are low-impact simplifications and are not controversial. It is likely that the proposal will be adopted with unanimity at Council.

Directive 83/417/EEC which has worked well for decades, deals mainly with inter-institutional issues. The Commission decided not to carry out an impact assessment as the revised text does not alter the substance of the Directive.

There are very few businesses involved in caseins and caseinates in the UK and as the changes are all in line with streamlining the regulatory landscape, there will not be any impact on these businesses as a direct result of this proposal. Therefore, Defra has not undertaken a formal impact assessment.

The Commission has not done a consultation for the same reasons, although it has discussed the alignment with international industry, which has warmly welcomed the proposed change.

The Presidency plans to submit the revised text at Coreper on 26 November with the intention of reaching a general approach agreement. The UK intends to vote positively.

The proposal has not cleared scrutiny and we are hoping this update will provide enough information for the committee to provide clearance in time for the discussions to move freely at Coreper.

*16 November 2014*

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

Your letter of 16 November on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014.

We note that negotiations have proved to be uncontroversial. On that basis, we are content to release the Proposal from scrutiny and to close this strand of correspondence.

*26 November 2014*

**CLEAN AIR PROGRAMME FOR EUROPE (18155/13, 18165/12, 18167/12, 18170/12)**

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

In my last letter, dated 10 April 2014, which followed up on the Explanatory Memorandum I submitted on 7 February 2014, I undertook to update the committee before the summer recess on the impacts of the proposed National Emissions Ceiling Directive (NECD) and Medium Combustion Plants Directive (MCPD).

Since April, the Commission's consultants have held a series of bilateral meetings with Member States to discuss the data and evidence that was used in the Commission's Impact Assessment. This process has enabled Member States to understand the modelling and basis of the proposals better and we have until 20 July to submit further technical comments. The UK will be submitting further comments by this deadline. To take account of further information received through this process, the Commission has undertaken to update their analysis over the summer in particular to incorporate new information on 2005 emissions provided by Member States. The Commission will produce a report presenting the results of the revised analysis by 15 September 2014 and we expect this to reduce some of the discrepancies between our data and the Commission's. The report will also consider the impact of the changes on the proposed emission limits in the proposal for 2030. The Commission has made clear that it does not intend to present a revised proposal at that stage but any necessary changes could be adopted by the Council.

In parallel, we have been continuing our internal analysis of the National Emissions Ceiling Directive (NECD) proposal and have carried out our own analysis of the costs and benefits of the proposals. Our initial results suggest that annualised health benefits of the proposal will be in the region of €3.7-5.0bn/year (£3-4bn). Around half of this benefit can be attributed to emission reductions in other Member States which improve air quality in the UK. There will also be benefits to the environment. Our modelling suggests that the proportion of ecosystems exceeding their critical loads for eutrophication will reduce from 45% to 38%, while for acidification the proportion will reduce from 32% to 25%. While these estimates need further refinement as our analysis develops, they are considered a suitable indication of the likely size of the benefits.

Further work is being carried out to develop our cost scenarios, including the spread of costs between sectors, which are based on the costs of measures we have identified that could deliver the emission reductions required. While our estimate of the benefits of the proposals is broadly in line with the Commission's (€3.9bn/year (£3.1bn)), our analysis indicates that the cost of meeting the targets could be considerably higher than their estimate (€0.3bn/year (£0.24bn)). We are working to understand the differences as we develop our cost estimates and in follow up to our bilateral with the Commission's consultants.

I will write to update the Committee again once we have developed our internal scenarios of the costs of the package, which will incorporate any changes from the Commission's next report.

On the Medium Combustion Plants Directive (MCP), I indicated in my last update that we needed to improve our evidence on the number, size and fuel use of the installations affected. We have received a number of submissions from operators providing information on current emission levels for different types of medium combustion plants (covering different fuels, technologies, age and operating profile). This is being incorporated with additional analysis we are doing on future numbers and type of installations to refine our estimates of the costs and benefits of the MCP proposals. This process will be completed over the summer and I can update you on this once it is complete.

9 July 2014

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 9 July 2014 on the above Communication and proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 23 July 2014.

We note that work continues on the analysis of these Proposals.

Turning to the National Emissions Ceiling Directive Proposal specifically, we note your assessment that the annualised health benefits will be in the region of €3.75-5.0 billion per year and you note that there will also be benefits to the environment. You add that your estimate of the benefits is broadly in line with the Commission's estimate of the benefits as roughly €3.9 billion per year. Has either your analysis or that of the Commission attempted to quantify the environmental benefits to which you refer? This may be particularly important when it comes to comparing the benefits with the costs, on an analysis of which you are continuing to work.

In terms of the costs, you note that you are developing scenarios internally on the costs of the package, including the spread of costs across sectors. We drew particular attention in previous correspondence to the impact of the ammonia emissions reduction target on the agriculture sector. This issue remains of interest and we look forward to your analysis.

Moving away from the impact of the proposed emission limits and towards policy delivery, we asked at an early stage for your view on the proposal that Member States be able to offset emissions reductions from nitrogen oxides, sulphur dioxide and fine particulate matter from international shipping against the same emissions from other sources. You indicated in response that the Government have significant concerns with the practicality of the proposal and would question whether any real benefit would be derived from it. Could you please provide us with an update on the status of that issue in the negotiations?

On the Medium Combustion Plants Directive, we note that there appears to be continued uncertainty as to the number and type of installations that are likely to be included. In your next correspondence, could you please give some form of indication of the likely types of plants to be included according to the currently available information. Where the inclusion of plants, such as those deriving energy from biomass, has implications for other areas of policy, we would welcome assurance that you are considering those connections.

We shall retain the Communication and proposals under scrutiny and look forward to a response by 29 August.

23 July 2014

#### **Letter from Dan Rogerson MP to the Chairman**

In my last letter, dated 9 July 2014, which followed up on the Explanatory Memorandum I submitted on 7 February 2014, I updated the Committee on the ongoing analysis of impacts of the proposed National Emissions Ceiling Directive (NECD) and Medium Combustion Plants Directive (MCPD). In response, to the letter dated 23 July 2014, the Committee set out some questions on the proposals requesting further clarification.

In response to the Committee's question as to whether the UK Government or the Commission's analysis has attempted to quantify the environmental benefits, we have been able to quantify some of the benefits. Results from our modelling suggest that the proportion of ecosystems exceeding their critical loads for eutrophication will reduce from 45% to 38% in 2030, while for acidification the proportion will reduce from 32% to 25%. The Commission's analysis includes similar modelling, which suggests that in 2005 77% of protected areas were under threat from excess nitrogen deposition



across the EU. Their modelling estimates that by 2025 this would reduce to 62% under the proposed emission reductions. The work also suggests that about 12% of forests had levels of acidification exceeding critical loads in 2005. By 2030 this could reduce to 1.4% accounting for planned reductions and the proposed targets. Estimating the monetary value of these benefits is very challenging, and there are no agreed approaches to doing so at present. Ecosystems services research being undertaken by Defra and others will help us develop a valuation approach but this is some way off. Consequently impacts are quantified in the form of area exceeding critical loads but not monetised.

The Committee has asked about the status of the negotiations of the proposal that Member States may be able to offset emissions reductions from nitrogen oxides and sulphur dioxide from international shipping against the same emissions from other sources. So far this proposal has not been discussed in detail as the focus has been on the impact assessment. However, initial discussions indicate that many Member States share our concerns about the practicality of the proposal.

Finally, the Committee also asked for some indication of the likely types of plants to be included in the MCP proposals. The combustion plants covered can be broken down into three general types: boilers, engines and turbines. Boilers are the most prevalent, at around 80% of the total. They may be fuelled by biomass, other solid fuels, liquid fuel, heavy fuel oil, natural gas or other gaseous fuels. Engines and turbines may be fuelled by liquid fuel, heavy fuel oil, natural gas or other gaseous fuels. Gas accounts for around 90% of the total fuel used. The majority of installations are in industrial sectors however government buildings, hotels, hospitals, schools and universities could account for around 10-20% of installations. We are continuing to refine our data on the number and type of installations affected. Our current best estimates suggest the total could be in the region of 8,500-14,000. Around 80% of installations fall into the 1-5MW category.

*24 September 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 24 September 2014 on the above Communication and proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We are grateful for your helpful response to our queries. You make no comment on the ammonia emissions reduction target, nor on possible connections between the Medium Combustion Plants Directive and other policy areas.

We look forward to a further update as your analysis develops, including the above points. An update on the progress of discussions between Member States and within the European Parliament would also be helpful.

In the meantime, we will retain the Communication and proposals under scrutiny.

*16 October 2014*

#### **Letter from Dan Rogerson MP to the Chairman**

In my last letter, dated 24 September, I provided an update to the committee on the negotiations of the Medium Combustion Plants Directive (MCPD). Since my last letter we have completed further analysis of the proposed Directive and the negotiations within the Council have progressed significantly. The Italian presidency is seeking an agreed General Approach at the Environment Council on 17<sup>th</sup> December.

My officials have been working to ensure that UK concerns are taken into account in Council negotiations, and the latest version of the Council text incorporates key points which the UK has been pushing for. For example, the requirements of the original Directive proposal would be disproportional in terms of costs and for some measures unfeasible for combustion plants on offshore platforms. Following negotiations the latest proposal includes an exemption for gas engines and turbines on offshore platforms. The stringency of the Emission Limit Values (ELVs) for the smaller (1-5MW) new and existing plants has been relaxed to ensure they are proportionate and do not result in unreasonable costs to operators.

However, I remain concerned about the cost effectiveness of some ELVs in the Directive and the administrative burden of the proposed monitoring arrangements. I will be arguing for a more

proportionate approach in both of these areas. I am also concerned that the Directive would apply to back-up generators for Scottish islands and nuclear plants. These plants are rarely used but may need to operate for a period of more than 500 hours in a year in emergency situations. Requiring such plant to meet the same ELVs as plants in regular operation would be disproportionate. My officials are working with the Scottish Government, other Member States and the Commission to negotiate an acceptable arrangement for these plants. Further working groups are scheduled for 11 and 19 November.

Over the past few months we have also been able to refine our analysis of the impacts of the Commission proposal. This indicates that the cost of the proposal is less than those originally estimated and as set out in my letter of 10 April 2014. Our updated analysis for the total cost of the Directive is estimated to be £42.2m in 2030 (consisting of compliance costs of £32.2m per year and administration costs of £10.0m per year). The total monetised benefits of the Directive to the UK are estimated to be £104.6m per year in 2030.

There are two main reasons for the change in the estimated costs of the Directive. Firstly, our updated analysis shows that a lower proportion of new plants expected will be larger plants (larger plants cost more per plant for abatement). Secondly, standby plants have been excluded from the compliance analysis since they are made up mainly of back-up generators which are likely to operate fewer than 500 hours per year and so will not be required to meet the ELVs set in the Directive. It is estimated that there are 15,000 such plants in the UK. These plants will simply be required to register under the Directive and therefore the costs of registration are included in the estimated total administration costs. It is estimated that just over 10,000 plants will be required to comply with the ELV limits.

The change in the benefits is primarily due to the revised plant numbers including a higher number of biomass, solid and liquid fuelled plants and therefore the Directive will achieve higher reductions in Particulate Matter (PM) emissions than previously estimated. The benefits of reducing PM emissions are significantly higher than any other pollutant, because PM emissions have the most significant health impact, so the benefits increase quite significantly.

All the amendments to the Directive requested by the UK have been carefully analysed to ensure they are cost effective and do not have a disproportionate effect on the benefits.

Negotiations of the National Emission Ceilings Directive are progressing more slowly. A further update to the Commission's impact assessment is expected shortly and the Italian presidency is awaiting this before scheduling further working groups. In parallel, my officials are continuing with their analysis of the proposal which is expected to be completed in early 2015. I will write further to inform the committee of the results of our analysis and of developments in the Commission.

*10 November 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 10 November 2014 on the above Communication and proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014.

Your letter was very helpful in setting out the developments in discussions on, and your analysis of, the Medium Combustion Plants Directive (MCPD). We are content in that light to release the MCPD Proposal (18170/13) and the linked Communication (18155/13) from scrutiny. We would ask, though, that you write to us to set out the result of discussions in Council and that you include details on the passage of the Directive through the European Parliament.

We note that progress has been slower on the National Emissions Ceilings Directive (NECD), which we will continue to hold under scrutiny. We would similarly welcome an update on the state of discussions in the European Parliament.

We look forward to a response in due course following the Council meeting in December.

*26 November 2014*

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

I am writing to inform your Committee of the decision that was reached on the 2030 climate and energy framework at the European Council on 23-24 October.

The decision reached by EU leaders in October met all of the UK's top priorities. It provides ambition on climate change and agrees reform of EU energy policy so that it is flexible and affordable. It will also significantly strengthen our energy security, delivering cumulative savings of €285bn in reduced fossil fuel imports by 2030.

KEY ELEMENTS OF THE PACKAGE INCLUDE:

- An at least 40% domestic Greenhouse Gas target
- An at least 27% EU level renewables target
- An at least 27% indicative EU level energy efficiency target (with a review clause by consensus in 2020)
- The renewables and energy efficiency targets “will not be translated into national binding targets”
- The EU ETS will be main policy including a mechanism to stabilise the market in line with the commission proposal (Market Stability Reserve)
- A non-binding interconnection “objective” of 15% for 2030
- The distribution of effort between MS in the non-traded sector to be agreed later based on GDP-capita and cost-effectiveness
- Extension of the existing NER300 fund, as a new ‘Innovation Fund’ and expansion to NER400, available to all MS to support CCS and renewables deployment in the power and industry sectors
- An extension of the 2020 solidarity mechanism, reduced from 12% to 10% of richer MSs’ ETS revenues
- New Modernisation Fund of 2% of all ETS allowances, providing more transparent investment in modernising energy infrastructure in poorer MSs, with the EIB involved in selecting projects
- Continuing the existing provisions for poorer MSs to use free allowances to support their energy sector up to 2030, but significantly reducing the volume of free allowances available for this purpose
- Ensuring adequate carbon leakage support for industry beyond 2020
- Further political support for Projects of Common Interest including those specifically aimed at improving EU security of gas supply
- Streamlining existing processes to establish a coordinated governance system to monitor progress towards objectives across the whole climate and energy package

Securing language of ‘at least’ in relation to the domestic GHG target of 40% was a hard-fought win, consistent with the UK's call for the EU to retain the option of increasing its ambition in the context of a comprehensive global climate deal in Paris next year. Momentum is now building for this. I am pleased that, following the EU deal, the US and China have also put numbers on the table. We look forward to seeing the underlying detail of these proposals and continue to urge all other major economies to put forward ambitious targets.

Renewable sources of energy and improvements in energy efficiency have a crucial role to play in the transition to a low carbon economy. They are good not only for the climate but also our energy

security as we seek to reduce dependence on foreign energy imports. Investment in these areas can also create jobs and drive economic growth and innovation.

A higher renewables target than that agreed in the 2030 framework would, however, have exceeded the level consistent with the cost-effective trajectory for delivering the 40% GHG target. Nationally binding goals would have reduced the flexibility of policy-makers to find cost-effective ways to lower emissions and risked increasing energy costs for both businesses and consumers.

The UK has long argued energy efficiency belongs at the heart of a low carbon economy, reducing emissions, driving economic growth, cutting energy bills, and reducing our dependence on energy imports. The level (27%) of energy efficiency agreed by the Council, I believe, is the right level. The Commission's analysis demonstrated a 25% energy efficiency target is consistent with delivering the GHG target cost-effectively, but that a 27% target can be delivered without additional EU system costs. As a result, the package will deliver a 12% reduction in EU gas imports, while remaining consistent with the cost-effective pathway. The level originally proposed by the Commission (30%) could have imposed an additional EUR20bn, annually, in energy systems costs, and risked undermining the EU ETS by reducing the carbon price from EUR40 to EUR25. The UK continues to lead on energy efficiency; the ambitious policy package we have put in place – which is set out in our Energy Efficiency Strategy – is projected to deliver a level of energy savings that will take us beyond the existing EU energy saving targets for 2020.

In order to decarbonise cost-effectively, EU energy and climate change policy must be underpinned by a robust, reformed EU ETS. The UK was a strong voice behind the reforms to the ETS announced in the 2030 framework, where European leaders highlighted the ETS once again as the main instrument for achieving its emissions targets. To help ensure the carbon market can deliver long-term emissions reductions goals cost effectively, the UK supports the introduction of a strengthened Market Stability Reserve, including by bringing it forward to 2017 and placing backloaded allowances into the reserve.

The UK agrees that access to international offsets should be limited in volume both in the EU ETS, and the EU Effort Sharing Decision, and the Regulation of International Credit Entitlement (RICE) provides a framework for such limits to be imposed in the current Phase (III). It will be for further EU and international negotiations to decide the exact place for international offsets beyond 2020. Our position is that such credits should not count towards the achievement of a 40% reduction in domestic EU emissions.

*17 November 2014*

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

Your letter of 17 November 2014 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014,

We were delighted that the European Council was able to agree a position. As you say, this was an important moment in the progress towards what we hope will be an ambitious international agreement next year.

We would pick out three issues on which your additional thoughts would be welcome.

First, the deal places a great degree of faith in the reformed Emissions Trading System (ETS). The value of both the New Entrants' Reserve (NER-400) and the Modernisation Fund are dependent on the value of ETS allowances. Concerted effort towards delivering an effective ETS will therefore be required, particularly given the significant concession that poorer Member States be permitted to use free allowances to support their energy sector up to 2030.

Could you please confirm that agreement on the ETS proposal will be your Department's EU policy priority in the immediate future and could you please set out a timetable for progress on that dossier? Furthermore, in the context of that proposal, could you set out the implications of the deal, including the extension of free allowances until 2030, for the ETS proposal?

Second, we were very interested to note the inclusion of an aspirational interconnection objective of 15% by 2030. Interconnection within the North Sea in particular is forming an aspect of our current inquiry into EU regional marine co-operation. In that context, we heard from National Grid on 29 October that, with around 4.5 gigawatts of interconnected capacity, the UK is currently below the 10% interconnection target and that, with a further anticipated 4 gigawatts of capacity by 2020,

interconnection would fall short of 15% by 2020. What is your strategy for reaching the 15% objective by 2030 and do you see that as an ideal target or as a minimum target which will hopefully be exceeded? Moreover, what are your plans to work with other Member States in order to facilitate the development of a "meshed" North Sea grid? As you will be aware, we will also have an opportunity to discuss these issues with your ministerial colleague Matthew Hancock MP, when he gives evidence to us on 8 December alongside the Defra Minister, George Eustice MP.

Third, the co-ordinated governance provisions are fundamental to the successful delivery of the deal. How willing are you to work with the Commission and other Member States to facilitate the governance mechanisms, recognising that there may be circumstances when the national energy policy of the UK and other Member States may need to be amended in order to support the overall EU energy policy objectives agreed by Member States and the European Parliament? How are you engaging with the new Energy Union Commissioner as he endeavours to develop a work programme in order to support his portfolio?

We are content at this stage to release the Green Paper from scrutiny and look forward to a response to this letter within ten working days.

*26 November 2014*

## CLONING OF ANIMALS OF THE BOVINE, PORCINE, OVINE, CAPRINE AND EQUINE SPECIES KEPT AND REPRODUCED FOR FARMING PURPOSES (18152/13, 18153/13)

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

In your previous letter dated 11 March, you asked to be kept informed of progress on this dossier.

There have been only two official-level meetings in Brussels in the interim (both chaired by the Greek Presidency) and no ministerial discussion in Council as yet. Following pressure from the UK and a number of other Member States, the European Commission gave a more detailed explanation of the rationale for their proposals at the second meeting, having provided only a brief justification at the first. The UK was not however convinced and in response took the opportunity to underline our fundamental concerns about both the overarching policy and the chosen legislative base for the proposed prohibition on the marketing of food produced from clones (18153-13).

Although we need to remain realistic about the level of support from other Member States for the UK's challenge to the principle of the proposals; with several wishing to see them extended to the progeny and descendants of clones; a number of countries raised serious concerns about one or both of the measures.

For example, several shared our reservations about the statutory base for 18153-13. There was also some recognition that the timing of these proposals was not ideal and might create problems for the ongoing EU/US Transatlantic Trade and Investment Partnership (TTIP) negotiations. We believe that there is some scope to build on these collective concerns in an attempt to persuade the Commission that now is not the time to be considering such controls, given the potential impact on this and other trade negotiations with those countries where cloning is already used commercially e.g. the Mercosur group. We therefore intend to continue to play an active role in the EU discussions to build appropriate alliances and to resist attempts to extend the proposed controls to the progeny and descendants of clones.

It is not yet clear how the incoming Italian Presidency intend to handle the cloning dossier, but we do not expect them to treat it as a priority and therefore we do not anticipate any significant progress before the end of the year. We will however continue to keep you informed of any significant developments.

*14 August 2014*

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

Your letter of 14 August 2014 on the above proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We are grateful for the update that you have offered on the progress of negotiating these controversial Proposals. At this juncture, we would remind you of our previously stated view that the regulation of animal cloning for food production should be based on the best available evidence. That evidence must include information on the animal welfare implications. We have also emphasised the need for any progress on this issue to be accompanied by public debate.

We note that swift progress is not expected on the Proposals and we look forward to a further update in due course. In the meantime, we shall retain both Proposals under scrutiny.

*10 September 2014*

### **CONSERVATION OF MIGRATORY SPECIES (12755/14)**

#### **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 15 October 2014.

We acknowledge your concerns, which are largely of a legal nature, but would emphasise that the overriding priority of the Government should be the conservation of species.

We note that the proposal is to be adopted by Council imminently. While we are content to release it from scrutiny, we would welcome clarification in due course on the outcome of legal discussions regarding the extent of EU competence. We would be interested to know if you were able to secure exclusion of the five non-indigenous species from the Decision.

*16 October 2014*

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

Thank you for your letter of 16 October 2014 releasing the above proposal from scrutiny and seeking clarification on the outcome of legal discussions regarding the extent of EU competence, and if we were able to secure exclusion of five non-indigenous species from the Council Decision.

Our view is that an EU position should only be agreed for proposals that fall within EU competence. This would include proposals to list species covered by EU rules, or the listing of which would affect EU rules or alter their scope. Where these conditions are not met, we believe Member States retain competence to act, as in the case of the five non-indigenous species.

We opposed the Council Decision on these grounds and made a statement to Council confirming our view that these five species listing proposals were not within the EU's competency to act. However, we were not supported by other EU Member States and the proposal was adopted by a qualified majority.

The 11th meeting of the Conference of Parties of the Convention on the Conservation of Migratory Species was held between 4-9 November in Quito, Ecuador. All the listing proposals were adopted.

*3 December 2014*

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

#### **Letter from Jane Ellison MP, Parliamentary Under-Secretary of State for Public Health, Department of Health, to the Chairman**

I am writing to provide your Committee with an update on the progress of negotiations on the proposed Regulation on Official Controls. Since I wrote to you on 10 February 2014 there has been

progress on this dossier under the current Greek Presidency and I thought an update at this point would be helpful, to let you know what progress has been made and how we foresee work proceeding under the forthcoming Italian Presidency.

The Greek Presidency considered the proposal, and the wider Smarter Rules for Safer Food package within which it sits, a priority and worked hard to successfully conclude a first technical read-through of the draft regulation.

It has been unable, however, to arrive at a stable compromise text at official level and this task now falls to the Italian Presidency who are keen to advance. Given the size of the task in hand, the European Parliamentary elections and the appointment of a new College of Commissioners this summer, it is expected that this task will only conclude at the end of the year.

The European Parliament has moved more quickly. The Commission's proposal was considered by the Committee on Environment, Public Health and Food Safety (ENVI) and Agriculture and Rural Development (AGRI). The European Parliament adopted its position at first reading in plenary session on 20 April. We have been encouraged to see the EP adopt the UK position on charging but concerned at its wish for greater prescription with regard to certain border controls. A confirmatory vote by the new European Parliament is likely to take place after the summer.

During Working Party meetings, certain UK priorities have been the subject of extensive discussion, including:

#### USE OF DELEGATED AND IMPLEMENTING ACTS

As I indicated in my letter of 10 February 2014, a significant part of the uncertainty surrounding the impacts of this proposal results from the extensive use of delegated and implementing acts to fill in the details of this framework Regulation and the lack of precision these empowerments currently offer. The Commission stated in the Working Party that it intends, in most cases, simply to transpose provisions contained in existing Regulations and Directives into the tertiary legislation to be adopted. It remains difficult, however, to assess the impacts of the proposed Regulation accurately without samples of the tertiary legislation to be enacted.

In line with the UK's approach with other EU proposals based on co-decision and post-Lisbon comitology, we continue in negotiations to determine that the split of powers is appropriate on a case by case basis. This case by case approach has been welcomed by the Commission and the Presidency and the UK has emerged in Council as an advocate for reasoned debate.

#### IMPACTS OF THE PROPOSAL

Most of the impact of the proposal would be on local and central Government, as a result of reinforced transparency requirements, but also greater emphasis on the risk-based approach to controls, the establishment of a common set of rules at import and more flexibility in the accreditation of control laboratories.

There are currently 822,000 businesses operating in the UK that would be directly affected by the proposal. The main impact would be the extension of the current rules on charging to cover all official controls and mandatory full cost recovery. The current total annual cost of delivering agri-food chain official controls in the UK is estimated to be £171 million, of which £59 million is charged to industry. The remainder is currently funded by central and local Government budgets.

It is estimated that the average new cost (including transition costs) to industry per year as a result of the proposal would be £57.0 million, with an average annual benefit of £9.1 million. The average annual cost (including transition costs) to the enforcement community has been calculated to be £27.5 million, with an annual average benefit of £46.2 million.

An impact assessment has been prepared and submitted for full public consultation. The consultation is now closed and responses have been studied. Additional data and evidence from across the UK will support the impact assessment. This additional new data is currently being appraised and a revised impact assessment being drafted. Your Committee will be updated on the outcome upon completion.

Under discussion in Working Party is a move by certain MS, to extend the role of veterinarians to include mandatory supervision of border controls for products of non-animal origin. The UK considers this to be largely an inappropriate and burdensome use of resources when technical staff

with a more focused knowledge base can be used. The UK, along with several like-minded MS, is strongly opposing this position and we have also discussed it bilaterally with key protagonists (ES and IT).

#### REPEAL OF ANIMAL WELFARE LEGISLATION

Ensuring that there is no regulatory vacuum or lessening of controls, with regard to the repeal of current animal welfare legislation, is a UK priority for negotiations and the UK has pressed this bilaterally with both the Commission and Presidency, as well as in Council.

Through its paper on delegated and implementing acts, the Commission has now communicated its intention for re-adoption, by delegated act, of the rules in Regulation (EC) No. 1/2005 on the protection of animals during transport. The Commission has assigned this work high priority and we will be studying its proposals carefully.

*4 July 2014*

#### **Letter from the Chairman to Jane Ellison MP**

Your letter of 4 July 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 16 July 2014.

We welcome the comprehensive update contained in your letter. Across the Smarter Rules for Safer Food package, we have emphasised the need to ensure that the strategic aim of simplification and delivering a safe environment does not become lost during the negotiation of detail. It is pleasing that you are taking a lead in considering the use of delegated and implementing acts on a case by case basis, but we trust that you are doing so in the wider context of simplification and safety for humans, animals and plants.

You express concern about the position adopted by the European Parliament with regard to certain border controls. Could you please set out your concerns for us?

We note the move by certain Member States to extend the role of veterinarians to include the mandatory supervision of border controls for products of non-animal origin. We would agree with your analysis of this proposal and can support the approach that you are taking. Similarly, and as we have previously indicated, we agree that there must be no regulatory vacuum or lessening of controls which might result from the proposed repeal of live animal transport legislation. We are pleased that the Commission has assigned this work high priority and we look forward to your analysis of the relevant proposals.

We shall continue to retain the Proposal under scrutiny and look forward to a response to this letter by 29 August 2014.

*17 July 2014*

#### **Letter from Jane Ellison MP to the Chairman**

Thank you for your letter dated 17th July. I am now replying to provide the additional information requested.

In its first reading position, the European Parliament adopted amendments relating to border controls that mirrored moves by certain Member States to extend the role of official veterinarians to include the mandatory supervision of border controls for products of non-animal origin.

We will continue our approach to opposing these moves as set out in my previous correspondence with the Committee taking into account the new European Parliament post the June 2014 election. We expect a confirmatory vote by the new Parliament on the first reading position to take place after the summer.

The rapporteur for the proposal during the last Parliament was not returned and a replacement has yet to be appointed. The identity of the new rapporteur could have a bearing on the course of the proposal through the Parliament and an assessment on potential impacts will be made when they are appointed.



I note your comments on the wider context of simplification and safety in our case by case consideration of delegated and implementing acts. These are keys in our evaluation of whether legislation is required to achieve the intention of provisions under negotiation before we begin to consider the most appropriate legislative vehicle.

With the Council, Commission and Parliament entering the August hiatus, negotiations will recommence in September. A routine update to both scrutiny committees is scheduled for December unless developments necessitate otherwise.

*18 August 2014*

#### **Letter from the Chairman to Jane Ellison MP**

Your letter of 18 August on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We are aware that, since your letter was written, a new European Parliament Rapporteur has been appointed and that no challenge to the first reading adopted in the last legislature is expected.

We support your continued resistance to the extension of the responsibilities of official veterinarians, your approach to charging and your case by case assessment of tertiary legislation provisions. This, we assume, includes the animal welfare provisions, which we have previously raised with you.

We look forward to an update on all of those provisions in due course. We would encourage your officials to make contact with the Committee secretariat in good time should negotiations accelerate towards some form of agreement.

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

*16 October 2014*

### **COUNTING THE COST OF FOOD WASTE: EU FOOD WASTE PREVENTION (UNNUMBERED)**

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

Your response to our Report on the above topic has been considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy, which undertook the inquiry.

You will be aware that the Report has not yet been debated in the House, partly because we were awaiting the publication of related documents by the European Commission. In the meantime, we thought it helpful to offer a written observation on your response.

We regret that the response lacks a sense of urgency. It was clear from the evidence that we received and from the publicity that accompanied the publication of our Report that there is an opportunity at this moment for an intensification of activity to prevent and reduce food waste. There is a clear role for the Government to show leadership in harnessing the positive will that we have sensed. Instead, however, funding is being reduced for WRAP. The potential impact of this is demonstrated by the wide reference that you make throughout the response to WRAP's valuable work. We would welcome sight of the supporting analysis confirming your view that the current momentum to tackle food waste in the UK will in no way be harmed by your decision to cut the funding to the UK's main delivery body to support that goal.

It was disappointing that you did not explore further issues that we raised about relationships throughout the supply chain. While we did not make direct recommendations, we would have welcomed your view on the need for greater cooperation through the supply chain. Please set out your view on the impact that decisions by retailers can have on waste at the production end of the supply chain.

We would have welcomed more content on the actions that you are taking to ensure swift progress on effective implementation of the discard ban under the reformed Common Fisheries Policy. While it is welcome that Defra are working closely with the fishing industry, scientists and other Member

States to identify species that might qualify for the highly survivable species exemption, we are aware that this is more challenging than you imply. We would appreciate, as a minimum, receipt of an indicative timetable of the planned actions and anticipated outcomes.

We are not convinced that you have understood our argumentation in relation to the waste hierarchy. We are concerned that the financial incentives in place may, for example, preference energy recovery over re-distribution for human consumption. If you are supportive of the waste hierarchy, we would urge you to assess the incentives in place to apply the hierarchy to food waste; this may well include exploration of fiscal incentives. We acknowledge the sensitivities inherent in this discussion, but we wish to be assured that Government support for Anaerobic Digestion without any similar attention to re-distribution for humans and then for animals is fully aligned with the waste hierarchy.

It is disappointing that the Commission's Communication on Sustainable Food has been delayed. Publication of the recent circular economy legislative package without the supporting Communication on Sustainable Food clearly renders the policy approach to food waste reduction incomplete.

We look forward to receipt within the next week of your Explanatory Memorandum on the proposed amendments to EU waste legislation. We would expect your EM to explore in detail the issues around a target, the choice of 2017 as the baseline year, legislative approach, definition, monitoring, reporting and food packaging waste.

It is our hope that we will be able to debate the Report and your response in the House soon after the Session resumes in October. We would expect to be able to include your response to this letter in that debate, as well as communications that are received on policy developments at the EU level.

*17 July 2014*

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

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

Your letter of 24 May 2014 on the above Proposal has been considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee.

The current system to authorise the cultivation of GMOs is based on the Precautionary Principle. While some might query the application of the Principle and its implications, it is an important Principle which is enshrined in the Treaty. We would discourage the use by the Government of terminology such as “dysfunctional” to describe decision making on which it is based.

Key to successful operation of the precautionary principle is the development of a shared understanding of the challenges faced across the EU. We note the nature of the agreed compromise, which successfully allows the positions of different Member States to be taken in account. On that basis, we are content to release the Proposal from scrutiny in advance of the Environment Council on 12 June.

We would welcome an update following the Council meeting.

*5 June 2014*

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

Thank you for your letter of 5 June on this matter. I am grateful to the Committee for releasing the proposal from scrutiny before the 12 June Environment Council.

The Council reached political agreement on the proposal as described in my letter to you of 24 May. There was almost unanimous support, with only Belgium and Luxembourg abstaining from the vote. This outcome reflects the general view that while the proposal is not ideal from anyone's perspective, it should improve the existing EU situation if more national discretion is allowed on GM cultivation decisions.

The proposal will now be discussed with the European Parliament, as it is subject to co-decision. If they agree, it could finally be adopted either later this year or next year.

*24 June 2014*

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

Your letter of 24 June 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 2 July 2014.

We note that political agreement was reached on this dossier at the 12 June Environment Council.

We look forward to an update in due course, reflecting developments in the consideration of the proposal by the European Parliament.

*3 July 2014*

### **CULTIVATION OF GENETICALLY MODIFIED MAIZE (16120/13)**

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

I am writing to update the Committee on the above proposal.

The vote on whether to authorise 1507 maize was considered at a meeting of the General Affairs Council on 10 February. The outcome was inconclusive with no qualified majority for or against the proposed decision. In these circumstances the relevant EU legislation obliges the Commission to grant authorisation. We had hoped to report before now that this had occurred and 1507 maize was finally approved for cultivation. However, the Commission has yet to issue the required decision.

After consulting the Devolved Administrations the Government voted for 1507 maize to be authorised. Scotland and Northern Ireland urged us to vote against or abstain, while Wales noted that it understood why we believed it appropriate to support approval. After careful consideration the Government resolved that it should vote in line with the clear evidence that 1507 maize does not pose a serious risk, and given that under the EU legislation the decision should be taken on safety grounds. Our established UK Government policy is that we will only agree to the planting of GM crops or marketing of GM foods if a robust assessment indicates that it is safe for people and the environment.

In your letter to me of 18 January you raised several further points on this issue. It is not expected that 1507 maize seeds will be marketed or grown in the UK after EU approval is granted, because the pest this GM insect-resistant crop is designed to control is not a problem here. As such, we will not be commissioning desk studies to try and characterise better the potential hazard to non-target butterflies and moths.

As regards the use of farmer questionnaires for post-market monitoring, again this will not be an issue for us as 1507 maize will not be grown here, although I agree with the Committee's general point that burdens on farmers should be kept to a minimum. In practice, if desk studies were undertaken in relation to non-target insects it would not be expected to change the type of question posed in the questionnaire, as it will not be used to elicit information at that level of detail.

Finally, we do not have a specific timetable for the planned introduction of a coexistence regime. Our aim is to have appropriate segregation measures in place in advance of commercial GM cultivation, but this is not expected here for several years at least.

*24 July 2014*

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

Your letter dated 24 July 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 July 2014.

Thank you for your response explaining that the vote in the General Affairs Council was inconclusive and that the Commission should now move forward with authorisation. We would welcome clarification on why the Commission has delayed its publication of the required decision, given that the Council vote was over six months ago.

We note your comments on the remainder of our queries. While we understand why you will not be commissioning desk studies to characterise better the potential hazards, we would welcome clarity on whether the Commission will be working with other Member States to ensure that appropriate such studies are carried out in those Member States intending to cultivate this maize.

We look forward to your response on the above issues by 29 August 2014.

*30 July 2014*

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

Thank you for your letter of 30 July raising further points on the above proposal.

The Commission has not explained why it is taking so long to issue the final authorising decision for 1507 maize. There is an internal clearance process that has to be completed involving the full college of Commissioners, but we are disappointed that the issue has yet to be resolved. We have called upon the Commission to deal with this matter as soon as possible.

As regards possible desk studies, we do not expect the Commission to encourage these to be carried out in Member States where 1507 maize is intended to be grown. The Commission's view is that the action to be taken should closely follow the relevant advice provided by the European Food Safety Authority. Therefore, as reflected in the draft decision in document 16120/13, the intention is that precautionary measures will be applied to limit the exposure of non-target insects to the GM crop, rather than seek to further clarify the potential hazard before deciding whether such measures are strictly necessary.

*11 August 2014*

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

Your letter dated 11 August 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We are grateful for your clarification and are now content to close this strand of correspondence.

*10 September 2014*

#### **DRIFTNET FISHING (9934/14)**

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 18 June 2014.

We would agree with your analysis that the proposed blanket restriction is inappropriate and could have a significant impact on the UK's artisanal fleet, to which we attach importance. The required response to the identified issue is more effective enforcement, with any additional management measures to be identified at the regional level as appropriate.

Driftnet fisheries operate with different mesh sizes. We would welcome your view on whether mesh size restrictions might be considered as a management measure at the regional level.

In the past, we have lent clear support to a regionalised approach to fisheries management. We would be interested to know what representation you have made to the Commission to press the regionalisation argument in this instance, as also the support that you may have identified among other Member States for the regional approach.

The Commission acknowledges the potential impact on small artisanal fleets but also observes that such fleets tend to deploy this type of gear for very brief periods during the year and, in most instances, also operate with alternative gear. Even where that is not the case, argues the Commission, the new European Maritime and Fisheries Fund (EMFF) could be used to support the industry in acquiring alternative gear. While we, like you, would prefer not to see the adoption of this restriction, we would nevertheless welcome your response to the Commission suggestion that alternative gears could be funded through the EMFF.

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

19 June 2014

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

Thank you for your letter of 19 June following consideration of my Explanatory Memorandum on the above proposal.

I too attach significant importance to the UK inshore artisanal fleet and welcome your supportive comments for this sector, particularly in the context of this proposal.

You asked whether mesh size restrictions might be a management measure which could be considered at regional level. The UK fleet uses a smaller mesh size range for driftnets than considered by the Commission for its problem definition related to large scale pelagic driftnet fisheries. Mesh size specifications within that smaller range would make very little difference to by-catch of, for example, cetaceans or seabirds.

The low incidence of such by-catch in our UK inshore driftnet fisheries is likely to relate more to the manner of deployment of driftnets, with typically brief soak times, and using short net lengths, with the boat normally in attendance. It may be that specifying a smaller mesh size range could help to define a suitable driftnet gear to support a regional derogation from the proposed ban, which I think is what you had in mind. This could be coupled with a zonal element, within Member States' 12 mile zone for example. This is a case that should be easier to make in a regional context in waters that generally do not have the highly migratory species fisheries that feature in the Commission's problem definition for the proposal.

Clearly, making a case of this kind is particularly suited to a regionalised approach. The opportunity to do this will come when this proposal is first presented at the Council working group, probably in July. Informal contact with other Member States as we prepare for this suggests in the case of France, which has a significant level of estuary driftnet fishing, and Ireland, although not itself heavily affected, that both are likely to support a regional approach. Some other Member States, like the Netherlands and Belgium, apparently do not have driftnet fisheries, and other Member States are likely to focus on what needs to happen in Mediterranean waters. We will need to seek Member State support for at least seeing the principle of regionalisation applied.

The European Commission suggests that the European Maritime and Fisheries Fund (EMFF) could be used to support the transition towards a total ban of the small-scale driftnet fisheries for those in artisanal fleets affected by the ban.

The Commission makes the assumption that vessel operators in this sector can readily switch to a different fishing gear if no longer able to use driftnets. This is not necessarily the case. A degree of consideration of small vessels of under 8 metres having some access to herring quota, for example, would have identified that such boats generally lack sufficient size and power to operate towed pelagic gear, which is the most likely alternative means of fishing for that species.

There are also issues related to *eligibility* for funding. Firstly the EMFF is not suited to supporting fishermen to meet minimal regulatory standards stipulated according to EU legislation, in this case no longer fishing with driftnets. EMFF support in this area is aimed at furthering innovation and added value. Secondly support for fishing gear purchase would be conditional upon the new gear being more selective than the fishing gear currently in use. As we have seen from the Commission's related problem definition, the main driver for this proposal is to reduce the unwanted by-catch and mortality of air-breathing animals (e.g. cetaceans, seabirds). As discussed above, the driftnet fisheries of our UK inshore fleet present a better by-catch profile in this respect than, say, gillnet or trammel nets – which means purchase of such alternative gears would be ineligible for EMFF support.

In short, identifying the factors that make purchase of certain alternative fishing gears ineligible for EMFF support, in turn underlines the very case we will be making for not accepting the ban on our driftnet fisheries in the first place. I look forward to being able to report a positive response when that case is made.

*30 June 2014*

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

Your letter of 1 July on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 July 2014.

We are grateful for your response and would agree that specification of a smaller mesh size range could help to define a suitable driftnet gear to support a regional derogation from the proposed ban.

It is pleasing to hear that some support for the regional approach may already be offered by some Member States, but there is clearly a lot of work still to be done with most Member States.

We note your analysis of the use of the European Maritime Fisheries Fund to support the deployment of alternative gear and trust that you will be making these points to the Commission and other Member States.

You may be interested to note that we are sending the attached [not printed] letter to the Commission as part of the political dialogue between the European Commission and national parliaments. The letter reflects our concerns and some of the information that you have helpfully presented to us.

We look forward to an update on the progress of negotiations in due course.

*10 July 2014*

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

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

Your letter of 13 May 2014 on the above legislative proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 June 2014.

We note that the compromise, with which we previously signalled our agreement, has now been adopted.

We are content to close this strand of correspondence.

*11 June 2014*

#### **ENERGY EFFICIENCY AND SECURITY: 2030 (12212/14)**

#### **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 on 15 October 2014.

We acknowledge your general support for ambitious action to improve energy efficiency and note your aversion to the inclusion in the Framework of a mandatory energy efficiency target for 2030. In our 2013 Energy Report, *No Country is an Energy Island: Securing Investment for the EU's Future*, we argued that further consideration be given to binding EU-level targets in the area (para 126) and

would encourage you to give further thought to the matter. We look forward to engaging on the issue once again when legislative proposals are presented by the Commission in the future.

In the meantime, we would encourage you to continue to call on the Commission to ensure that the EU's 2020 targets are met across all Member States. We are pleased to hear that recent estimations suggest that the UK is on track to exceed its target.

Under the terms of Article 5(b) of the Scrutiny Reserve Resolution, agreement by the Government to European Council Conclusions including agreement to a plan for EU legislation need not be withheld pending completion of scrutiny. In light of the forthcoming European Council, we are content to grant a Scrutiny Waiver for this Communication, Communication 10409/14 and Communication 5644/14.

*16 October 2014*

## ESTABLISHING A DISCARD PLAN FOR CERTAIN SMALL PELAGIC FISHERIES AND FISHERIES FOR INDUSTRIAL PURPOSES IN THE NORTH SEA (14543/14, 14549/14)

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

Your Explanatory Memorandum (EM) on the above Regulations was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014.

This legislation is of particular interest to the Committee for two main reasons. Clearly, it is the first example of the practical application of the regional approach, a principle consistently advocated by the Committee throughout the reform process. The principle is also of strong interest in the light of the Committee's current inquiry. Second, the Committee had already noted the challenges surrounding the application of the provision to exempt highly survivable species from the discard ban.

On regionalisation, we would welcome your reflections on the process of establishing the plans. An obstacle to regional co-operation highlighted during our current inquiry is resource constraint. We would therefore be interested to know whether additional resources were required in order to support the process of negotiating the plan with other Member States.

In our earlier scrutiny of the Common Fisheries Policy reform package, we heard how challenging it would be to identify "highly survivable" species. How compelling do you consider the evidence to be to support the proposed survivability exemption?

Finally, what lessons have you learned from the development of these plans which might be applied to the development of discard plans for the increasing number of fisheries that will be the subject to the discard ban?

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

26 November 2014

## ESTABLISHING THE FISHING OPPORTUNITIES FOR ANCHOVY IN THE BAY OF BISCAY FOR THE 2014/15 FISHING SEASON (11568/14)

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

I am writing to inform you that we have received notification that this proposal, not issued at the time of writing, will be presented and examined at the Council working group on Thursday 10 July. We anticipate that it will then proceed to rapid agreement by written procedure shortly after the working group consideration.

The proposal relates to setting a total allowable catch (TAC) for the anchovy fishery in the Bay of Biscay; the UK has no fishing interests in this. Due to the life cycle of the stock the TAC is not agreed at December Council when the majority of fishing opportunities are established; instead, the TAC is set at around this time each year when the scientific advice becomes available. The aim is for the proposal to be agreed in a timely way to align with the commencement of the fishing year for this stock from 1 July, and Council will be requested to adopt the proposal as soon as possible to allow for the effective planning of fishing activity for the season. The UK Government therefore supports the prompt agreement and adoption of this proposal.

I am anticipating that there will be scant opportunity to obtain scrutiny clearance in the brief interval between receiving the proposal and agreement, particularly as the timing for this process is likely to overlap with final Committee sittings before the summer recess. My intention for the written procedure, therefore, is that the UK will abstain on grounds of insufficient time for Parliamentary scrutiny, while indicating support for the substance of the proposal, assuming such abstention does not interfere with the successful adoption of the proposal.

An Explanatory Memorandum will be prepared setting out the details of the proposal once it is issued, and by then we should also be able to confirm the outcome of the written procedure, and how the UK voted.

*10 July 2014*

## EU APPROACH AGAINST WILDLIFE TRAFFICKING (6351/14)

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

Thank you for your letter of 8 May concerning the above communication and for confirming that the Committee is content to release it from scrutiny.

Your letter also inquired what progress had been made at the expert conference the European Commission hosted on 10-11 April. As I indicated in my previous letter, the UK was strongly represented at this Conference, and UK Border Force presented the UK enforcement model as an exemplar of multi-agency co-operation in combatting the illegal wildlife trade. The Commission has produced a short summary document covering the key issues identified by the Conference which can be accessed via the following link: [http://ec.europa.eu/environment/cites/pdf/summary\\_outcome.pdf](http://ec.europa.eu/environment/cites/pdf/summary_outcome.pdf).

The Conference covered an expected range of issues across the themes of: strengthening enforcement within the EU; strengthening co-operation both within and outside the EU; maximising engagement through existing and potential new international instruments; and maximising the impact of development funding in this area. I do not think it is unfair to say that the Conference itself addressed little that was new or distinctive from previous similar events.

It is understood that the Commission will reflect on the contributions they received and revisit the issue in the autumn. My officials continue to remain in open communication with their counterparts in the Commission and will monitor developments. One further area particularly worth noting though is the Commission's confirmation of plans they flagged at the Conference to significantly increase EU funding in this area. The Biodiversity for Life (B4Life) funding programme will cover 2014-2020 with a budget of €800m, and will have as one of its main themes a 'Wildlife Crisis Window' to dedicate funding towards combatting the illegal trade in endangered species, particularly in Africa.

*4 June 2014*

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

Your letter of 4 June 2014 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 18 June 2014.



We were interested to read the summary of the 10-11 April conference and to learn both that the Commission will revisit the issue in the autumn and that the Commission confirmed plans to increase funding in this area. We note that the funding will be part of the 2014-2020 development policy funding programme.

At this stage, we are content to close this strand of correspondence but we look forward with interest to further developments from the Commission later in the year.

*19 June 2014*

## EU DAIRY MARKET (10911/14)

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

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 July 2014.

We note that, even with the abolition of quotas, the milk sector remains a relatively protected industry. A suite of exceptional measures is available to the Commission to respond to market volatility. What form might any further measures take?

You indicate that you will work with other Member States as discussions continue. We recognise that discussions are embryonic, but we would be interested in any sense that you have of the emerging balance of opinion. We recall from our scrutiny of the recent Common Agricultural Policy (CAP) reform negotiations that the most disappointing aspect from your perspective was the final deal reached on the Markets Regulation, including the arrangements for milk. Will the relative failure of that negotiation prompt you to alter your stance and perhaps to identify a constructive approach that is likely to go some way towards addressing the concerns of the more protectionist Member States?

One aspect of the CAP deal that is not mentioned in either the Commission's report or the Government EM is the inclusion of risk management measures, which are designed specifically to protect farmers from the impact of price and weather variability. Might these measures come into play in the context of negotiations? We would emphasise that any funds put aside, or instruments developed, to assist producers must be limited to assistance to mitigate climatic impact.

You do not comment on the position in the UK regarding contracts between producers and processors. We would welcome an update and an assessment of whether producers are receiving a fair share of the market price and whether producers are in a strong position to negotiate balanced contracts under the new Voluntary Code of Practice. It would be helpful if you could clarify the scope of competence of the new Groceries Code Adjudicator in this regard.

Your EM notes that the Devolved Administrations were consulted in its preparation. Dairy production is particularly important for Wales and so we would welcome clarification as to whether the Welsh Government shares your response to the Report and the emerging position to be taken in debate on future policy.

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

*10 July 2014*

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

Thank you for your letter of 10 July 2014 seeking further information on the above report and the Government's approach.

You asked about the suite of exceptional measures available to the Commission to address market volatility. These measures are set out in Articles 219-221 and 226 of the new Common Market Organisation Regulation (Regulation (EU) No 1308/2013) and apply to a wide range of agricultural sectors, not just milk. They allow the Commission to address serious cases of market disturbance, the market impacts of animal diseases and loss of consumer confidence as a result of public, animal or plant health risks. Article 226 provides for the use of a "crisis reserve" if additional support is

required. The likelihood is that the Commission would intervene through the use of public intervention, private storage aid schemes or potentially by activating export refunds.

I was surprised by your comments about the Common Agricultural Policy (CAP) negotiations in relation to milk. The most important issue was to press on with phasing out milk quotas in March 2015; this we achieved. Our stance towards any future negotiations on EU dairying will be evidence-based and in line with the UK's overall objective of increasing the resilience, market orientation and international competitiveness of EU agriculture.

During the negotiations on the future of EU dairying, the Commission has stressed that risk management measures are available for Member States to consider as part of the Rural Development Regulation. The new risk management toolkit, introduced in the second pillar during CAP reform, includes an income stabilisation tool to deal with income fluctuations deriving from instable markets and help to support sustainable milk production.

In terms of the domestic position on contracts and milk prices, the best indication of the current state of the relationship between processors and producers is the recent publication of the UK dairy industry's sustainable growth plan "Leading the Way". Launched on 30 June 2014, the plan brings together the whole dairy supply chain to focus on the steps that are needed to grow the industry. The dairy industry's voluntary code of practice on contracts has been an important factor in getting supply chain relationships to this point. It is currently being independently reviewed by Alex Fergusson MSP to ensure that it remains fit for purpose. The issue of milk prices is not in scope for the Groceries Code Adjudicator as her remit does not cover prices.

The Welsh Government is routinely consulted on any EU negotiations on dairying. It recognises the importance of the dairy sector to Wales and the rest of the UK. The objectives outlined in the UK dairy industry's growth plan document complement those in the Welsh Government's recently published Food and Drink Action Plan.

In negotiations to date the Welsh Government has consistently supported the UK position for ending the EU quota regime in March 2015 and allowing a free market to develop thereafter.

I hope this response is helpful. I will of course update the Committee as the debate on future EU dairy policy develops.

*17 July 2014*

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

Your letter of 17 July 2014 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 July 2014.

You express surprise about our comments around the CAP negotiations in relation to the Markets Regulation, including the arrangements for milk. We agree that continued commitment to the phasing out of milk quotas was welcome and was achieved. Indeed, there were other important achievements for the UK, not least on the end to sugar production quotas. It is also the case, however, that the UK was unable to support the final outcome (see letter to us from the Secretary of State, dated 9 July 2013). Our point was simply that the negotiation proved to be a particularly difficult one and, ultimately, not one that the UK could support. On a related market management issue such as arrangements to support the dairy market, it may therefore be that lessons can be learned from that negotiation.

On the relationship in the UK between processors and producers, we are grateful that you have referred us to the recent "Leading the Way" sustainable growth plan. It is also helpful to be aware of the review being undertaken by Alex Fergusson MSP. Finally, we asked about the scope of competence of the Groceries Code of Adjudicator with regard to the negotiation of balanced contracts between producers and processors. Contractual arrangements extend beyond prices and we would thus re-iterate our query, bearing in mind that the GCA's statutory role is to adjudicate on issues arising between supermarkets and direct suppliers.

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<sup>1</sup> <http://www.dairyuk.org/media-area/press-releases/item/uk-dairy-industry-launches-leading-the-way>

We will continue to retain the Report under scrutiny and look forward to a response to our query by 29 August 2014.

*30 July 2014*

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

Thank you for your letter of 30 July seeking further clarification about the scope of competence of the Groceries Code Adjudicator (GCA) with regard to the negotiation of contracts between producers and processors.

The role of GCA is to enforce the Groceries Supply Code of Practice ("the Code") and to ensure that supermarkets treat their suppliers lawfully and fairly. It was established to avoid the major grocery retailers using their extensive buying power to transfer excessive risks or unexpected costs to their direct suppliers. The GCA's role is limited to enforcing the Code, and encouraging and monitoring compliance with it.

The scope of the Code does not extend to the adjudication of contractual issues arising between processors and producers. Hence, along with prices, this issue is outside the GCA's remit. However, supply chain relationships between processors and producers have improved since 2012 as a result of the dairy industry's voluntary code of contractual best practice.

You also raised the issue of the CAP 2020 negotiations and whether experience gained in relation to the single CMO regulation might be helpful for this dossier. As I have explained, the CAP outcome on milk was a reasonably positive one for the UK. However, I do take your point that we will need to resist calls, particularly from the European Parliament, for any alternative supply management scheme in the milk sector once quotas come to an end as this would penalise efficient producers and limit opportunities for growth. We will actively work with like-minded Member States to resist any such approach,

I hope this clarifies the issues you have raised.

*19 August 2014*

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

Your letter of 19 August 2014 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We note your clarification of the role of the Groceries Code Adjudicator. We are now content to release the Report from scrutiny and to close this strand of correspondence.

*10 September 2014*

EU ENERGY COUNCIL, BRUSSELS, 9 DECEMBER (UNNUMBERED)

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

In advance of the forthcoming Energy Council in Brussels on 9 December, I am writing to outline the agenda items to be discussed.

Under the first item on the agenda the Italian Presidency has suggested a policy debate on the main issues essential for the governance of the 2030 climate and energy framework to ensure that the EU meets its energy policy goals. The UK will be arguing for a flexible, light-touch approach and working to ensure that the system does three key things: ensure that credible National Plans are in place; enable effective monitoring of our collective progress towards EU energy goals; and respect national flexibility over choice of measures.

The Council will then be asked to adopt conclusions on the completion of the internal energy market, reaffirming the need for effective and consistent implementation and application of the Third Energy Package by all Member States and the timely adoption of network codes and guidelines. The Council will agree on the need for more investment in strategic infrastructure and a follow-up review of

progress by the Commission by 2016. The UK agrees that more needs to be done by Member States to complete the Single Market and that particular priority needs to be given to the facilitation of new interconnection and investment projects.

As part of the mid-term assessment of the 'Europe 2020 Strategy for Smart, Sustainable and Inclusive Growth' all relevant Council formations are being consulted. Ministers in the Energy Council will be asked to debate the contribution of the energy sector to the 2020 economic reform strategy.

The Commission and Presidency will then report on developments in external energy relations, including agreement on the terms of winter gas supplies between Russia and Ukraine, facilitated by the EU.

Finally, the Latvian delegation will inform the Council of the priorities for their Presidency in the first half of 2015. They intend to focus on competitiveness and growth, the digital agenda and the EU as a global player.

4 December 2014

## EU FORESTS STRATEGY (13834/13)

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

Your letter of 2 June 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 18 June.

We are grateful for your comprehensive response to our letter.

While we accept the general tone of your message, the underlying issues of weak coordination between policy instruments will require firm implementation and sustained effort. The ongoing tension is extremely clear in paragraph 8 of the Council Conclusions. It is undoubtedly necessary to respect the existing balance of competences but the failure to attempt to do so while aiming to deliver sustainable forestry is at the heart of the policy dilemma.

As we noted in our previous letter, we detect an ongoing, and as yet unresolved, attempt to wrestle with this tension. On the basis of your letter and the Council Conclusions, we retain our concerns. In particular, we are concerned that a "Business As Usual" approach will be maintained and that the respective institutions will continue to blame each other for that situation. The promised implementation plan, to be prepared by the beginning of 2015, will obviously be crucial in overcoming the identified tension. Rather than wait to be presented with that plan, we would urge you and other Member States to engage with the Commission during its preparation of the plan, proposing positive ideas as to how the coherence of policies can be delivered. Particularly important will be the detail on the development of the role of the Standing Forestry Committee, to which paragraph 11 of the Conclusions refers.

On the matter of knowledge transfer, we note that the Council did not adopt any explicit Conclusions on this issue. We would welcome an explanation as to why that was the case and what efforts you made to assert the importance of knowledge transfer with your colleagues across the EU.

In your letter, we were disappointed that you did not recognise the need to strengthen the knowledge transfer aspect of forestry policy. While the work undertaken through the National Skills Framework is positive, we are unclear why this work could not be integrated into the Farming Advice Service (FAS). You note that the services provided by FAS are mandated by the CAP. In reality, the mandatory obligation is a minimum requirement and, in any case, the reformed CAP extends the minimum requirements beyond cross-compliance.<sup>2</sup> Again, Defra's lack of ambition is both disappointing and surprising and fails to recognise the crucial role of knowledge transfer across the agriculture and forestry sector. Over the last few years, significant improvements have been made in England, but the baseline was poor compared to some other EU Member States and compared even to other parts of the UK. We would therefore appreciate a clearer articulation of this point, explaining whether you are content with the current level of forestry knowledge transfer and, if not,

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<sup>2</sup> Article 12, Regulation 1306/2013 on the financing, management and monitoring of the common agricultural policy

how you intend to strengthen beyond the existing efforts. You may wish to comment on the level of coherence between the knowledge transfer efforts of Forest Research, FAS and the National Skills Framework.

We look forward to your response to the issue set out above within 10 working days.

*19 June 2014*

### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter of 19 June requesting clarification on the EU Forest Strategy.

#### **POLICY COHERENCE**

Upholding national competence for forestry is not incompatible with delivering sustainable forest management across the EU.

We are fully committed to improving forestry-related policy coherence within the European Commission and between the European Commission and Member States. We are working with the Commission to shape the EU Forest Strategy action plan, through the Working Party on Forestry and the Standing Forestry Committee, in order to deliver better coherence.

#### **KNOWLEDGE TRANSFER**

Knowledge transfer is a national competence: it does not therefore feature in Council Conclusions on the EU Forest Strategy. Effective action on forestry knowledge transfer is best taken at a local level. I recognise the need for good knowledge transfer of forestry to the agricultural sector, and more widely.

Most of the practical advice given to woodland owners is provided by a well-established network of professional private sector forestry consultants throughout the UK. The Forestry Commission also provides advice on the UK Forestry Standard and various grant schemes, as well as producing a range of publications based on the latest scientific research. In addition, there are number of 'woodland projects' (some of which are partially funded by local authorities and run as charities) which provide initial advice free of charge to small scale owners.

There is scope to consider whether the Farming Advice Service could direct farmers to relevant forestry advice on request. However, I would not favour state funded advice displacing the private forestry consultants. Our policy is to intervene only where we can strengthen and promote forestry within the rural economy.

The Farming Advice Service provides farmers with advice on cross-compliance in the Common Agricultural Policy Regulations. In future it is likely to provide guidance and advice on regulatory matters, in line with the government's smarter guidance principles. The Rural Development Team, which developed the National Skills Framework, is working with the Farming Advice Service to ensure that industry advisers are aware of, and can direct users to, current skills and knowledge transfer opportunities.

*1 July 2014*

### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 1 July 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 9 July 2014.

We were surprised at the nature of your response and your insistence that knowledge transfer is a national competence. EU research policy is based on the principle that research efforts are more effective when resources are pooled, adding value and seeking to avoid the duplication of research. It is clearly important that the outcome of such research, including into important areas such as pests and disease, is transferred.

We are concerned that you do not acknowledge the value of knowledge transfer across borders and would welcome clarification of the Government position on this very important matter. In particular,

it would be helpful if you would explain the statement that knowledge transfer is a national competence. Given the significance of plant health, please do illustrate your position on knowledge transfer competence with reference to the above example of sharing knowledge across borders on pests and diseases and how they can be both treated and prevented. Ultimately we are concerned that there is a disjointed approach between your approach to plant health on the one hand and knowledge transfer in the forestry sector on the other.

On the basis of our comments above, we remain surprised that knowledge transfer did not feature in the Council Conclusions. Even if there is a case to be made that delivery of knowledge transfer is a national competence, we see no reason why it should not feature in Council Conclusions on the EU Forest Strategy given how important knowledge transfer will be to the success of the Strategy. We would therefore repeat our query as to why that was the case and what efforts the UK Government made to assert the importance of knowledge transfer across the EU. If the Government did not make such efforts, please do make that clear and set out the reasons for your approach.

We look forward to your response within 10 working days.

*10 July 2014*

#### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter of 10 July. We agree on the importance of knowledge transfer between the forestry sector and other sectors in the UK, such as agriculture. I continue to believe that the effective transfer of forestry-related knowledge to UK practitioners by UK organisations (e.g. Forest Research) is best done at the national level, and that delivery of this type of knowledge transfer is a national competence.

Sharing research results between countries is also important. Both the EU and Member States have competence in this area and the UK has always supported the sharing of expertise, knowledge and data across the EU.

On plant health, the UK's commitment to international knowledge transfer is illustrated by two recent publications. The Forestry Commission's Science and Innovation Strategy for Forestry advocates the integration of forestry research with wider cross-border issues such as plant health and climate change. It encourages collaboration with organisations and networks such as the International Union of Forest Research Organisations and the European Forest Institute. Defra's Plant Biosecurity Strategy outlines international action to protect trees and plants from biosecurity risks and includes sharing knowledge and research in the EU and internationally. The EUPHRESKO Network, for example, aims to increase cooperation and coordination of national phytosanitary research programmes at the EU level.

The EU Forest Strategy provides a forum for improving the evidence base for Member State forest policies, including through the sharing of scientific evidence and best practice. In negotiating Council Conclusions on the EU Forest Strategy, the UK strongly supported the development of a Forest Information System for Europe to inform policy and increase the knowledge base on forestry. Agreement has now been reached through the Standing Forestry Committee to develop a voluntary system on priority areas, such as carbon cycles, biodiversity, forest resources and biomass, building on the data available from national forest inventories.

*24 July 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 24 July 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 10 September 2014.

We note your response and we are now content to close this strand of correspondence.

*10 September 2014*

## EU REGULATION ON NOVEL FOODS (18171/13)

### **Letter from Jane Ellison MP, Parliamentary Under-Secretary of State for Public Health, Department of Health, to the Chairman**

I am writing to provide your Committee with an update on the progress of negotiations on the proposed revision to the EU Regulation on novel foods, and to ask you to lift scrutiny. I would also like to take this opportunity to apologise for the delay in writing to you on this subject which I understand was due to the presidency taking longer to reach agreement on the definition of novel food than previously anticipated.

On 29 October the Italian Presidency transmitted a consolidated text of the proposal reflecting discussions in Council working parties with a view to a vote in Ministerial Council on 1 December 2014.

#### DEFINITION AND SCOPE

The most recent Council discussions have concerned the definition of novel food. Industry raised concerns that the Commission's proposal had the potential for a significant extension to scope of the legislation. There now appears to be broad agreement that the scope should largely be the same as the 1997 legislation though with modest updating in light of technological progress. The Council proposes to RE-INTRODUCE AN EXHAUSTIVE List of food categories to which a food must belong to be considered a novel food. This includes being explicit that food containing nanomaterials is within scope (as in the COMMISSION PROPOSAL OF DECEMBER 2013). This way forward means there is not a significant change in scope of the legislation.

#### CLONING

Cloning is the subject of two parallel Commission proposals, one of which concerns the marketing of food from clones. These are moving more slowly through the co-decision process so the Council proposal is that the revised novel foods legislation will make no explicit reference to clones. This would, for now, leave the status quo of the 1997 legislation, i.e. that food from cloned animals is covered by the novel foods legislation, but food from subsequent (traditionally bred) generations is not covered. The other important aspects of the revised novel foods proposal remain. It includes the centralisation of the risk assessment process to be undertaken by the European Food Safety Authority, data protection for 5 years for new scientific evidence provided in support of an application for authorisation, and a simpler notification procedure for traditional foods from non-EU countries.

UK objectives have been achieved as the proposed regulation modelnises, is proportionate and risk-based. Therefore I hope you will agree to lift scrutiny of this proposal.

*18 November 2014*

### **Letter from the Chairman to Jane Ellison MP**

Your letter of 18 November 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014.

While we would indeed have welcomed an earlier update, not only on developments in the Council but also in the European Parliament (EP), we are grateful for your apology.

We note your assessment of the proposed Council position, including your comments on definition, scope and cloning in addition to those elements that have not been changed thus far.

As regards the position of the EP on which you offer no comment, we are aware that the EP's Environment Committee (ENVI) voted on the Proposal at an extraordinary meeting on 24 November and that a large number of amendments were tabled. These covered issues with which the Council appears to be content, such as the authorisation procedure and data protection, as well as aspects that the Council proposes to change.

Given the uncertainty about the position of the EP and therefore of the future direction of negotiations with the EP, we consider that it would be premature to release the Proposal from scrutiny. Nevertheless, agreement at the meeting of the Council of 1 December need not be withheld pending completion of scrutiny.

We look forward to an update on the outcome of the Council meeting within ten working days. It would be helpful if you could include your reflection on the outcome of the ENVI Committee vote, including amendments relating to cloning, and the implications for negotiations between the EP and Council.

26 November 2014

## EUROPEAN CITIZENS' INITIATIVE: WATER AND SANITATION (8177/14)

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 2 July 2014.

In light of the Commission's Communication and the European Citizens' Initiative's call for Member States to ensure that all inhabitants enjoy the right to water and sanitation, we welcome the steps that you have already taken to recognise the rights associated with these most basic of necessities and would urge you to continue to work in this area. We also welcome the Commission's commitment to press for universal access to safe drinking water and sanitation as a priority area for future Sustainable Development Goals.

Given that this is the first ECI to have merited a response from the Commission, and that it reflects a clear desire for greater action on the part of citizens from across the EU, we would welcome your views on the general principle of the ECI and whether you consider that in this case it has fulfilled its aims. Moreover, we would welcome your views on whether you consider the Initiative and the associated processes to be accessible and easily understandable to the citizens at whom it is aimed.

You do not comment directly on the statements by the Commission in the Communication setting out its analysis of the acknowledgment in international law of a right to safe drinking water and sanitation. The implication of the section of your EM headed "Fundamental Rights Analysis" is that you do not agree with the Commission's view. We note your argument that the rights covered by the Communication are neither free-standing rights nor rights under customary international law, but we would welcome a clearer explanation from you as to the precise status of these rights. In particular, we would be interested in your views on the statements quoted by the Commission from (i) UN Resolution 64/292 and, (ii) at European level, from the Parliamentary Assembly of the Council of Europe, to the effect "that access to water must be recognised as a fundamental human right because it is essential to life in earth and is a resource that must be shared by mankind".

In light of the Commission's non-legislative commitments we would be interested to hear your views on how innovative approaches for development assistance are to be stimulated in practice and whether you have any plans to promote the sharing of best practices with other Member States and in doing so to identify new opportunities for cooperation.

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

7 July 2014

### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter of 7 July in response to the Explanatory Memorandum (EM), regarding this European Citizens' initiative (ECI). I welcome your interest in this initiative.

On the general principle of the ECI, we believe that when citizens request action from national and European institutions, it is a positive sign of a healthy democratic process. We welcome this example of citizens directly holding the EU to account. The European Commission responded to the



“Right2Water” initiative in its March 2014 Communication<sup>3</sup>. As the Commission progresses with actions proposed in section three of its Communication, we will want to be sure it respects subsidiarity, so that action is taken at EU level only where it could not be more effectively achieved at national or sub-national level.

On the question of accessibility and clarity of the process, the European Commission has made available a “Guide to the European Citizens’ Initiative”<sup>4</sup> that outlines the process. Their website<sup>5</sup> also provides information on which stage each initiative is currently in as well as guidance for those wishing to start a new initiative. Information on which initiatives were refused and why can also be found on the European Commission’s website.

You requested an explanation of our position on the right to safe drinking water and sanitation. Our legal position, in line with the statement by the Attorney General in 2012, is that we recognise the right to water and sanitation as a component of the Right to an Adequate Standard of Living, Article 11 of the International Covenant on Economic, Social and Cultural Rights. We do not recognise it as a freestanding right and seek to avoid the development of customary international legal rights or the expansion of existing Covenant rights.

Several innovative approaches for development assistance are being taken. The UK government is committed to supporting the achievement of the Millennium Development Goals (MDGs). As part of our efforts to help meet the water and sanitation goals we have pledged to support 60 million people to gain access to sustainable Water Supply, Sanitation and Hygiene (WASH) by the end of 2015 and we are on-track to meet this commitment. The Department for International Development (DFID) places a strong emphasis on using robust evidence to inform our policy and programming. By better understanding the evidence base we can make innovations that lead to better impacts. For example, the DFID funded Cochrane Review Interventions to improve water quality and supply, sanitation and hygiene practices, and their effects on the nutritional status of children<sup>6</sup>, work carried out by the London School of Hygiene and Tropical Medicine, showed for the first time a statistically significant link between WASH interventions and under nutrition. Several high impact DFID nutrition interventions, notably in Yemen, Nigeria and Zambia, now include a strong focus on hand washing with soap and water particularly by child-carers at critical times. Given the importance of inter-sectoral linkages, we support the Commission’s proposal, in the Communication, to move towards more integrated programming in their 2014-2020 financial framework (pg. 11).

In terms of international fora for sharing innovation and best practice, the Sanitation and Water for All (SWA) Partnership, launched in 2010, brings together developing countries, donors, multilateral agencies, civil society and other development partners to work towards universal access to sanitation and water, through coordinated action at the global and national levels. The UK is an active member of SWA, as are a number of other EU Member States. DFID also shares best practice with the European Commission and other Member States through the EU Water Experts’ Group and the EU Water Initiative, which is designed to mobilise and coordinate all available EU resources (human & financial) to achieve the water-related MDGs in partner countries. The greatest innovation, of course, takes place at country level where suppliers and public authorities can respond to WASH needs in their particular context. As donors we need to consistently consider how we can financially support innovative approaches and work with national and local governments to improve the enabling environment for sustainable WASH provision. The Commission allude to this in their Communication.

17 July 2014

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 17 July 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 10 September 2014.

We welcome your support for the general principle of the European Citizens’ Initiative (ECI) and share your view that direct methods of holding the EU to account are to be applauded. We consider

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<sup>3</sup> [http://ec.europa.eu/transparency/com\\_r2w\\_en.pdf](http://ec.europa.eu/transparency/com_r2w_en.pdf)

<sup>4</sup> <http://ec.europa.eu/citizens-initiative/files/guide-eci-en.pdf>

<sup>5</sup> <http://ec.europa.eu/citizens-initiative/public/welcome>

<sup>6</sup> <http://summaries.cochrane.org/CD009382/the-effect-of-interventions-to-improve-water-quality-and-supply-provide-sanitation-and-promote-handwashing-with-soap-on-physical-growth-in-children>

your resolve that the Commission respects the principle of subsidiarity in enacting its response as sensible. We view the European Commission's publication "Guide to the European Citizens' Initiative" as a positive step in opening up the process and we would be interested to know the lengths that you are going to in publicising and encouraging UK citizens to take part. If the Initiative is to fulfil its aims, we are of the opinion that Member States should take a leading role in its promotion.

We are grateful for your clarification on the precise status of the right to safe drinking water and sanitation and note that you consider it as a component of the Right to an Adequate Standard of Living, Article 11 of the International Covenant on Economic, Social and Cultural Rights.

The examples you provide of DFID's inter-sectoral approach to overseas nutrition interventions is encouraging and we would urge you to continue placing an emphasis on improving access to clean water and sanitation in development projects wherever appropriate, whilst remembering that the Initiative urges action both within the European Union and through overseas development projects. We are encouraged by the numerous ways in which innovation and best practice is being shared at an international level and welcome your acknowledgement that the greatest innovation takes place at a country level when suppliers and public authorities are given the resources to work together.

We will retain the communication under scrutiny and look forward to your response by 6 October 2014.

*10 September 2014*

#### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your further letter of 10 September on this Explanatory Memorandum regarding this European Citizens' Initiative.

The Committee asked what measures the UK is taking to encourage UK citizens to take part in European Citizens' Initiatives. The Government warmly welcomes the Committee's support for encouraging citizens to hold the EU institutions to account: this is as important at the European level as it is at the national, regional and local level, if our democracy is to function effectively. The Government provides all the necessary infrastructure to enable citizens to engage with Initiatives when they are started, including ensuring that any differences between the way Initiatives are administered here and in the rest of the EU do not hamper UK citizens from participating.

Our commitment to reform the EU so that it is more democratically accountable is also reflected in other proposals we are advocating to our European partners. National parliaments are the institutions with which people identify and it is through them that voices of people across the EU can be heard. Enhancing the role played in EU decision making by national parliaments, as well as national governments, is an effective way of tackling the sense of distance that people feel about the European Union, and what it does. A growing number of other Member States agree with our position, which we will continue to champion.

I remain grateful for your interest in this initiative.

*1 October 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 1 October 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 15 October 2014.

We are pleased to hear that you consider the active participation of European citizens in holding EU institutions to account as positive. In our letter of 10 September we asked what measures you are taking to encourage UK citizens to take part in the various European Citizens' Initiatives (ECIs). It is good to hear that you provide the "necessary infrastructure" to enable citizens to engage with the Initiatives and we would welcome a clearer articulation of what this entails. Moreover, we would welcome further details on specific measures that are being taken to publicise the ECI programme more widely so that UK citizens are aware of their ability to petition the Commission to initiate legislation.

Your comments concerning the role of national parliaments are encouraging. As you will recall, in our report on the Role of National Parliaments which was published earlier this year, we recommended

that the Commission recognise a “Green Card” style agreement which would allow national parliaments to come together on areas of interest and petition the Commission to initiate legislation. The agreement would operate along the same lines as the ECI which binds the Commission to respond positively with a legislative proposal or negatively with an accompanying explanation. The existing ECI structure has the potential to increase public engagement with EU Institutions further; your role in publicising this structure is of the utmost importance.

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

*16 October 2014*

### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter dated 16th October 2014 with further points on the above document.

You asked for further details about what is meant by the ‘necessary infrastructure’ to enable citizens to engage with European Citizens’ Initiatives (ECIs). The Government provides all the resource necessary to meet the requirements of Regulation No 211/2011, this primarily entails providing staff resource to verify signatures collected in the UK and to liaise with the European Commission and ECI organisers.

You also asked for further details about specific measures being taken to publicise the ECI programme more widely. The European Commission leads on promoting the ECI and the Government informs organisations with an interest in the ECI in the most cost effective way, by directing them to the European Commission website. This has a wide range of information about how to start an initiative, as well as how to support initiatives started by others. The European Commission will be reviewing the effectiveness of the ECI regulation and member states will be asked to feed into this in the first quarter of 2015. This will be an opportunity to consider whether we would want to change the way we publicise the ECI process to UK citizens in future.

Like the Committee, the Government is clear that ability for citizens to hold to account the institutions that govern them is vital for democracy to function transparently and effectively. This is especially important at the European level today: the low turnout at the last European Parliament elections clearly highlights the disengagement that many voters feel from the EU and what it does. As this is the first ECI to have triggered a Commission response, it is not yet clear whether the ECI is an appropriate channel to address disengagement. What the Government is clear about, however, is how much national parliaments have the potential to tackle this challenge. Voters understand more clearly the way that they have influence over their national parliaments including through the ballot box, constituency surgeries and corresponding with their MPs. These are readily understood democratic levers for many citizens. Involving national parliaments more in EU decision-making works with the grain of what people are already familiar with and are essential to ensure respect for the principle of subsidiarity. It is likely to make a greater, faster and more resource-efficient contribution to tackling the problem of democratic accountability at the EU level. That is why the Government will continue to focus its efforts on the role of national parliaments in the EU, more than other initiatives.

We have already made good progress in this area. Firstly, we are arguing for a strengthening of the existing powers of national parliaments over EU affairs. We welcome your recommendations that changes should be made to the Yellow and Orange card system, which might include lowering the number of parliaments needed to trigger a yellow or orange card process, lengthening the deadlines within which parliaments must register concern that could lead to a card process being started, or extending the scope to proportionality as well as subsidiarity. Secondly, a majority of national parliaments in the EU has recently requested Jean-Claude Juncker to set up a working group to consider how to strengthen the role of national parliaments in EU decision making. Some Member States advocate instituting a Green Card (the right for groups of national parliaments to petition the Commission to initiate or repeal legislation), while others, including this coalition government, have argued for a Red Card - the right for groups of national parliaments to block legislation. We believe that the working group should be set up, and that these sorts of new powers, as well as the strengthening of existing mechanisms, should be agreed in that group.

I trust that I have now addressed all of your points on this document sufficiently.

*25 October 2014*

EUROPEAN COURT OF AUDITORS' SPECIAL REPORT NO.4/2014 - INTEGRATION OF  
EU WATER POLICY OBJECTIVES WITH THE CAP: A PARTIAL SUCCESS  
(UNNUMBERED)

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

Your Explanatory Memorandum (EM) on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 16 July 2014.

In light of the fact that the Commission is yet to respond to the Report, we would be interested to know what you would like the reply to include and the steps you are taking at a European level to influence this. Moreover we would like to know whether you feel the report's recommendations would benefit from any legislative proposals and whether you would push for an increase in cross-compliance criteria in a 2017 mid-term review.

Your discussion of the differing interpretations of Article 9 of the Water Framework Directive (WFD) was helpful. We are conscious that a similar disagreement on the interpretation of the Article may arise between the Commission and the UK at some point in the future and would welcome an explanation of how you are hoping to secure the interpretation to mean that only harm to public and private property caused by the supply of water and services relating to wastewater should incur costs, not the effects of agricultural pollution in general.

You explain that the updated reporting guidelines for the WFD are being discussed in the Common Implementation Strategy process, a process in which the UK is an active participant, though you provide no indication of how the UK will seek to influence the discussion; we would welcome this information.

Whilst positive initiatives, we would be interested to hear your views on the possibility of extending the Catchment Sensitive Farming (CSF) programme and the Capital Grants Scheme. Currently, the CSF programme is voluntary and the Capital Grants Scheme can only offer a single holding a maximum of £10,000 from an overall budget of £15m. In our 2012 Report on EU Freshwater Policy, we urged you to ensure that appropriate funds were dedicated to providing advice and information to aid farmers in the task of managing water resources. We would be interested to hear about the success or otherwise of these schemes as they stand and would appreciate statistical data on their financing, the number of capital grants made and the number of people who have availed themselves of the advice and information services. We would also welcome your views on the opportunities for extending the scope and size of the schemes.

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

*18 July 2014*

**Letter from Dan Rogerson MP to the Chairman**

The European Commission's response to the European Court of Auditors' findings is included in the report at pages 54 to 63.

We do not think there would be any benefit from European water legislation proposals resulting from the Commission's report as we consider the current framework of European and domestic legislation to be adequate. We have considered whether cross-compliance is the appropriate mechanism for delivery of new regulation. There are limitations which suggest that an alternative mechanism (such as domestic regulation) may be more effective in delivering the change required on the ground. In particular, cross-compliance does not have complete coverage (not all farmers claim the Single Farm Payment) and offers a limited set of tools, given the specificity of the Regulations, to support behaviour change around diffuse agricultural pollution. Consequently, we would not push for an increase in cross-compliance criteria in 2017 on water quality.

We are currently reviewing our regulations to tackle agricultural pollution of water, to assess any gaps in existing regulation and streamline them to provide clarity and simplification for farmers. These include the Nitrate Pollution Prevention Regulations, the Silage, Slurry and Agricultural Fuel Oil

Regulations<sup>7</sup> and cross-compliance. We intend to consult on any changes to regulation towards the end of the year.

Regarding Article 9 of the Water Framework Directive (WFD), we await the outcome of the Commission's case against Germany. The UK submitted a detailed statement of intervention to the European Courts of Justice (ECJ) in support of Germany's position and we were pleased that the recent opinion of the Advocate General on this case supported the UK's interpretation. In the opinion, which was published on 22 May, the Advocate General contested the European Commission's interpretation of the WFD's cost recovery principle. Article 9 of the WFD requires Member States to pass on the true costs of water services to domestic, industrial and agricultural users to encourage efficiency. Germany applies this principle to drinking water supply and wastewater treatment, but the Commission says cost recovery should also apply to water used for hydropower, navigation, industrial cooling and irrigation. According to the Advocate General, such a broad interpretation of the cost recovery principle and the water services that are linked to it cannot be applied uniformly across the EU because of different geographical and climatic conditions.

On the WFD reporting guidelines, these have now been agreed through the Common Implementation Strategy process. The relevant UK environmental agencies took opportunities to advise on the practicality and feasibility of the Commission's proposals. This has helped to influence the detail of the final document.

The Catchment Sensitive Farming initiative currently provides capital grants to farmers using Rural Development Programme (RDP) funds. With increased funding available during Phase 3 (1 April 2011 – 31 March 2014), the number of priority catchments has increased from 50 to 79, thus extending the availability of the grant scheme. Over the duration of this phase, the scheme contributed to approximately £71.6m of improvements; with uptake highest in the South West. These grants have been matched with a similar amount of funding from the local farmers and land managers involved, demonstrating their impressive commitment and representing a total investment of at least £143.2m into the environment, farm infrastructure and local businesses across the catchments.

In total, 167,788 individual mitigation measures have been advised to farmers on 16,133 farm holdings and 62 per cent of measures recommended through one-to-one advice have been implemented. Recent evaluation results show a measurable impact on water quality, in particular in relation to sediment and pesticide pressures.

The environment will be the main focus of the next RDP, although resources will be constrained. This is due largely to the need to pay for current agreements which do not expire until part way through, or in some cases beyond, the next programme. The budget for a new environmental land management scheme amounts to about £900m over the six years of the next programme.

Overall, biodiversity will be the priority for the new scheme, with water also an important area of focus. In particular, we will seek to maximise opportunities to deliver biodiversity, water quality and flooding benefits together. Farmers and land managers will continue to need advice and information to aid them in managing their impact on water. We aim to simplify the system of farming advice provision under the new CAP for the benefit of farmers and landowners, so that they get the advice they need with recourse to the fewest numbers of advisors and that necessary client administration is minimised.

*30 July 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 30 July 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 10 September 2014.

We note with interest the point you make concerning the limitations of increased cross-compliance as a driver of behaviour change. We acknowledge that the Single Farm Payment is not available to all farmers and so only a partial coverage would be achieved should the criteria for eligibility be enhanced. However, this shouldn't be seen as a bar for considering the opportunities for cross-compliance, particularly in the light of reduced Rural Development Programme (RDP) budgets, to deliver water policy objectives. We would welcome further detail on your analysis of the respective

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<sup>7</sup> Water Resources (Control of Pollution) (Silage, Slurry and Agricultural Fuel Oil) (England) Regulations

pros and cons of delivering water policy objectives via both Pillar 1 and Pillar 2. The assurance that you are reviewing the regulations to tackle agricultural pollution of water is appreciated, in particular the point you make that this should provide greater clarity and simplification for farmers.

We are encouraged by the actions you have taken to promote the UK's interpretation of Article 9 of the Water Framework Directive (WFD) in the test case with Germany which is currently before the European Courts of Justice (ECJ) and await the outcome. Likewise, we welcome the actions that have been taken by the UK environmental agencies to shape the WFD reporting guidelines through the Common Implementation Strategy process.

The statistics you provide relating to the Catchment Sensitive Farming initiative are encouraging. In particular, we consider the increase in the number of priority catchments from 50 to 79 as a positive step forward in extending the availability of funding to a greater number of farmers and land managers.

It is interesting to learn that 62 percent of individual mitigation measures recommended through one-to-one advice have been implemented. Although a positive sign, we would welcome your views on how this rate can be increased and whether those measures which fail to be realised tend to be the victims of a lack of personal finance on the part of the farmer or land manager. Moreover, we would welcome further details on how you intend to simplify the system of farming advice provision under the new CAP and the estimated costs associated with reducing client administration.

We will retain the communication under scrutiny and look forward to your response by 6 October 2014.

*10 September 2014*

#### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter on 10 September regarding the above dossier. You raise a number of queries which I am clarifying below.

In relation to Pillar 1 we have taken the decision not to gold plate our actions to ensure our farmers are not disadvantaged in relation to other member states. The Government takes the view that environmental benefits are best achieved through Pillar 2 of the CAP and has transferred 12% of the budget from Pillar 1 (direct payments) to Pillar 2 (rural development). A review will be held in 2016 into the demand for agri-environment schemes and the competitiveness of English agriculture. This is with the intention of moving to a 15% transfer rate from Pillar 1 (direct payments) to support the final two years of the Pillar 2 Rural Development Programme.

87% of that funding in Pillar 2 (around £3.1bn) will be spent on a new environmental land management scheme and existing Environmental Stewardship agreements. We anticipate the new programme will deliver more for water with a much more targeted and focused scheme, ensuring that we get the right options in the right places to deliver the optimum benefits. Our targeting is aimed at delivering the best value for money from the existing funds. This includes delivering multiple benefits where possible and ensuring that options are prioritised where they deliver for more than one water quality outcome (for example bathing waters and Natura 2000 protection sites).

You ask how to increase the implementation rate of measures recommended through one-to-one advice by the Catchment Sensitive Farming project. Analysis shows the strongest relationship to be with the length of time that the project has been present in a catchment, reflecting the time needed to build farmer/advisor relationships, plan complex works, make investment decisions and generate finance. Other factors include whether the farmer/land manager is responsible for investment decisions on the farm, the duration of any tenancy agreements and whether the farmer is persuaded of the need to change.

Catchment Sensitive Farming is developing products and approaches for such 'hard to action' farmers. This includes work with landlords and their agents to develop the case for investment and work in catchments and with sectors that have poor implementation rates to address specific issues.

You ask whether those recommendations which are not implemented tend to not be taken forward due to a lack of personal finance on the part of the farmer/land owner. Analysis indicates that whilst there is lower uptake of recommendations that cost the farm business, this is not the primary factor

in determining uptake. However, cost will be a consideration and easier access to finance would help uptake of certain measures in sectors where finance is an issue.

Defra is taking forward its commitment to simplify advice provision and benefit end-users. We have begun the process of bringing all procured advice under a single framework contract to commence in 2015 alongside introduction of the new CAP. This will mean advice services can be procured in a simpler and more cost-effective manner, and promoting stronger integration to the end-user. A national programme of events will deliver advice across the EU mandatory topics, fulfilling core requirements consistently and minimising the need for farmers to engage in multiple sessions. Where possible, on-farm advisers will also be mandated to advise across complementary advice areas. We intend to create a single access platform from 2016 whereby farmers will access all advice initially by means of a dedicated specialist phone line, email address, and central website. A single platform will provide an easier, quicker, and more convenient path for farmers to find the information and advice they need, leading to greater consistency and improved local co-ordination with other provision. A more streamlined advice process will also help reduce client administration.

*1 October 2014*

### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 1 October 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 15 October 2014.

We note your view that environmental benefits are best achieved through Pillar 2 (rural development) of the CAP and your desire to transfer a higher percentage of the Pillar 1 (direct payments) budget to Pillar 2. However, it remains the case that the Pillar 1 budget is substantially higher than that for Pillar 2, and is likely to remain so for the foreseeable future. It is therefore important that you give further consideration as to how water policy objectives can be integrated into both Pillars.

Concerning Pillar 2, we support your approach in prioritising projects which have the potential to deliver more than one water quality outcome. Water policy objectives should be a considered a priority and the successful integration of these with the CAP will enable a cost effective and efficient way of protecting and restoring water bodies across Europe and ensuring long-term sustainable water use.

Your commitment to increase the implementation rates of measures recommended through one-to-one advice by the Catchment Sensitive Farming project is welcome, as are efforts to work with farmers and land managers who are yet to be convinced of the need to adapt their agricultural practices. The consideration of cost is clearly an issue for some in determining whether they implement recommendations and we would encourage you to work closely with those who may be entitled to funding from other sources.

The simplification of advice provision will be a key factor in determining the successful implementation or otherwise of the new CAP. The commencement of a single framework contract suggests that the approach you envisage is a uniform and integrated one. The national programme of events and on-farm advisers are positive examples. The single access platform comprising of a dedicated specialist phone line, email address and central website does have the potential to reduce client administration but we would caution against a gradual move to “digital by default” and remind you most firmly that provision should always be made for those who feel unable to use online services or cannot access the internet.

We are now content to release this item from scrutiny and close this strand of correspondence.

*16 October 2014*

EUROPEAN COURT OF AUDITORS' SPECIAL REPORT NO.8/2014 - HAS THE  
COMMISSION EFFECTIVELY MANAGED THE INTEGRATION OF COUPLED SUPPORT  
INTO THE SINGLE PAYMENT SCHEME? (UNNUMBERED)

**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 Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 22 October 2014.

We acknowledge that the UK was not included in the audit and that the UK has moved successfully towards an almost full decoupling of payments.

The issues highlighted extend beyond the specific audit and pertain to the allocation of payment entitlements under the reformed Common Agricultural Policy (CAP). Calculating such entitlements based on the amended rules will prove a challenge across the European Union. It will therefore be critical that the Commission monitors and assists Member States effectively, particularly those that have been slower at decoupling payments.

There would appear to be a discrepancy between the response to the Report by the Commission and by the Government. On the one hand, you insist that the issues of monitoring and control highlighted in the Report have not been sufficiently addressed in the legislation that will implement the reformed CAP. On the other hand, the Commission argues that substantial changes have been put in place. It would be helpful if you would set out your specific concerns and clarify to what extent you disagree with the Commission's assertions. Furthermore, we would be interested to know how, in the short term, you intend to push for improvements.

Finally, we would appreciate clarity on whether the Report is likely to be discussed in Council. Given the importance of the issues raised, might the Government advocate such a discussion if one is not already scheduled?

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

*22 October 2014*

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

Thank you for your letter of 22 October asking for further information in relation to the above Explanatory Memorandum.

We do agree with the Commission's comments, made in their response to the European Court of Auditors' (ECA) report, that positive changes have been made which should help address the issues raised by the ECA. In particular we welcome the fact that resources within the Commission are being dedicated to supporting, and monitoring, Member States in their implementation of the new direct payments regime under the Common Agricultural Policy (CAP). We also agree with the Commission that it has provided detailed rules on the calculation of payment entitlements under the reformed CAP and that the legislation requires Member States to submit detailed notifications, together with justifications where appropriate, about the decisions they have made.

We therefore do not disagree with the Commission's overall response to the report. However, whilst the ECA report, and therefore the Commission's response, focuses on issues of weaknesses in monitoring and control in relation to the process of decoupling, it is important that the support which remains coupled is also effectively monitored. It is on this issue that we think there was scope to have had clearer rules in the legislation. The CAP direct payments' basic act includes a requirement that voluntary coupled support may only be granted to the extent necessary to create an incentive to maintain current levels of production in the sectors or regions concerned. We were pleased with the inclusion of this requirement but would have ideally liked to have seen clearer rules in the basic act to specify the action that Member States need to take in the event of increased production. Until the basic act is next open for review, we will be pushing the Commission to make available the details of Member States' use of voluntary coupled support to help monitor its impact.

In discussions with Member States' officials the UK has welcomed the ECA report but has also taken the opportunity of emphasising the wider point that coupled support should not create an incentive



to increase production. The report is not controversial and is not therefore due to be discussed at Council.

4 December 2014

**EUROPEAN COURT OF AUDITORS' SPECIAL REPORT NO.9/2014 - IS THE EU INVESTMENT AND PROMOTION SUPPORT TO THE WINE SECTOR WELL MANAGED AND ARE ITS RESULTS ON THE COMPETITIVENESS OF EU WINES DEMONSTRATED? (UNNUMBERED)**

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

Your Explanatory Memorandum (EM) on the above Special Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 July 2014.

The European Court of Auditors Report is very concerning. The original wine reform was the subject of a Report by the Sub-Committee in 2007.<sup>8</sup> In that Report, we emphasised that promotion measures should ideally be financed by producers. While we considered short term EU support to be helpful, this should focus not on advertising but on developing a more integrated market whereby integration between producers and buyers is encouraged.

Given our view that EU support should only be temporary, it is very concerning to learn that the funds dedicated by Member States to the promotion measure are budgeted to double for the period 2014-18. Noting the increasing success of the UK wine industry, we query the need for any EU financial support to support promotion activities.

We are therefore supportive of your position, including your intention to question whether the level of support for the EU wine sector continues to be both sustainable and good value for EU taxpayers. We would encourage you to be more robust than you imply and would welcome further details on your strategy to influence future short and longer term policy development, including your proposed timetable to deliver that strategy.

As you may be aware, the Commission is expected to publish a new EU alcohol strategy within the next few months. We would welcome your view on the consistency of support for the wine sector with EU and national public health policy with regard to alcohol.

We will retain the Report under scrutiny and look forward to your response by 29 August 2014.

30 July 2014

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

Thank you for your letter of 30 July 2014. I have been asked to respond in George Eustice's absence.

I am pleased that you support our views and share our concerns. I am aware of the important and influential work the Sub Committee did in the lead up to the 2008 Wine Reform. The 2008 Reform fundamentally changed the emphasis of EU support for the wine sector. The removal of market intervention removed the safety-net supporting uncompetitive wine producers, while the introduction of competitiveness boosting measures has moved the sector onto a more offensive and successful commercial footing.

Given the critical nature of the Report we are aware that some Member States would be pleased to see it swept under the carpet. So our primary job will be to ensure this does not happen. However, we will need to be realistic about what can be achieved in the face of likely opposition.

The Report was due to be discussed by the European Parliament's Agriculture Committee (ComAGRI) on the 23 July, and Defra briefed MEPs accordingly. This discussion was however deferred so we will encourage the ComAGRI to consider this at a future meeting.

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<sup>8</sup> *European Wine: A Better Deal for All*, European Union Committee, 30th Report of Session 2006-07, HL144

In the next couple of months we will expect the Presidency / Council Secretariat to draw up conclusions on this report for Council agreement, and we will work with the secretariat to make these robust.

We will also engage at official level and will schedule a meeting with the Commission to discuss the matter specifically. At political level we will take every opportunity to build alliances and question whether it is right that EU taxpayers' money continues to be used to support the wine industry when there are likely to be so many in the EU more deserving of that financial support.

I expect the new EU Alcohol Strategy to be published in October 2014 so we will look carefully at this to see whether the support activities of the Wine Regime continue to chime with this important initiative.

*29 August 2014*

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

The letter of 29 August 2014, sent by your colleague Dan Rogerson MP in your absence, on the above Special Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We note your commitment to reform and to ensuring that the wine regime is in accordance with the EU Alcohol Strategy. You may wish to be aware that our Sub-Committee on Home Affairs, Health and Education has launched an inquiry into the Strategy<sup>9</sup> and we will bring your correspondence to the attention of that Sub-Committee.

You refer to the preparation of Council conclusions and we are glad that you will be working with the secretariat to make these robust. We welcome a further update in due course as this work progresses.

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

*10 September 2014*

## **EUROPEAN COURT OF AUDITORS SPECIAL REPORT – THE RELIABILITY OF THE RESULTS OF THE MEMBER STATES' CHECKS OF AGRICULTURAL EXPENDITURE (UNNUMBERED)**

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

Your Explanatory Memorandum (EM) on the above Special Report was cleared in my sift on 29 April 2014 and subsequently considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 7 May 2014. At that meeting, it was agreed to invite your officials to brief the Sub-Committee informally about the Report and the related policy issues.

We were very grateful for the willingness of your officials to attend the meeting of the Sub-Committee on 23 July. The Sub-Committee found the session to be interesting and informative. A number of issues arose on which further detail from you would be helpful.

Your EM focused on the shortcoming of the European Court of Auditors (ECA) process. Whether or not those criticisms are valid, it seems clear to us that there are evidently issues to be addressed by the Member States. We would therefore urge the Government to take a pro-active approach to working with others to improve the audit and control processes across the EU. Some of the activities that are already taking place were highlighted by your officials, but we would welcome assurance that there is political commitment to progress. It would be helpful if you could set down in writing the different levels at which dialogue takes place in order to resolve some of the uncertainties.

The European Court of Auditors Opinion on the EU's 2012 Budget estimated error rates of 3.8% for Pillar 1 payments and 7.9% for Pillar 2 payments, both of which represent an increase on the 2011

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<sup>9</sup> <http://www.parliament.uk/documents/lords-committees/eu-sub-com-f/eu-alcohol-strategy/call-for-evidence-alcohol-strategy.pdf>

levels. Your officials explained that the error rates for the UK are not known. If this issue is to be tackled, however, it seems to us important that this information is clear in the UK and in all other Member States. We would welcome your views on where you consider the UK error rates to be, what are deemed to be acceptable error rates and what might be done to address the error rates overall. Until each Member State is clearer about the issues that it faces, we see little prospect of progress on this fundamentally important issue.

On the issue of error rates, we would welcome clarification on whether the percentages relate to proportions of cases or to proportions of overall funds disbursed. The ECA's definition of an error rate ("the amount of error detected expressed in a percentage of the amounts claimed in the relevant category") would appear to imply the latter interpretation, but it would be helpful if you could confirm that you share this interpretation.

Finally, the European Commission's Communication on the Synthesis of the Commission's Management Achievements in 2013 (EM 10944/14) was scrutinised recently by our Sub-Committee on Economic and Financial Affairs, further to which a letter was sent to the Treasury on 22 July 2014. The Commission's Communication made it clear that they had placed financial reservations on various aspects of agricultural and other spending in the UK. Your officials told us that Action Plans must now be drawn up in response to those reservations. We would welcome information on the progress of those Action Plans and clarity on when they might be completed.

We look forward to your response by 29 August 2014.

30 July 2014

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

Thank you for your letter of 30 July 2014 regarding the questions raised by EU Sub-Committee D (Agriculture, Fisheries, Environment and Energy) arising from its consideration of the ECA's Special Report 18/2013. You raise a number of helpful and important questions which I have answered below.

#### **ACTION TO IMPROVE EU AUDIT AND CONTROL PROCESSES**

I agree with you that there must be a proactive approach to improving the audit and control processes across the EU. The Government is fully committed to this objective and is pursuing this at the Ministerial level through the Economic and Financial Affairs Council and the Agriculture and Fisheries Council. As you will be aware, the UK (along with the Netherlands and Sweden) has for three years in a row voted in the European Council against recommending discharge of the EU's general budget, urging the Commission in February 2014 "to launch initiatives to significantly reduce the error rates, including by taking further steps to simplify and clarify the regulatory framework in order to enhance compliance, and issuing guidance to facilitate a universal interpretation given the challenges created by the complexity of existing rules".

At official level Defra seeks to achieve this objective through interventions in the Special Committee on Agriculture, the Commission's agricultural committees (comprising Commission and Member State representatives) and meetings between EU CAP Paying Agencies and EU representatives (Commission, European Parliament and ECA).

#### **ERROR RATES IN THE UK**

The ECA's audit samples are not large enough to allow it to determine error rates at the level of individual Member States. There are currently varying estimates of the level of error in the UK and in other Member States. There is a regulatory requirement for Member States to report 'control statistics' to the Commission based on the results of randomly-selected inspections. The latest control statistics for the UK, which are being validated by the National Audit Office, show error rates of 0.4% for Pillar 1 and 1.0% for Pillar 2. The equivalent figures for England are 0.3% and 0.8%.

However, these figures cannot be compared directly to the ECA's error rates for the EU as a whole. To quote the Commission, the error rate estimated by the ECA does not necessarily represent the actual risk for the EU budget. For instance, non-respect of procurement rules does not necessarily imply that the whole expenditure has been misused. However, the ECA would treat this instance as a 100% financial error.

It is also necessary to add a number of additional qualifications. Firstly, in assessing the potential risk to EU funds the Commission takes account of hypothetical penalties and sanctions that would have been applied to over-claims had they been subject to an inspection. The financial corrections imposed by the Commission are therefore higher than the underlying rate of error shown by the control statistics.

Secondly, the Commission has concerns that the error rates reported by Member States, though accurately compiled from the available data, understate the true level of error (e.g. because their land registers do not exclude all ineligible features or because their on-the-spot checks are not fully effective). Where the Commission believes that it is not possible to quantify the risk to the Fund or where it is unwilling to accept arguments that a financial correction should only be applied to certain payments, flat-rate corrections of 2%, 5% or even 10% are applied to the relevant expenditure even though the actual error rate is potentially significantly lower.

Thirdly, whereas the Commission previously used Member States' control statistics in its Annual Activity Reports as the best estimate of the rate of error, its latest report (for 2013) has introduced a new methodology using additional factors, including the findings of ECA audits. For example, where an ECA audit finds that a Paying Agency's control system is only 'partially effective' the Commission adds 2% to the reported error rate. Where the ECA considers that a control system is 'not effective', an additional 5% error rate is triggered. However, these adjustments are not supported by statistically-valid evidence.

The current lack of clarity regarding error rates is clearly unhelpful. However, CAP reform has introduced an enhanced certification audit regime that will include an audit opinion on the legality and regularity of expenditure. This will include the re-verification of on-the-spot inspections by the certification body (in the UK, the National Audit Office working in conjunction with the devolved audit authorities), which will provide stronger assurance regarding the accuracy of the control statistics. In Northern Ireland, two voluntary audits of legality and regularity have already been conducted in respect of direct payments (for claim years 2011 and 2012). The certifying body found these error rates to be materially correct and the Commission will use these findings as the basis for any financial corrections in Northern Ireland for these claim years.

#### **BASIS OF CALCULATION FOR ECA'S ERROR RATES**

The error rate percentages quoted by the ECA relate to the most likely error rate for expenditure underlying the accounts. The percentages of cases affected by error are much higher (41% for Pillar 1 and 63% for Pillar 2).

#### **COMMISSION'S RESERVATIONS AND REQUESTS FOR ACTION PLANS FROM THE UK**

The Commission has made four reservations in respect of CAP expenditure in the UK on the basis of its estimates of residual error rates (using the new methodology referred to above). Three of these reservations relate to Defra (for fruit & vegetables producer organisations, direct payments and rural development respectively) and one to the Scottish Government (rural development). The Commission has requested Action Plans to address control weaknesses in these areas. These are currently being prepared and will be submitted to the Commission by the end of September 2014.

*15 August 2014*

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

Your letter of 15 August 2014 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

There are clearly remaining and unhelpful uncertainties surrounding these issues. It is nevertheless positive that the reformed Common Agricultural Policy has introduced an enhanced certification audit scheme.

We note that Action Plans have been requested from the UK to address control weaknesses relating, in England, to fruit & vegetables producer organisations, direct payments and rural development and,

in Scotland, to rural development. We would welcome confirmation of their submission and receipt of copies upon request by us.

*10 September 2014*

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

Thank you for your letter of 10 September requesting confirmation of submission of Formal Action Plans to the European Commission regarding control of the Common Agricultural Policy (CAP) in England and Scotland.

We have now submitted the English Action Plans regarding controls for Direct Payments and Rural Development. It was agreed with the Commission that we would provide these plans somewhat after the original requested date, in order to finalise the measures we propose. The Scottish Action Plan with regard to the European Action Fund for Rural Development (EAFRD) was submitted on 15 September. Please find enclosed [not printed] copies of these three plans.

The Commission's Annual Activity Report refers additionally to the need for an Action Plan regarding Fruit and Vegetable Producer Organisations, but no request has been received to date. In any event, we intend to make the case to the Commission that the necessary actions have already been taken in response to previous audits.

The Direct Payments Action Plan addresses improvements that are required to the Land Parcel Identification System (LPIS); which in England is currently called the Rural Land Register (RLR). This is the computer system holding data on land that may be eligible for payment under the CAP. The Action Plan concerns improving the accuracy of data held through increasing the currency of that data by more frequent updates. A policy of proactive land change detection will be used and increased automation brought in to speed up data acquisition. The RPA should have completed work on mapping commons into the LPIS by mid-December, improving accuracy and enabling use of this data for calculations that include common land. The RPA expect improvements to digitisation and to the integration of data through contracting a new supplier with the requisite capacity to address the work.

For Rural Development, we have submitted an Action Plan addressing specific weaknesses identified by the Commission alongside the annual England RDP Error Rate Reduction Plan which we are required to submit.

We have set out in the Error Rate Reduction Plan how we deal with underlying causes of error, such as beneficiaries providing incorrect land details or poor procedures being in place to check commitments have been met, this Plan provides a statement of how we intend to verify and control our new RDPE between 2014 and 2020. It also sets out, in response to Commission and ECA audit findings, where we can provide assurance that the programme is effectively controlled.

The English Rural Development Action Plan covers what the Commission considers as two specific areas of weakness which have resulted in disallowance. The first area is uniform start dates, where we have taken action that is near completion so we no longer face disallowance. The second area concerns the control of maximum stocking densities, where farmers are required to reduce livestock numbers at specific times to achieve environmental goals. In this area the Commission are no longer raising concerns with our inspection procedure but believe we need to put in place more robust administrative checks. We are putting in place further checks in 2015 to address these concerns and reduce disallowance levels further.

The Scottish Rural Development Action plan highlights a number of measures that have already been taken to improve governance and management structures, management of schemes and of information technology. It also proposes that further work will continue on simplification and clarification of schemes in order to more closely align them with the regulations.

As well as working on improving the control systems in the above areas we will be working to persuade the Commission and other Member States of our view that a practical approach is required towards audit controls in order to enable schemes that will achieve improvements to the environment alongside rural growth.

I have only briefly mentioned above the points addressed in these responses to the EU Commission since the plans themselves are enclosed [not printed] and are self-explanatory.

*20 October 2014*

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

Your letter of 20 October 2014 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 November 2014.

We are grateful both for your confirmation that the Action Plans requested by the Commission have been submitted and for receipt of those documents, which we found to be of interest.

As implementation of the reformed Common Agricultural Policy progresses, its complexity will clearly intensify the necessity for robust control frameworks. We are therefore pleased to note the actions that you are taking and trust that you and your colleagues in the Devolved Administrations will continue to monitor the adequacy of those arrangements.

We are now content to close this strand of correspondence.

*6 November 2014*

**EUROPEAN ENERGY SECURITY STRATEGY (10409/14)**

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meetings on 9 July 2014.

In light of the Commission's Communication, we welcome your broad support for the Strategy and the priorities and actions that it discusses. We also echo your support for the link that the Strategy makes between energy security and the EU's 2030 framework.

Improved collaboration and coordination are themes that are repeated throughout the Communication though we note your concern surrounding collective gas purchasing. We would be grateful if you were able to outline whether you consider this an option in the long term should significant changes take place in the nuclear supply market. We would also welcome a summary of other Member States' views on such a proposal.

We share your support for the Third Package as an important tool through which the Commission can ensure real progress is made in realising the completion of the internal energy market and we would be interested to hear your views on the Package's progress.

We heard recently from the Secretary of State for Energy and Climate Change at an evidence session of the Committee and were encouraged by the points he made about the significant overlap of measures which can both enhance European energy security and contribute to the reduction in Carbon emissions. In this light we would stress the need to continue to work towards the completion of the internal energy market and to reduce reliance on gas and oil supplies from Russia for a secure energy supply.

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

*10 July 2014*

**Letter from Matt Hancock MP, Minister of State for Business, Enterprise and Energy, Department for Business, Innovation and Skills, to the Chairman**

Thank you for your letter of 10 July. I welcome the Committee's endorsement of the Government's broad position on the European Energy Security Strategy.

You ask about collective gas purchasing. We continue to have significant concerns over how such a mechanism could function, without negatively impacting the internal market and competition law. The

UK Government understands the concerns of some EU Member States, but remains convinced that the best way to ensure the development of a fully functioning internal market, and promote security of supply, is for all Member States to implement the 3rd internal market package in full, including by applying it to existing and new infrastructure projects in the EU, and building the right infrastructure to ensure diversified supply routes to individual Member States. This is why we strongly support the Commission's move to prioritise key projects of common interest to improve EU energy security. In terms of the links to the Euratom Supply Agency model, given the fundamental difference in scope and quantity of gas trades compared with the uranium market, we are not convinced that this is a suitable model for the gas market.

Poland has clearly shown enthusiasm for the idea of collective purchasing, although their main concern appears to be to solve the underlying problem of a lack of bargaining power leading to the countries of Central and Eastern Europe having generally to pay more for their gas than others in the EU. We are not aware of public support for collective purchasing from any other Member States. Whilst there has been supportive language on the idea of an 'Energy Union' from others, including France, it is not clear what this means in practice. The UK Government would need to look very carefully at any proposal in this area, and could only support ideas that ensure the continued functioning of the internal market.

Turning to the Third Energy Package and the internal energy market, there have been positive developments on the ground. In particular, liquid electricity and gas wholesale markets have advanced across the EU; and there is now more efficient cross-border trading, and the development of gas-to-gas competition. This autumn the Commission is due to publish a report on the internal energy market, which will provide more information on progress. However, not all Member States have fully implemented the Package and the Commission currently has a number of infraction cases open for non-transposition. I see an important role for the Commission in both ensuring that the Package is fully transposed and in enforcing its substantive requirements. Further progress is also needed on agreeing technical, pan-EU rules to facilitate cross-border trading (Network Codes), particularly in electricity on which we are pressing the Commission to present formal proposals to Member States as soon as possible.

*23 July 2014*

#### **Letter from the Chairman to Matt Hancock MP**

Your Letter of 23 July on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meetings on 30 July 2014.

We are grateful for your explanation of your stance on collective gas purchasing and we share your enthusiasm for the development of a fully functioning internal energy market. Moreover, we were interested to hear about the emerging views of other Member States and we note your cautious approach to the principle.

The details you provide about the positive developments concerning the Third Energy Package are encouraging and we would welcome an update on your views when the Commission's report on the internal energy market is published in the autumn, particularly with regard to the actions that are being taken to encourage transposition across all Member States.

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

*30 July 2014*

#### **Letter from Matt Hancock MP to the Chairman**

I am writing to update your Committee, as requested in your letter of 30 July, on developments concerning the Third Energy Package, since the Commission published its report on the internal energy market on 13 October.

The Commission's Communication 'Progress towards completing the internal energy market' looks at how the EU has addressed the challenges relating to the implementation of internal energy market legislation, the adaptation of energy systems to make them fit for a low-carbon future, and the needs of the consumer. The Communication also reports on the state of Member States' energy markets

based on data available in the first half of 2014. As most of the data relates to 2012, more recent developments in Member State markets are not captured in the analysis.

The Communication argues that EU market integration is delivering concrete results but that more remains to be done. For example, more investment is needed in strategic infrastructure to ensure EU markets are well connected. The Communication also highlights the importance of regional integration and regional initiatives in delivering the internal market and cites the North Seas Countries' Offshore Grid Initiative (NSCOGI) as an example of action to facilitate the integration of offshore wind farms in an interconnected transmission network. The Commission notes that it has started a number of infraction cases against Member States who have failed to transpose fully the Third Energy Package Directives and that it now intends to check if notified measures correctly transpose the legislation. The Communication concludes that despite the progress towards completing the internal market, more effort is needed, particularly in finalising the electricity network codes and implementing them promptly and accurately throughout the EU.

More needs to be done to complete the single market. It is vital that all Member States fully transpose the Third Energy Package, as we have done in the UK. Increased interconnection is also essential and I fully support the Projects of Common Interest process that is in place to identify and progress strategically important projects, particularly in the vulnerable Baltic and South-Eastern regions, and the relatively isolated Iberian peninsula.

Regional integration will help to deliver the internal market and the UK is playing a leading role in NSCOGI to explore the costs and benefits of coordinated development of offshore grids in the North and Irish Seas and to tackle any barriers.

It is important to finalise and implement the electricity network codes to minimise barriers to cross border trading of electricity and to create a secure, competitive and low carbon internal energy market. Robust competition in the gas and electricity wholesale and retail markets will ensure prices are as low as possible. Although wholesale prices have fallen between 2008-12, it is difficult to attribute effects to causes in complex markets where wider supply and demand factors are at play. We will continue to remain vigilant and act wherever possible to improve competition.

Finally, we are urging the Commission to work closely with Member States to ensure that future analysis is based on data that is as up to date as possible.

*24 November 2014*

#### **Letter from the Chairman to Matt Hancock MP**

Your Letter of 24 November on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 3 December 2014.

We are grateful for the update on the developments concerning the Third Energy Package and are currently in the process of scrutinising the European Commission report on the internal energy market that you allude to.

It is encouraging to hear that EU market integration is leading to progress in the completion of the internal energy market but we would agree with you that there is much more to be done, particularly in the area of electricity network codes. You mention the need for greater investment in strategic infrastructure specifically cite the North Sea Countries' Offshore grid Initiative (NSCOGI) as an example of the importance of regional integration. As you know, we are currently conducting an inquiry into regional marine co-operation and we look forward to discussing the UK's specific involvement in this work when you appear before us next week. We were particularly interested in your mention of the UK's role in exploring the costs and benefits associated with such a project.

We welcome your commitment to encourage other Member States in their transposition of the Third Energy Package and your reaffirmation of the Government's commitment to increased interconnection. The non-binding interconnection objective of 15% which was agreed at the European Council in October is a positive development and we urge you to work hard to ensure that this is achieved here in the UK.



We are content to release the Communication from scrutiny at this stage. As we are pursuing the issues raised in other items of scrutiny and our current inquiry, please consider this strand of correspondence to be closed.

*3 December 2014*

## EUROPEAN MARITIME AND FISHERIES FUND (17870/11)

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

With many apologies for the delay, I am writing to update you on the progress of this proposal, which you cleared from scrutiny in your letter dated 12 September 2013. Political agreement on the European Maritime and Fisheries Fund was secured in Trilogues at the end of January, and the Commission informed Member States of their financial allocations in June. We, and our colleagues in the Devolved Administrations, consider this to be a good deal overall, which will allow the UK to effectively support the implementation of Common Fisheries Policy reform during the programming period.

The most significant development in the final stages of Trilogues was the decision to increase Member States' budgets for data collection and enforcement across the whole Union by €175m and €97m respectively compared with the figures in the Council General Approach. This meant cutting the amount of the fund that would be managed directly by the European Commission and by slightly reducing Member States' budgets for the 'core', grant-making part of the fund. The European Commission recently informed UKRep that the UK will receive a total of €243m under the fund, an increase compared with like-for-like funding over the 2007-13 period.

A number of conditions were also placed on subsidies for engine replacement, so that vessels over twelve metres in length will only be eligible for this kind of support if the replacement engine is of reduced power, with the amount of reduction required increasing in proportion with the size of the vessel. For larger vessels the required reduction in power had been 20% but this was increased to 30%.

While we do not expect there to be any more significant developments on this dossier, I will of course update you should anything arise.

*10 August 2014*

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

Your letter of 11 August 2014 was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 10 September 2014.

We note the further clarification that you have provided on the final negotiation of this Regulation. We are particularly pleased that conditions were placed on the availability of subsidies for engine replacement and would urge you to work with the European Commission to ensure strict application of those conditions.

We are now content to close this strand of correspondence.

*10 September 2014*

EXTRAORDINARY AGRICULTURE AND FISHERIES COUNCIL: 5 SEPTEMBER 2014  
(UNNUMBERED)

**Letter from Elizabeth Truss MP, Secretary of State, Department for Environment Food and Rural Affairs, to the Chairman**

I am writing to inform you of the extraordinary Agriculture and Fisheries Council taking place in Brussels on 5 September which I will attend in representation of the UK. Richard Lochhead MSP and Michelle O'Neill MLA will also attend.

The extraordinary Council has been called to discuss the Russian import ban on EU agricultural products. There are currently no other confirmed items on the agenda. I will write to you following the Council meeting to inform you of the outcome.

*2 September 2014*

**Letter from Elizabeth Truss MP to the Chairman**

I represented the UK at the extraordinary Agriculture and Fisheries Council on 5 September in Brussels. Richard Lochhead MSP, Michelle O'Neill MLA and Rebecca Evans AM also attended.

The extraordinary Council was called following the Russian import ban on EU agricultural products to discuss the mid and long-term measures to address the impacts on industry. There were no other items on the agenda.

Commissioner Ciolos outlined the market stabilisation measures that the Commission has implemented to date, which include €20-30m worth of aid for growers of peaches and nectarines, €125m for fruit and vegetable producers and €10-20m for dairy farmers. He also highlighted the budget increase for EU food promotion campaigns and their work on identifying new third country markets. He stressed that the EU response needed to be effective and proportionate and suggested that future measures could include targeted compensation for small and medium holdings.

I thanked the Commission for its work over the last four weeks. I urged it to put more emphasis on the promotion of EU products and rerouting our exports to alternative markets rather than providing additional subsidies. I stressed if further intervention is needed, it must be proportionate, targeted, and mindful of budgetary constraints.

Promotional measures needed to focus on external markets and products that were most affected by the ban. I pressed the Commission to carry out proper analysis of the impacts on the fishing industry and to consider banking fishing quotas to support it rather than introducing further subsidies. Commissioner Damanaki, although not present, agreed through her staff, to do this.

A majority of Member States sought targeted compensation that would not discriminate against food producers who did not belong to organised trade bodies. Several Member States suggested funding for market measures should be increased and draw from non-agricultural EU budgets. Commissioner Ciolos made clear that EU funding was limited and could only come from the CAP budget.

We have submitted an Explanatory Memoranda on the measures regarding the ban of certain agricultural products which will give you more detailed information on the action taken by the Commission.

*30 September 2014*

**FINANCIAL PROVISIONS FOR ANIMAL AND PLANT HEALTH PACKAGE (10726/13)**

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

As requested, I am now writing to confirm that, following reaching a "first reading deal", this proposal has completed the formal adoption process and was published in the Official Journal of the European Union on 27 June. It came into force three days later on 30 June.

The Regulation supports the UK's key objectives to:

- Ensure continuing financial support for the control and eradication of high impact animal diseases and priority plant pests and providing support for enhancing consistency of delivery of official controls;
- Ensure funding remains in line with the agreed Multiannual Financial Framework (MFF) 2014-20; and
- Leave open the opportunity for further funding where there is a serious animal or plant health emergency.

Thank you again for your interest and support in considering this proposal and clearing it from scrutiny in October last year.

9 July 2014

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

Your letter of 9 July 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 23 July 2014.

Thank you for confirming final adoption of the Proposal. Please consider this strand of correspondence to be closed.

23 July 2014

#### **FISHERIES: DISCARDS AND TECHNICAL CONSERVATION (18021/13)**

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

This proposal – referred to informally as the ‘Omnibus’ proposal – as you will recall aims for a ‘quick fix’ of current legislation (technical and control measures) to remove inconsistencies with the discard ban, or landing obligation, by 1 January 2015. This seems an appropriate point to provide an update on progress on this dossier.

#### **PROGRESS IN COUNCIL**

The details of this proposal were worked through in Council working group during the first 6 months of this year, working in consultation with the industry and other stakeholders. At the July Fisheries Council a compromise text was agreed by Fisheries Ministers to take forward to trilogue consideration between Commission, Presidency and European Parliament rapporteur. I attach [not printed] an annex with a summary table of the Council adjustments to the original Commission proposal.

The Council position, we believe, provides at least a workable approach to apply while more in-depth overhaul processes are completed. We now expect a proposal for an overhaul of the technical conservation measures in the new year, which will probably take until 2017 to complete.

#### **PROGRESS IN EUROPEAN PARLIAMENT**

Our priority following agreement of a Council position has been to see inter-institutional agreement with the European Parliament to ensure adoption of this proposal before the end of the year, to ensure that fishermen are supported with a timely outcome and clear arrangements to support implementation of the landing obligation.

The Fisheries Committee of the European Parliament (PECH), following the summer elections and committee appointment processes, are now considering a draft report, with MEPs submitting amendments.

The initial draft PECH report approach included an intention to remove all elements that relate to fisheries where the landing obligation does not come in for 2015, i.e. to make it a 'pelagic-only' amendment. But we have emphasised it is *essential* that the Omnibus covers the further demersal and other landing obligation elements beyond 2015.

This 'quick fix' Omnibus needs to operate continuously over the entire interval while the technical measures overhaul is underway, probably until 2017. Removing all elements pertaining to the landing obligation stages beyond 2015 from the Omnibus means that we will immediately need to begin work on a second stage Omnibus next year – which will divert attention and resources from the overhaul process, and will mean that fishermen will not have an approach for the demersal stage established well ahead of the second stage in 2016.

Adoption of the report at PECH committee level is not due until early December. The report is then scheduled for adoption at European Parliament level at their January Plenary meeting, but the Rapporteur is likely to ask for a mandate from PECH to enter straight into trilogue negotiations in December (directly after amendments votes). If he gets his mandate (a majority vote in PECH) this would allow for an early first reading deal. The timing depends on the speed of trilogue talks.

All the above suggests that even if PECH/ EP were to pull out all the stops, and a compromise position between Council and EP can be reached quickly, we are still likely to be into the new year at the earliest for agreement and adoption of the 'Omnibus' proposal.

#### CONTINGENCY BACK UP MEASURES

The Commission has advised that in such a scenario, if this proposal is not adopted ahead of 1 January 2015, the provisions in the new Common Fisheries Policy will override any conflicting provisions in existing regulations.

We have nevertheless encouraged the Commission to be prepared to issue a statement –essentially to affirm the above advice, probably at December Council – if it becomes clear that inter-institutional adoption processes cannot be completed in time, as is now looking likely. We will ensure that guidance is provided for industry, certainly those operating in pelagic fisheries, on how to operate in the interim.

We are now working with PECH UK MEPs as they may be able to influence the direction of the PECH report, ideally moving towards alignment with the Council position, which will help facilitate the trilogue process. I will provide updates to the Committees when progress is made towards adoption.

*25 October 2014*

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

Your letter of 25 October 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 November 2014.

We are pleased to note the progress that has been made in negotiating this dossier although we would have welcomed an update following the July Council.

One particular issue on which we are not clear is that of catch composition rules and how their retention aligns with the landing obligation. As the Commission notes in its Proposal, current catch composition rules contradict the landing obligation and oblige fishermen to discard. The solution in the Proposal is to maintain the catch composition rules but to require that all unintended catches that breach the limits be landed and counted against quotas. To what extent do you consider that it is necessary to retain both quotas and catch composition limits which must be met on a daily basis and at the end of a fishing trip? Has the retention of such limits been the subject of discussion in Council or do you foresee that they are likely to form part of the discussions in the context of the wider overhaul of technical measures?

We note the intention to move as quickly as possible towards adoption of the proposal and look forward to further information from you in due course on that progress and on the issue highlighted above.

*6 November 2014*

## FISHING CONDITIONS FOR DEEP SEA STOCKS (12801/12)

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

An informal report was provided via the Parliamentary Clerks earlier this year on progress on the above dossier. Before the process of agreeing the fishing opportunities for 2015 takes our attention in these latter weeks of the year, this seems an appropriate point to provide a formal update on developments.

The Commission's proposal to update the current EU deep sea access regime was published in July 2012. While this was not presented in Council working group until this year, the European Parliament fisheries committee (PECH) produced a report which was adopted as a first reading position at a plenary meeting of Parliament on 10th December last year.

It is worth noting two key features of the European Parliament amendments, because they represent such a significant difference in terms of the numbers of UK vessels affected and the proposed management approach.

Rather than the Commission's phase out of bottom fishing methods relying on deep sea catch percentages, the Parliament report recommended a spatial approach along the lines that we advocated. This would mean relevant fishing activity using bottom fishing methods would be confined within the established 'fishing footprint', as established by previous deep sea fishing activity in specified reference years, and closing sensitive areas to bottom fishing methods, in order to protect vulnerable marine ecosystems.

This helps to underpin our preferred shift to a spatial management approach in the development of this dossier. Vessel Monitoring System (VMS) data enables the monitoring of vessel positioning and activity to be precisely undertaken, making it possible to spatially manage the established fishing footprint. I believe that measures to restrict fishing activity in sensitive areas in this way will be much more effective than the uncertain method originally proposed, which tries to phase out specific fishing gears based on catch percentages.

The European Parliament also notably included amendments to the deep sea species list, to remove ling, tusk and conger eel. This has a significant effect in reducing the potential impact for the UK, in that only 50 UK vessels would be in the regime (compared with 548 as originally proposed, with 246 originally deemed to be targeting deep sea species with bottom fishing gear, and therefore subject to a gear ban). This dramatic reduction in potential impact reflects the typical distribution and catches of these three particular species in shallower waters, which is why so many UK vessels, including under ten metre inshore vessels, were originally implicated in the terms of the proposal. This again highlights the marked absence of data requests and consultation by the Commission while in the process of drawing up their proposal.

Even with the number of UK vessels affected by the regime reduced to 50 vessels in terms of the European Parliament amendments, for these 50, we still have a capacity shortfall of 30 vessels – so we are still seeking a pragmatic approach on this issue. Nevertheless, these amendments represent a significant improvement on the capacity shortfall of 430 vessels (i.e those vessels that would not be able to be licensed within the defined capacity limits) in terms of the Commission's original proposal.

The first article by article examination of this dossier was completed in Council working group on 6 June – credit must be accorded to the Greek Presidency for being the first to give this dossier priority since its issue in 2012 and bringing it to this point. This first read-through covered both the Commission proposals and European Parliament amendments in parallel.

There is general support from Member States on the key management method to apply to bottom fishing methods – the spatial approach we have advocated as reflected in the European Parliament amendments. The Commission, while not opposed to this, is nevertheless still defensive of its original proposal.

Environmental groups are of course keen to see progress on this dossier, a view I share. While supportive of the spatial management approach they are keen to see an additional depth criterion added – usually suggested to prohibit bottom fishing methods below 600m. The potential risk of

adding a depth-based ban to the spatial approach, however, is that it is only likely to reinforce protection for parts of the existing fishing footprint where comparatively few vulnerable marine ecosystems (VMEs) remain, after years of focused fishing activity in specific areas. The unintended effect we believe would be to displace fishing activity to the detriment of vulnerable habitats in shallower waters, particularly if such a ban were introduced ahead of areas of VMEs being identified and closed in the first year of a spatial regime.

We therefore continue discussion with both environmental non-government organisations and the industry as this dossier progresses. For our part, we have responded to environmental group feedback by proposing improvements to the spatial management arrangements through reinforcement of the impact assessment criteria for permitting moving outside of the established fishing footprint – that there should be scientific review of such assessments before such permission is granted.

The ‘bible’ document recording Member State views was finalised in September and the Presidency indicated at that point that they wanted to make headway on this file. We therefore anticipated a Presidency compromise based on the ‘bible’ which would lead to a Council ‘General Approach’ position being established. This now looks increasingly unlikely to happen in these busy latter weeks of the year, so at present this remains the next step, probably to be taken up by the Latvian Presidency.

A general approach will enable a trilogue negotiation between Presidency, Commission and European Parliament rapporteur on the path to final adoption. I believe that this should at least be possible in the first half of next year, and will be keen to see this dossier prioritised by the incoming Latvian Presidency accordingly.

*25 October 2014*

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

Your letter of 25 October 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 November 2014.

Thank you for the very helpful update that you have provided on this Proposal.

We are pleased that there appears to be a consensus in favour of a spatial management approach and we note that you are working with environmental organisations on the design of that approach. We would draw your attention to a synergy with our current inquiry into EU regional marine co-operation. It is clearly essential when considering any form of marine spatial management that all relevant users of the marine space are engaged in decisions.

Given the continued uncertainty over elements of the Proposal and the timetable for adoption, we will retain it under scrutiny. While we acknowledge the intensity of this time of the year for fisheries policy, we would urge you to make strong representation to the incoming Latvian Presidency about the urgency of this Proposal.

We look forward to an update on progress in due course.

*19 November 2014*

#### **FISHING OPPORTUNITIES FOR 2015 (11288/14)**

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

The overarching messages are, as you indicate, positive. On the other hand, a figure of 41% overfishing is unsustainably high and we would echo your enthusiasm for a move towards a more regionalised CFP based on multiannual, multispecies management plans, a point that we made in our 2008 report, *The Progress of the Common Fisheries Policy*.

Moreover, we would welcome further clarification on what is being done to address the low levels of certain stocks of whitefish (other than haddock) off the west coast of Scotland and what further measures you wish to see to further increase and secure the stock of North Sea cod.

The Communication details that CFP Member States are encouraged to implement pilot projects to prepare for the landing obligation and that these should be done within the available fishing opportunities. We would appreciate further details on whether you intend to take advantage of such a preparatory opportunity.

Further to the point raised in last year's letter of the Committee on this subject, we would like to note our interest in the agreement that has been reached among the Faroe Islands, Norway, and the EU for the sustainable management of mackerel and we would be interested to be kept informed of developments in this area.

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

*16 October 2014*

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

Thank you for your letter of 16 October confirming that you have released the above communication from scrutiny. You also indicated you would welcome further information on the following points.

#### **WEST OF SCOTLAND SELECTIVITY IMPROVEMENTS**

The latest scientific advice for 2015 underlines the persistently fragile status of these stocks, and the need to continue measures aimed at minimising discards and reducing fishing mortality to more sustainable levels in the West of Scotland. In particular the latest advice reinforces our commitment to address these challenges and support the rebuilding of these stocks.

Technical and spatial measures were put in place in 2012 to reduce catch rates of cod and to reduce discard rates of haddock and whiting on the west coast. Although the introduction of these measures is still relatively recent in terms of the timescales needed to evaluate fish stock responses, we now have a full year's worth of data for 2013 which the Scottish Government has analysed to provide preliminary indications of their impact. I attach an annex [not printed] outlining this analysis, along with an update of additional work currently underway. This information featured in a recent update provided to the European Commission in August.

#### **NORTH SEA COD STOCKS**

As you know the UK Government strongly supports the development of robust but flexible multi-annual management plans, including Maximum Sustainable Yield (MSY) targets expressed as ranges, as the principal tool for managing fisheries.

In particular, there is an urgent need to advance work on mixed-fisheries plans, including for the North Sea, towards an ecosystems approach. I believe securing the future for the North Sea cod stock will be linked to such an approach – particularly as that will replace the discredited single species cod plan where it applies in the North Sea.

I therefore welcome the recent progress made by the Commission on the introduction of management plans, in light of the report from the related Inter-Institutional Task Force, as we have seen with the recent proposal for a Baltic Sea mixed-fishery plan (covering cod, herring and sprat). I look forward to seeing the Commission's further proposals on such plans, and in particular the mixed fishery plan for the North Sea, including for cod.

#### **PILOT PROJECTS TO PREPARE FOR THE LANDING OBLIGATION**

Over the past five years our catch quota trials have shown that vessels targeting whitefish stocks can radically cut fishing mortality and increase selectivity through the adoption of technical and spatial measures. This year we are running further trials in the North Sea and in South West England. We intend to develop these for 2015 to further improve knowledge as well as helping fishing businesses

involved adapt to the landing obligation ahead of implementation. We also continue to work with the industry to develop highly selective gears to reduce unwanted catches from key fisheries which will further safeguard their viability when the landing obligation applies.

#### MACKEREL TALKS

I note your interest in the agreement with the Faroe Islands, Norway and the EU for the sustainable management of mackerel. We are at the first stage of the early rounds of talks to agree the fishing opportunities for mackerel in 2015, and I will keep you informed of developments as they unfold.

*27 October 2014*

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

Your letter of 27 October on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 November 2014.

Thank you for providing further information on the issues we raised in our previous letter. It was particularly helpful to receive the analysis provided by the Scottish Government on the technical and spatial measures which were put in place in 2012 to bolster the stocks of whitefish off the west coast of Scotland. It is also encouraging that this work is taking place with the involvement of industry bodies and scientific organisations. Moreover, we would echo your support for further development on mixed-fisheries plans and the move towards a more ecosystems based approach, particularly with regard to the North Sea.

It is encouraging to hear of your work with fishing businesses in the North Sea and South West England in helping them to adapt to the landing obligation ahead of implementation. It is vitally important that those affected are helped to adjust their fishing methods wherever possible to reduce unwanted catches and to reduce fishing mortality.

Finally, we are grateful for your assurance that we will be kept abreast of developments in the negotiations between the Faroe Islands, Norway and the EU concerning the sustainable management of mackerel.

We note that the legislative proposal for the fixing of fishing opportunities for 2015 has been laid before Parliament and we look forward to the accompanying Explanatory Memorandum in due course.

We are now content to close this strand of correspondence.

*6 November 2014*

#### **FISHING OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS (14590/14)**

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014.

Your EM helpfully set out most of the key issues. We are content with the overall approach that you intend to take and, as time is pressing, we are therefore content to release the Proposal from scrutiny.

There are, however, two issues on which we would welcome further information.

First, you make no comment on the setting of Total Allowable Catches to reflect the first phase of the landings obligation, which will apply to pelagic stocks. This may be related to the fact that the third country negotiations are fundamental in this respect. It would nevertheless be helpful if you could clarify your view of the Commission's approach.



Second, there has been a strong negative reaction among stakeholders to the proposal for the management of recreational bass fishing. While you indicate opposition to the proposal and explain the principles on which you will negotiate, it would be helpful if you could set out your solution. Given the evidence that recreational fishing may account for around 25% of total removals and mortality, it seems clear that management of the stock does need to include such vessels. Clearly, though, any management approach must be effective, practical, equitable and enforceable. We would also be interested in any information that you may have on the advice submitted in this regard by the Advisory Councils in response to the Commission's request.

We look forward to a response within ten working days at the latest, although it would be helpful if you could write to us at the earliest possible opportunity in view of the 15-16 December Council meeting.

*26 November 2014*

## GREENHOUSE GAS INTENSITY OF PETROL AND DIESEL FUELS (14009/14)

### **Letter from the Chairman to Baroness Kramer, Minister 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 5 November 2014.

We note that Council agreement on the Proposal is expected later this month and we are content to release the proposal from scrutiny. There are some issues on which we would welcome additional comment from you.

First, while we understand the Canadians to be supportive of the Proposal, it would be helpful if you could confirm this.

Second, we agree that this outcome is better than no outcome, but we also consider that the solution clearly still fails to articulate the greenhouse gas intensity of particular fuels. You appear to acknowledge this in your reference to the desirability of "a more disaggregated approach". We would welcome clarification on how such an approach might be pursued.

We look forward to a response within 10 working days.

*6 November 2014*

### **Letter from the Baroness Kramer to the Chairman**

Thank you for your letter of 6 November. I am grateful to the Agriculture, Fisheries, Environment and Energy Sub-Committee for its comments and for clearing the Explanatory memorandum from scrutiny. I am writing to you to provide additional comments on various issues as requested.

First, you note our expectation that Canada will be supportive of the latest Proposal. This was confirmed in the attached [not printed] statement made to the press by Albertan premier Jim Prentice on 7 October 2014. No additional statement on this issue has been made by the Canadian federal Government.

Second, I agree with the Committee that pursuing an option with "a more disaggregated approach" would be desirable. The Government would be able to support such an approach, as long as it ensured all oil sources were fairly treated and such treatment was based on robust and objective data. Unfortunately, such an option does not seem feasible for the time being. This is because information is not available for all fuel types being supplied at the moment. In particular, data inventories for feedstocks originating from outside the EU or North America, which currently represent over three quarters of the fuels consumed in the EU, are scarce. In this context, we see the enhanced reporting mechanisms included in the Proposal as a way to start addressing such data gaps.

I am also very grateful for your swift reaction on this proposal ahead of the vote in Council, which is currently scheduled to take place on 4 December.

*17 November 2014*

### **Letter from the Chairman to Baroness Kramer**

Your letter of 17 November 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014.

We are grateful for the additional information and clarification that you have provided. We trust that you will continue to work to identify alternative approaches, particularly once more comprehensive data is available.

Please consider this strand of correspondence to be closed.

*26 November 2014*

### **HIGH VOLUME HYDRAULIC FRACTURING (FRACKING) IN THE EU (5700/14, 5706/14)**

#### **Letter from the Matt Hancock MP, Minister of State, Department for Energy and Climate Change, to the Chairman**

Thank you for your letter, dated 14 May, acknowledging my predecessor's letter on the above documents. I note your request for an update following the June Council and on the Government's engagement strategy. Now that the engagement strategy has been finalised, I am able to give you a comprehensive reply.

The June Environment Council discussion on the 2030 climate and energy framework focused on the Presidency's question on which sectors were particularly significant for Member States in reducing greenhouse gas emissions (i.e. agriculture and transport). Shale gas was only mentioned briefly, with Austria stating that the energy security agenda should not be seen as an excuse for moving towards shale or nuclear energy.

You requested that I elaborate on how the UK will continue to lead in the debate on shale gas in the EU. Since publication of the Recommendation, my officials have focused on working-level engagement in order to ensure that the Commission can draw on evidence and advice from our regulators. A meeting of the Technical Working Group on environmental aspects of unconventional fossil fuels on 24 June provided an update

on the next steps with regard to the Commission Recommendation, including expected timelines. In addition, the group exchanged views on a questionnaire to support Member States in their reporting to the Commission. Representatives from the Department for Environment, Food and Rural Affairs and the Environment Agency attended. We also intend to secure UK participation in the European Science and Technology Network on Unconventional Hydrocarbon Extraction and follow any reports that are issued by this body. Furthermore, I met with the Commission and we intend to contribute to the Commission's evidence base with a joint UK-Poland study on the energy security, economic and emissions impacts of a European shale industry, the results of which will be used to engage other Member States, Commissioners and officials and MEPs later this year.

A number of EU Member States are either making progress in developing a shale gas industry or are exploring its potential; these include Poland, Romania, Spain and Lithuania. A number of other Member States await more evidence on the impacts of shale development in the EU.

In relation to the new European Parliament, the Department of Energy and Climate Change has a comprehensive engagement strategy in place to promote the UK's priorities, including those in relation to unconventional gas and oil, and to build a broad range of effective relationships across UK and non-UK MEPs, especially those on the Environment (ENVI) and Industry (ITRE) Committees. The Secretary of State has already written to a number of MEPs and I and others have held meetings with MEPs and their advisers. DECC is looking to host 'MEP Away Days' later in the year, an initiative which has previously proved highly effective. We also plan to organise a number of MEP Seminars in Brussels to explain developments in the UK, Europe and internationally on a range of issues, including shale gas. The Secretary of State also plans to visit the European Parliament in the autumn.

While we do not yet know what the make-up or allocation of portfolios in the new European Commission will be, we continue to engage closely with current Commissioners and Commission officials on shale gas.

*2 September 2014*

#### **Letter from the Chairman to Matt Hancock MP**

Your letter of 2 September 2014 on the above Recommendation and Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We are grateful for your clear and comprehensive response to our letter to your predecessor.

We will continue to follow EU developments in this area closely but are now content to close correspondence on this particular strand of correspondence.

*10 September 2014*

#### **INFORMAL ENERGY AND ENVIRONMENT COUNCIL, MILAN 6 OCTOBER (UNNUMBERED)**

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

I am writing to report discussions at the Informal Energy and Environment Council in Milan on 6 October, where I represented the UK.

The Council discussed the Italian Presidency's report on energy security in the EU, which put forward a number of medium to long-term measures to address energy security, as required by the June European Council Conclusions. Following a detailed discussion the report went forward as a Presidency document, because of concerns expressed by some Member States. A number of Member States wanted to ensure that energy security was discussed in tandem with the 2030 framework for climate and energy policies and others had concerns over interconnection targets. I broadly supported the report as a useful contribution to the debate on energy security.

The Council then considered the completion of the Internal Energy Market. The European Commission opened the session by outlining the main challenges to completing the internal energy market, focusing on the need for completion of the Network Code process, and the cross-border interconnections covered by the Projects of Common Interest process. The importance of regional co-operation was also focused on as a key priority by the discussion. The importance of the internal market for climate change action and energy security policy was made clear in the discussion.

Over lunch, Ministers discussed the Commission's Communication on the contribution of energy efficiency to energy security and climate-energy policies.

In the afternoon there was a roundtable discussion on the EU 2030 framework for climate and energy policies I urged Member States to agree a package by the October European Council. I stated that the UK wants to see a package that is ambitious and has a target for EU domestic greenhouse gas emission reductions of at least 40%; that addresses the challenges of energy security and investment that Europe faces today; and that reflects the principles of fairness, solidarity and cost effectiveness. I reiterated the importance the UK places on the need for Member States to have flexibility in the way they implement the package.

*12 October 2014*

## INTERNATIONAL ORGANISATION FOR VINE AND WINE (OIV) (12679/14)

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We note that the Court of Justice gave its decision on 7 October 2014 and rejected Germany's application. This ruling would appear to undermine your stated objections to the legal base. We would welcome your reaction to the judgment and your view on the likely implications for adoption of the draft Decision.

On a technical point relating to your position, we note that the EU's internal agricultural legislation provides that OIV standards become EU standards subject to a Commission implementing Regulation "unless they would be ineffective or inappropriate in view of the objective pursued by the Union". Would you agree that this implies that there is a degree of flexibility with regard to the application of OIV resolutions in EU law?

You do not offer a position on the draft resolutions. We would welcome receipt of your views.

While not mentioned in your EM, it remains the case that the UK is not a member of the OIV. In previous scrutiny of similar Decisions, the Government indicated that it was giving consideration to re-joining the OIV. In the light of the Court's ruling and the growth of the wine sector in the UK, at what stage is your consideration of OIV membership? What, if any, are your concerns about membership?

As this proposal may move swiftly towards agreement, we are content to release it from scrutiny. We look forward to a response to this letter within ten working days.

*16 October 2014*

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

Thank you for your letter of 16 October 2014 concerning the above proposal which you released from scrutiny.

As you noted in your letter, on 7 October the European Court of Justice provided its ruling on the case and rejected both grounds of the German appeal. The court concluded that the wording of Article 218(9) TFEU does not prevent the EU from "establishing a position to be adopted" on the EU's behalf in a body set up by international agreement to which it is not a party. Where the EU has competence in an area it may act through the Member States to establish a position in relation to an international agreement even if it is not a party to it.

It also concluded that resolutions of the OIV such as those to be voted on by that body in the present case have been incorporated into EU law by virtue of certain EU regulations. Since the Commission is required to take them into consideration when drawing up EU rules and they may decisively influence the content of EU legislation, they therefore have legal effect for the purposes of Article 218(9) TFEU, even where there are no legal effects in international law. The EU may therefore adopt a position with regard to those resolutions in view of their direct impact on the EU's *acquis*.

We are still looking closely at the potential implications this ruling has for the UK. For instance, we may see the wider use of Council Decisions under Art 218(9) TFEU than at present which might in turn lead to greater use of QMV voting procedures to agree the EU position for an international meeting.

The Government has no concerns over the substance of the position to be adopted by the European Union set out in the Council Decision. However, in order to have some time to fully consider the implications of the ECJ ruling, I decided that the UK should abstain from voting on this Council Decision at the Environment Council on 28<sup>th</sup> October.

Turning to the question of UK membership of the OIV, consideration of the business case was put on hold pending the ECJ's ruling given the implications this would have on the policy making processes

for the EU Wine Regime. We will now be resuming our consideration of this taking account of all matters, including both the probable costs and an assessment of what benefits membership would bring to the current and future prospects of our production and trade sectors. I will let you know the outcome of this consideration in due course.

*28 October 2014*

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

Your letter of 28 October on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 5 November 2014.

We note that you are still considering the implications of the Court's ruling. We are glad that you consider the outcome of the case to be salient to the issue of UK membership of the OIV and we look forward to hearing from you in due course about the decision on whether or not to join the Organisation.

*6 November 2014*

**MANUFACTURE, PLACING ON THE MARKET AND USE OF MEDICATED FEED AND  
REPEALING COUNCIL DIRECTIVE 90/167/EEC (13196/14)**

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

Your Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We welcome your general support for the proposed Regulation and are encouraged by the assurances you give that negotiations will be monitored closely.

Clarity of expression is of the utmost importance if the new proposed Regulation is to fulfil its aims and we would place particular emphasis on seeking clarification on whether the ban on the use of antibiotics in medicated feed extends to the treatment of healthy animals which have been in contact with diseased animals. We would also encourage you to seek clarification on the precise meaning of the term "examined" in Article 15 (5) and whether this exclusively refers to physical examination by a vet prior to a prescription being issued.

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

*16 October 2014*

**MARINE KNOWLEDGE 2020 (13457/12)**

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

In your letter of 10 January 2014 regarding the above explanatory memorandum, you asked if we could provide you with an update of progress with this initiative in due course.

I would like to bring the following developments to the attention of the Committee.

On 12 May, the Commission published the Communication 9770/14 "Innovation in the Blue Economy: realising the potential of our seas and oceans for jobs and growth" and an associated Staff Working Document "Marine knowledge 2020: roadmap".

The Communication sets out an objective of replacing the present fragmented, inaccessible and incompatible repositories of marine data in the EU by a process whereby data is easily accessible, interchangeable and free of restrictions on its use, with the aim of removing barriers to successful

innovation in developing Europe's coasts, seas and oceans as a source of growth and new jobs. It also sets out, inter alia, how the Commission intends to take forward the Marine Knowledge 2020 agenda.

On 23 June, the Department for Business, Innovation and Skills provided an Explanatory Memorandum to Parliament (EM 9770/14) on the issues covered in the Communication and the Staff Working Document. My Department contributed to the EM, particularly regarding the proposals on the implementation of the Marine Knowledge 2020 Roadmap.

The above-mentioned EM provides a clear overview of progress on this initiative.

*3 September 2014*

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

Your letter of 3 September 2014 on the above Green Paper was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting on 15 October 2014.

We are grateful for your letter, which highlights publication of the Commission's paper on "*Innovation in the Blue Economy: Realising the potential of our seas and oceans for jobs and growth*". This is a set of issues that will be close to the heart of our current inquiry into EU regional marine cooperation.

We are content to close this strand of correspondence but we will continue to explore the issues through our inquiry.

*16 October 2014*

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

On 12 March I wrote to you, and Sir William Cash MP, Chairman of the House of Commons European Scrutiny Committee, seeking scrutiny clearance of the above named proposal. I was grateful that later that month both Committees cleared the proposal from scrutiny.

I am now writing as you requested in your letter of 21 March to confirm that the measure has now been cleared by both the European Parliament and the European Council.

The proposal was put to the European Parliament on 16 April where it was approved, 606 votes to 36, with 4 abstentions. On 29 September the proposal was put to the European Council where it was approved, with 3 Member States abstaining and one voting against. The Regulation will now enter into force on 1 January 2015, after its publication in the Official Journal of the European Union, which is expected in November.

In my letters I explained that the Regulation does not itself set out the species which should be the subject of preventative and management measures. These will be proposed by the European Commission during 2015, and I will write to you again when that list and its implementation Regulation are proposed.

*1 November 2014*

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

Your letter of 1 November 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 November 2014.

We are grateful for your confirmation that the Regulation has been formally adopted by the European Parliament and the Council and we note that it will enter into force on 1 January 2015. You indicate that, subsequently, the European Commission will propose tertiary legislation including the proposed list of species that should be the subject of preventative and management measures.

We are content to close this specific strand of correspondence on the above Regulation but look forward to information from you once the Commission has proposed the above list.

*19 November 2014*

## MEASURES FOR AGRICULTURAL PRODUCTS IN THE INTERNAL MARKET AND IN THIRD COUNTRIES (16591/13)

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

Your letter of 8 May 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 June 2014.

We note that, despite some movement toward the UK position over the course of the negotiations, the final outcome fell short of one with which the Government were content to support. The increased co-funding rate from the proposed 60% to a level of 80% in some instances is disappointing, as is the weakening of emphasis on third country campaigns.

Now that the Regulation has been agreed, we trust that you will be vigilant in pressing the Commission to monitor its implementation closely.

We are content to close this strand of correspondence.

*11 June 2014*

## MEASURES FOR THE CONSERVATION OF FISH RESOURCES (18545/11)

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

My predecessor, Richard Benyon, reported to the Committees in August 2013 that the European Union had introduced trade measures against the Faroe Islands in response to its unsustainable fishing of the Atlanto-Scandian herring stock. Although the above dossier is no longer under scrutiny, given the Committee's interest in this issue I thought you may appreciate an update on recent developments.

This year, the Faroe Islands set itself a quota of 40,000 tonnes for the stock, down from 105,000 tonnes last year. Scientific advice indicated that this level of fishing would make less than 1% difference to the size of the stock in 2015. The European Commission studied the situation and considered this level of fishing to be sustainable. As a result it brought forward a proposal to lift the trade measures and this was considered at the Management Committee for Fisheries and Aquaculture on 31 July. The Committee delivered a non-opinion. Most Member States voted in favour of the proposal to lift the measures, but the UK, France, Spain and Netherlands abstained.

The UK, like France, Spain and Netherlands, recognised the Commission explanation, but abstained on the basis that the level of quota set by the Faroe Islands was still almost double what it would have received under the previous sharing arrangement it had been a party to. The UK industry also had some concerns about the impact that Faroese herring and mackerel product could have on the catching and processing sectors by increasing supply and depressing prices.

On the other hand, the UK has welcomed the recent improvement in relations with the Faroe Islands. We saw the Faroe Islands join the EU and Norway in a five year agreement on the management of the North East Atlantic mackerel stock in March after a long and acrimonious dispute. This in turn enabled the EU and Faroe Islands to re-instate the bilateral fisheries agreement that had been suspended since 2010. This agreement is of great benefit to UK fishermen, particularly in Scotland and the Shetland Islands. It provides quotas for our industry to fish cod/haddock, saithe, flatfish and other stocks in Faroese waters. I was also reassured by confirmation from the EU and Faroese sides that the level of herring quota set this year would not set a precedent for discussion on the future management of the stock due to take place this October.

On balance therefore I decided, jointly with the Ministers in the devolved administrations, that the UK should abstain in the vote.

The Commission took note of the points raised but stated that it would go ahead and lift the trade measures under its delegated powers. A Commission regulation lifting the measures was published in the official journal of the EU on 18 August - number 896 of 2014 – copy enclosed [not printed] with this letter for information.

23 September 2014

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

Your letter of 23 September on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We appreciate your update on this complex dossier. We will monitor with the interest the outcome of the discussions in October to which you refer and discussions that are also due to take place on mackerel with Iceland.

16 October 2014

#### **MULTI-ANNUAL PLAN FOR WEST OF SCOTLAND HERRING (17494/11, 13745/12, 6041/12, 9003/09)**

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

Given recent developments with regards to European fisheries multiannual management plans, and the inter-institutional legal impasse surrounding these, I would like to update the Committee simultaneously on the proposals listed above.

You will recall that the legal impasse stems from a dispute between the European Council, the Commission and the European Parliament (EP) over competences centred on differing interpretations of Article 43 of the Treaty on the Functioning of the EU (TFEU) (the 'Lisbon Treaty'). This came to a head at the 2012 December Council where Ministers unanimously agreed to amend the EU Cod Recovery Plan and secure an effort freeze for 2013. As this was done without recourse to the EP and was opposed by the Commission for that reason, the other two institutions launched a joint action against Council, on which the European Court of Justice (ECJ) is expected to rule in late 2015.

This impasse subsequently blocked any development and consideration of all subsequent multiannual management plans, including the Cod Recovery Plan referred to in three of the relevant EMs above, as there was no agreed legal basis for their adoption or amendment.

An Inter-Institutional Task Force on Multiannual Plans (IITF), set up in September 2013 by representatives of the three European institutions, was tasked with finding a way forward for fisheries multiannual plans, against the background of the legal impasse. On 3 April 2014, the IITF produced its final report, which focused on finding a way to introduce multiannual management plans under the reformed Common Fisheries Policy (CFP) and examining any potential issues around this. The UK fed into this process via UKRep at Working Group, where the Council Presidency would debrief on the previous IITF discussions and invite contributions from Member States. We were also in touch with the EP's lead negotiator, Struan Stevenson MEP, throughout. The final report summarised the IITF's work and concluded that plans which contained the following should be subject to co-decision:

- Maximum Sustainable Yield (MSY) targets, to be expressed as ranges, in conformity with the objectives of the CFP relating to maintaining stocks above levels capable of producing MSY;
- A timeline for achieving MSY target(s);
- Conservation reference points to trigger safeguards and a procedure for implementing these;
- A mechanism for adapting to unforeseen changes in scientific advice; and
- A review clause.



The Committee should note particularly that MSY targets for fishing mortality are to be expressed as a range of MSY, rather than a point value. This is seen as a key way for multiannual plans to move past the legal impasse, since the co-legislators would not be fixing precise fishing opportunities (Total Allowable Catches (TACs)), which would remain the prerogative of the Council alone. The use of ranges also has the merit of being more robust scientifically than point values and will enable trade-offs to be made between inter-related stocks as mixed fisheries plans are developed.

On 7 May 2014, Coreper was asked to 'endorse' the IITF's final report. A large majority of Member States, including the UK, were supportive of the IITF's report. However, France, Poland and the Czech Republic argued against Coreper endorsing the report, on the grounds that this might prejudice the current ECJ case, which they still see as important for definitively resolving the wider issue. Consequently, Coreper 'broadly supported' the report. This, together with the fact that neither the Commission nor the EP have withdrawn the joint action against Council, suggests that we will have to wait for the ECJ to resolve the impasse legally. Nonetheless, this has not precluded the Commission from making practical use of the Task Force report to move forward work on multiannual management plans, a move we welcome.

Indeed, following the work of the IITF, the Commission has announced that it has started to consider amending some existing multiannual plans, updating others which were proposed but never agreed, and proposing new plans. It should be noted that we do not know yet whether the Commission will choose to issue new regulations repealing those multiannual plans which the regulation is superseding, or whether the Commission will choose simply to amend existing multiannual plans. The Commission has sensibly indicated that they will start with plans where the science is most developed, such as the Baltic Plan, with a proposal expected later this year. The Commission has also suggested work will be carried out on anchovy, salmon and horse mackerel (the latter being relevant for EM 9003/09).

Longer term, the Commission has indicated that it will be looking to revise the North Sea flatfish multiannual plan and the disputed Cod Recovery Plan by combining them into a North Sea mixed fisheries multiannual plan (relevant to EMs 13745/12, 17494/11 and 6041/12). Both we and the Commission strongly support the development of such mixed fisheries plans as a vital mechanism for delivery of the reformed CFP. These will enable informed trade-offs to be made between inter-related stocks, assisting regional delivery of our commitments on MSY and the landing obligation, as well as the move towards ecosystem-based management. However, developing these plans will be a long process and the Commission has stated that work on the North Sea plan will run well into 2015, with those for other areas such as the Celtic Sea likely to follow later.

Of the other plans mentioned by the Commission, we have an interest in horse mackerel, assuming the plan includes Western horse mackerel. We are also considering which existing or potential plans the Commission might be encouraged to work up. As well as the North Sea plan this could include a Celtic Sea mixed fisheries plan, where UK scientists have already begun to model multispecies interactions, with a view to developing International Council for the Exploration of the Sea (ICES) mixed-fisheries catch advice in the future.

In the meantime, existing multiannual plans, most notably the Cod Recovery Plan, will continue to remain in force, meaning that issues around effort regimes may still have to be mitigated in the December Council negotiations.

We will continue to engage with Commission-led work on a potential North Sea mixed-fishery multiannual plan and to consider any other opportunities to influence the Commission's work programme in line with UK objectives. In parallel, we will continue to monitor the progress of the ECJ case on the Cod Recovery Plan and support work to adopt new multiannual plans in line with the IITF conclusions. It remains to be seen what reception will be given to any multiannual plans proposed by the Commission in the next year or so, starting with the Baltic Plan. New personalities in the EP and Commission, as well as the approach France and their allies choose to take, could have a significant bearing.

I hope this update is helpful and provides some optimism for real progress on multiannual plans in the near future, given their centrality to fisheries management measures under the reformed CFP.

*11 July 2014*

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

Your letter of 11 July on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 July 2014.

We are grateful for the update. It is disappointing that the report of the Inter-Institutional Task Force on Multiannual Plans (ITF) was not endorsed by all Member States.

On the other hand, we warmly welcome the news that the Commission is looking to develop a North Sea mixed fisheries multiannual plan. We would agree that such mixed fisheries plans are vital for the delivery of the reformed Common Fisheries Policy. The more integrated approach, albeit within one sector, chimes with our recently launched inquiry into regional marine cooperation.<sup>10</sup>

Dossier 6041/12 remains under scrutiny. We are content to release it from scrutiny at this stage but look forward to an update on the progress of negotiations on all of these dossiers in due course, as also information on the development of a North Sea plan.

*30 July 2014*

### **NUCLEAR SAFETY OF NUCLEAR INSTALLATIONS (15030/13, 11064/13)**

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

As you will know following the accident at Fukushima in 2011 there has been heightened interest at the EU level in the effectiveness of the EU Regulatory regime to mitigate against the risks of a nuclear accident. As a result the Commission published a Communication (October 2013) which proposed an amendment to the Nuclear Safety Directive.

We have had several exchanges on the progress being made on the negotiations of this proposal and I am now pleased to be able to inform you that the negotiations at official level have now been concluded. It is therefore envisaged that at its meeting on the 8th July the Council of the European Union will adopt the proposal.

I am also very pleased to be able to inform you that all of the UK's redlines have been addressed as a result of these negotiations. As a result the amendments to the Directive are restricted to making explicit what was implicit in the 2009 Directive; the current balance of competence between the Commission and Member States has been respected; and, the amended Directive does not present any new and unnecessary burdens on the nuclear sector. At the same time the amended Directive will enable Member States to better deliver the objective of continuous improvement to nuclear safety standards and also introduces a system of paper review - not too dissimilar to the EU Stress test - that will be led by Member States to ensure the sharing of knowledge and the consideration of technical issues that will help ensure nuclear safety.

Due to the success of the negotiations I expect that the UK will be able to show implementation of the amended Directive without the need to make any significant changes to our regulatory regime.

*24 June 2014*

#### **Letter from the Chairman to Baroness Verma**

Your letter of 24 June 2014 on the above proposal was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 2 July 2014.

We note the state of negotiations and are now content to close this strand of correspondence.

*3 July 2014*

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<sup>10</sup> <http://www.parliament.uk/business/committees/committees-a-z/lords-select/eu-environment-and-agriculture-sub-committee-d/news/call-for-evidence-regional-marine-cooperation/>

OPENING A TEMPORARY EXCEPTIONAL PRIVATE STORAGE AID SCHEME FOR CERTAIN CHEESES AND FIXING IN ADVANCE THE AMOUNT OF AID (12958/14, 12959/14, 12614/14, 12720/14)

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

I am writing to update further on the Council's consideration of the Delegated Acts that were subject to this EM and on additional Delegated Acts related to the Russian ban that have now been adopted by the Commission.

Firstly, I should explain that while the Council is allowed a full two months to object to a Delegated Act, it may also decide within a shorter timescale not to do so. That is what happened in this case, with the Council Secretariat setting a deadline of 25 September for Member States to notify whether they intended to object. In this event, no Member State, including the UK, made such a notification. I understand the European Parliament has yet to finalise its consideration of these Delegated Acts.

Secondly, the Commission has now adopted two additional Delegated Acts on:

- Commission Delegated Regulation (EU) No 992/2014 of 22 September 2014 repealing Delegated Regulation (EU) No 950/2014 which provided for a temporary exceptional private storage aid scheme for cheeses. The European Commission has explained they had closed the measure for Private Storage Aid for cheese following a disproportionate surge in interest for this measure from cheese producers in certain regions not traditionally exporting significant quantities to Russia.
- Commission Delegated Regulation (EU) No 1031/2014 of 29 September 2014 laying down further temporary exceptional support measures for producers of certain fruit and vegetables. As foreseen in the EM, the Commission has, following the early closure of the first fruit and vegetable scheme, introduced a successor. As with the first scheme, the intention is to pay aid to growers to remove surplus production from the market in order to support prices. However, the aid, which the Commission estimate will total around €165 million, is much more focused on those Member States which have traditionally exported to Russia. Only a small optional element, some 3,000 tonnes, has been allocated to all Member States to address any localised indirect market impacts. Ministers are currently considering whether to take up this option in the UK.

The current Commissioner has indicated that further measures may be adopted in the coming weeks, specifically in the dairy sector. I will update the Committee further if and when that happens.

*14 October 2014*

ORGANIC FOOD PRODUCTION (7956/14, 8194/14)

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

Thank you for your report of May 2014 on the proposal for a Regulation of the European Parliament and of the Council on organic production and labelling of organic products. I am writing to update you on the outcomes of Defra's discussions with industry and provide additional information on the areas requested.

INFORMATION ON THE CURRENT SCALE OF THE USE OF EXCEPTIONAL RULES IN THE UK

A number of the current exceptional rules were introduced because of the lack of development of the organic sector. Some relate to the use of non-organic inputs (e.g. non-organic animals, and non-

organic protein feed) others relate to specific practices (e.g. parallel production of organic and conventional and management of organic livestock).

The Commission's proposal removes almost all exceptions on the grounds that the sector is sufficiently developed and their retention is counter to consumer expectations for inputs to be organic.

Although we agree with the aim of all inputs being organic over time, not all inputs are currently available in organic form. Therefore, a number of exceptional rules are still used in the UK and their removal would have a significant impact on the stability and growth of the organic sector.

For example, the total number of non-organic seed authorisations increased from 15,043 in 2012 to 15,802 in 2013, a rise of 5%. This reflects the continued lack of availability of organic seeds and vegetative propagating material which cannot be ensured in the near future. Sufficient transitional measures would be required before implementing any change and the Commission's proposed end date of 2021 is inadequate.

The exception for the use of 5% non-organic protein feed is also still used by almost all pig and poultry producers. There is a significant problem with the availability of organic ingredients that contain the essential amino acids required for good animal welfare. The ending of this exception would impact severely on the sector.

Another commonly used exceptional rule is parallel organic and conventional production. At least 20% of UK organic farms also operate conventional systems because of insufficient demand to sell all their produce as organic. For some sectors this percentage is significantly higher. For example, 85% of organic pullets for egg production are reared on sites that produce conventional in parallel. The impacts of the removal of this exception have not been properly evaluated in the Commission's Impact Assessment.

While some sectors, given sufficient transitional measures, could be able to cope with the removal of exceptions, for others it would not be possible at the current level of development. Exceptions such as the ability to produce organic and conventional in parallel may always remain necessary. Each exception needs to be considered on a case-by-case basis to evaluate which should remain permanently and to ensure sufficient transitional measures for those that are removed.

#### HOW WORKABLE THE LABELLING PROVISIONS ARE CONSIDERED TO BE

The labelling requirements are largely the same as in the current Regulation. Processed food should only be labelled as organic where at least 95% by weight of its agricultural ingredients are organic. Producers have to label products according to their EU or non-EU origin. The origin of minor ingredients can be disregarded. Currently producers are able to disregard 2% of ingredients by weight and under the proposal this has been increased to 5%. This increases flexibility in sourcing minor ingredients meaning producers could potentially benefit from decreased production costs. It is unlikely to result in any consumer concerns as the percentage change is very small.

Unlike the current Regulation, the labelling requirements in the proposal only cover organically produced products, ingredients or feed materials. The Commission has explained that the intention is for the labelling of in-conversion products to be outside the scope of the Regulation and for Member State (MS) supervision. However, this still leaves the labelling of vegetative propagating materials and seeds unclear. Clarification of this will be sought when the relevant provision is discussed at the working parties.

Neither the FSA nor industry has shown concern about these changes. They are therefore believed to be workable from both a producer and consumer perspective.

#### CONFIDENCE IN THE ROBUSTNESS OF THE LEGISLATION TO BE DEVELOPED THROUGH DELEGATED ACTS TO ENSURE QUALITY, TRACEABILITY AND COMPLIANCE WITH THE REGULATION

There are a large number of Delegated Acts in the proposal that enable the Commission to implement far-reaching changes to the Regulation. There are also a number of gaps in the legislation in areas where additional detail would be provided in Delegated Acts. As a result there is insufficient detail to judge the sufficiency of the traceability framework that could be amended or developed by the Commission.

A key concern is that there is no legally binding requirement for the Commission to consult experts and Member States before adopting a draft Delegated Act. The recitals of the proposal do include a provision that the Commission should consult experts. However, it does not explicitly require consultation with Member States.

It is also apparent that in some cases the use of Delegated Acts would allow the possibility to supplement/amend essential elements of the Legislative Act e.g. the scope. Other arguably essential elements, such as production rules, are included in an Annex [not printed] and amendable under Delegated Acts. Consideration is being given to the level of alignment of the Delegated Acts with the Lisbon Treaty.

#### ACTIONS TO ENCOURAGE THE ENGAGEMENT OF THE ORGANIC FARMING SECTOR IN THE EUROPEAN INNOVATION PARTNERSHIP ON AGRICULTURAL PRODUCTIVITY AND SUSTAINABILITY.

Defra will be supporting the European Innovation Partnership for agricultural productivity and sustainability (EIP-Agri) in England under the scheme to support farming and forestry productivity in the next Rural Development Programme. Defra officials are continuing to develop the policy approach ready for the new programme to commence in early 2015. They have engaged with representatives from a range of groups, including those from the organic sector, as the approach is developed, and continue to do so. Further updates on EIP-Agri will be communicated through EM 7278-12 Communication from the Commission to the European Parliament and the Council on the European Innovation Partnership on Agricultural Productivity and Sustainability.

#### PLANS TO ENCOURAGE THE USE OF EU RESEARCH POLICY TO SUPPORT ORGANIC AGRICULTURE AND AQUACULTURE IN THE UK

Through active participation in the EU's Coordination of European Transnational Research in Organic Food and Farming Systems (CORE Organic) scheme, Defra ensures that EU research policy supports organic agriculture and aquaculture in the UK. Defra has contributed £550k into the £10.7m CORE Organic research fund, and has been able to help shape the research agenda and access findings from the research undertaken through this international expert collaboration.

Defra plans to remain involved in CORE Organic in the future and is assisting the CORE secretariat's preparations for a new call for research proposals in 2015. Defra has pledged £100k towards an estimated fund of £7.6m for this new call, which will attract EU match funding and will include funding to proactively disseminate all findings across all participating countries.

#### KEY POINTS ARISING FROM THE CONSULTATION PROCESS SO FAR

Defra held four consultation workshops involving the organic Control Bodies, industry representatives and organic operators. Discussions centred around 13 key issues. There were significant concerns about many of the provisions in the proposal and issues raised during the consultation mirrored those covered in our Explanatory Memorandum (EM) while also introducing other concerns. In particular:

- There were concerns, covered in the EM, about the removal of exceptional rules, the removal of the ability to operate organic and conventional systems in parallel, the removal of the ability to exempt retailers from the control system and the overuse of Delegated Acts.
- Additionally, there were concerns about the increase in percentages of feed required to be from the holding or region without a definition of region; the new provision requiring the removal of organic status for products where non-authorised substances were found beyond given levels; and the move from an equivalence regime to a compliance regime for Control Bodies operating in Third Countries as operators exporting to the EU would have to comply with EU standards rather than their Control Bodies' 'equivalent' standards.

Conversely, there was support for those areas identified as beneficial in our EM, including the introduction of a risk based approach to controls and the principle of reciprocal trade agreements. There was also a general feeling of support for the introduction of a group certification option for small operators and interest in the requirement for operators other than farmers, aquaculture

producers and micro-enterprises to adopt Environmental Management Systems, subject to the detail in the Delegated Acts.

#### EMERGING VIEWS OF OTHER MEMBER STATES

During Working Party discussions it has become clear that a number of other MS have similar concerns to the UK. Indeed, many MS do not see the need for such a dramatic change to the Regulation.

The majority of MS have concerns about the removal of current exceptions to the rules and most believe each exception should be considered individually to evaluate the associated impacts. There is strong opposition to the removal of the ability for parallel production including from France but a small number of MS, including Germany, believe parallel production should not be possible.

There are mixed views from MS about the loss of organic status for products where non-authorised substances are found. The main supporters of the proposal include Spain and Greece. Poland, Germany and others also have concerns about the inclusion of retailers in the control system and the unnecessary additional administrative burden it could cause.

Along with the UK, France, Spain, Germany and Sweden have all shown dissatisfaction with the Commission's Impact Assessment because of the lack of quantitative and monetary assessment of the impacts and the lack of evidence on which decisions were based. Most MS have raised concerns about the number of Delegated Acts in the proposal suggesting that some were used inappropriately and amount to competence creep by the Commission.

However, despite strong opposition to the proposal, most MS agree that the proposal can be worked on constructively to create something that is workable.

#### CONCERNS RAISED BY THE DEVOLVED ADMINISTRATIONS

Scotland has specific concerns about the proposal to prohibit all mutilations, other than physical castration for product quality purposes. These are all practices that ideally would be minimised and producers encouraged to manage their livestock in ways that mean that they can be avoided without compromising welfare. However, the Scottish industry is not in a position to be able to achieve this aspiration across the board, hence a blanket ban would either compromise animal welfare in some situations and/or disadvantage Scottish producers in potentially obtaining organic status.

Northern Ireland has specific concerns about the impacts on poultry production including the removal of the ability to produce organic and conventional in parallel (meaning that rearing sites would need to be dedicated organic). It has been suggested that the current proposals could mean the end of organic poultry in Northern Ireland.

Both the Welsh and the Northern Irish are specifically concerned about the increase in percentages of feed required to be from the farm or the region. The impacts will depend on the definition of region but as the whole of the UK could not grow sufficient quality protein for pigs and poultry impacts would be significantly greater for Northern Ireland or Wales if 'region' was defined narrowly. As Welsh agriculture is predominantly livestock, any restrictions in the feed permitted would have a significant effect.

#### NEGOTIATIONS AND UPCOMING EVENTS

There have been five Working Parties so far in which the Commission's Impact Assessment and articles 1-28 have been discussed. The Italian Presidency has indicated that some degree of priority will be given to the organic proposal to ensure significant progress is made. There are due to be three more Working Parties before the end of the year. An Agriculture and Fisheries Council policy debate on organic farming took place on 10<sup>th</sup> July which covered three specific areas where Member States had voiced concern, namely, exceptional rules; Delegated Acts; and control provisions. European Parliament and Council positions are expected by the end of the year.

*20 August 2014*

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

Your letter of 20 August 2014 on the above documents was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We note your helpful analysis of the impact of removing existing exemptions, including some details on the current scale of reliance on some of those exemptions in the UK. We agree that each exemption needs to be considered on a case-by-case basis.

We are grateful for your helpful clarification of the position on labelling, including confirmation that the Food Standards Agency has not indicated any concern about the proposals.

You clearly remained concerned about the provisions for delegating powers to the Commission, uncertainty about which means that it is not possible to judge the sufficiency of the traceability framework, particularly for imports from third countries. The Committee remains concerned to ensure that a robust framework is in place to trace such imports and look forward to a further update on this issue in due course once your discussions with the Commission on the delegating powers provisions have developed. It would be helpful to be clear whether, in your view, any elements relating to traceability might be considered to be “essential” elements of the Legislative Act, and thus not appropriate for Delegated Acts.

As you observe, we expect further detail on the progress of the European Innovation Partnership for agricultural productivity and sustainability (EIP-AGRI) in separate correspondence. We are pleased to note the UK's engagement in the EU's Coordination of European Transnational Research in Organic Food and Farming Systems (CORE Organic) scheme and would welcome information on the levels of contributions of other Member States, both to the current fund and towards the future fund to which you refer. It would be helpful if you could explain how the UK's contribution to CORE Organic relates and compares to funding domestically for ecological farming under the UK's Agri-Tech Strategy.

You provided a helpful summary of the views of industry, other Member States and the Devolved Administrations. We would be interested to know whether you will pursue any of the additional points that arose from your consultation with industry and with organic control bodies.

We note the relatively ambitious timetable given the complexity of the proposal. We shall retain the documents under scrutiny and look forward to an update on progress in due course, notably on those issues highlighted above.

*10 September 2014*

## **PACKAGING AND PACKAGING WASTE (11598/14)**

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

A package of four Commission Communications related to the Circular Economy was published on the 2nd of July. Taken together, the Communications propose a range of non-legislative measures aimed at moving towards a more circular economy. Legislative proposals to amend six different waste Directives also formed part of the Circular Economy package. These proposals follow a scheduled review of the targets in the Waste Framework, Landfill, and Packaging and Packaging Waste Directives; and a limited number of amendments are also proposed for the Waste Electrical & Electronic Equipment, End of Life Vehicles and Batteries Directives. This is a complex review of EU waste legislation that will potentially affect a number of pieces of national legislation.

Explanatory Memoranda on two of the four Communications on the Circular Economy and Green Action Plan for SME's, and for the waste proposals, accompany this letter. Explanatory Memoranda for the remaining Communications are being prepared by other Government Departments.

Thank you for your letter of the 17th July on the Government response to your recent report: 'Counting the Cost of Food Waste: EU Food Waste Prevention'. I will respond to your letter more fully in due course. However in the context of your recommendations for action on food waste at an EU level, I wanted to take this opportunity to reassure you that your queries on the Commission's aspirational (non-binding) objective to reduce food waste by 30% by 2025, are addressed by this

Explanatory Memorandum as requested. It also covers the implications of a 2017 baseline year and the proposed definition of food waste. It is expected that the key food waste obligations are covered in the revised waste framework directive package, but that the Commission will outline a more detailed vision on preventing food waste in the delayed Commission Communication on Sustainable Food.

25 July 2014

**Letter from the Chairman to Dan Rogerson MP, Minister of State for Agriculture and Food, Department for Environment, Food and Rural Affairs and Matt Hancock MP, Minister of State for Business, Enterprise and Energy, Department for Business, Innovation and Skills**

Your joint Explanatory Memorandum (EM) on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 30 July 2014.

The proposal is a complex one. Understandably, you have set out an emerging position and you are still in the process of analysing the proposal and consulting on it. We also are at an early stage of our consideration and will submit a considered response with greater detail early in the autumn. At this point, though, we would signal a general concern that your position is rather focused on assessing, and avoiding, short term costs to business. There is little reference to the core objective of the legislation, which is to boost resource efficiency in the EU. This is an aspiration to which the UK has fully committed itself in the context of the EU's long term sustainable development objectives. Of course, resource efficiency should ultimately be seen as an opportunity for business, rather necessarily than a cost.

You imply that you are content that the majority of this very important proposal is aligned with the principle of subsidiarity. We agree. The internal market objectives are reasonable and cannot be achieved by Member States acting alone. In addition, the overall impact is in line with the shared economic and environmental objective of resource efficiency, as agreed by the European Council.

The exception, in your view, is the new Annex VII. In our view, the idea of setting minimum requirements for extended producer responsibility in an internal market is not without logic. Indeed, some of the minimum requirements might be considered to be both desirable and in line with other elements of the Directive. The only specific concern that you highlight to justify your position is the requirement that financial contributions cover the entire cost. We would agree that these provisions would certainly benefit from further clarification and justification from the Commission. Without that, they might potentially be considered to be disproportionate to achievement of the identified objectives. We do not consider, though, that the case that you have made is sufficient to justify a position that the proposal breaches the principle of subsidiarity. It would be helpful if you could provide further analysis of your concerns about the Annex, including how it might affect current arrangements in the UK. Furthermore, it would be helpful to understand whether you would prefer to delete the Annex or to amend it, while retaining some of the provisions, such as those on reporting and on a recognition procedure, that might in fact be deemed helpful.

We regret that the Commission failed to meet its obligation for every legislative act to include a detailed statement making it possible to appraise compliance with the principles of subsidiarity and proportionality. Instead, it was necessary to trawl through the various Impact Assessments to identify the Commission's rationale. The importance of such detailed statements was emphasised recently in a letter that we wrote to the President of the European Commission regarding a proposed Directive on the activities and supervision of institutions for occupational retirement provisions.

Aside from the content of Annex VII, it would be normal practice for a substantive amendments to the Annexes of a Directive to appear in the draft legislative text rather than, as is the case with the proposed new Annex VII, in a separate paper. This serves to obscure the amendment from those who may only read the legislative proposal and not all of the various accompanying texts. We would welcome your view on this aspect of Annex VII.

On a point relating to your internal procedures, it has previously been emphasised to Ministers and officials that deposit of EMs in a timely manner is particularly important when the Lisbon Treaty Reasoned Opinion procedure applies. In the wider context of UK Government support at high political levels for a strengthening of national parliamentary scrutiny of EU legislation, it was



particularly disappointing that you were unable to deposit the EM by its deadline of 22 July. We would appreciate an explanation for the delay and a recognition of its impact upon the UK Parliament's ability to take the action to which it is entitled under the Lisbon Treaty.

You may wish to be aware that, after further consideration, we may write to the Commission in the autumn setting out some of our concerns in the context of the formal political dialogue between the Commission and national parliaments. This might touch on some of the procedural issues relating to the Commission's proposal to which we have referred above.

We will retain the proposal under scrutiny and look forward to your response by 29 August 2014.

30 July 2014

#### **Letter from Dan Rogerson MP and Matthew Hancock MP to the Chairman**

Thank you for your letter of 30 July in response to the above EM in which the Committee raised a number of points for clarification. We will address each of these in the order that they are raised in your letter.

The Committee's first concern is that the EM is rather focussed on the possible short term costs to business arising from the proposal and makes little reference to the core objective of boosting resource efficiency in the EU. We agree that this objective is important and one the UK supports. Measures to improve resource efficiency, including those relating to waste policy and management, are set out in the Commission Communication on moving "Towards a Circular Economy: A Zero Waste Programme for Europe". In view of this we have therefore focussed on our support for those actions which will help boost resource efficiency in EM 11592/14 (relating to the Circular Economy Communication) submitted to the Committee on 21 July 2014.

However, we do need an assessment of the impacts, both long and short term, of the proposed amendments to EU waste legislation. Costs will fall not only to business but to Local Authorities and ultimately to householders. We will need to demonstrate that the benefits outweigh the costs. This is work we will be taking forward towards the autumn, listening to stakeholders, and taking into account views of other Departments, Devolved Administrations and Parliament.

The Committee has requested further analysis of our concerns about the proposed Annex VII which introduces minimum requirements for Extended Producer Responsibility (EPR), including how it might affect current arrangements in the UK.

As set out in the EM, there is a strong case that the Commission's proposal to add a new Annex VII to the Waste Framework Directive (WFD) does not comply with the principles of subsidiarity and proportionality and we set out below our more detailed reasons for this view. However, we do feel that we need a more detailed explanation from the Commission in relation to Annex VII before we can take a definitive view, in particular, about its intended purpose and how it is meant to be applied.

You will wish to be aware that the Italian Presidency has asked Member States to set out in writing their initial views on the Proposal by 29 August. This is in advance of Working Party meetings to discuss the dossier planned for September. Our letter, which will also go to the Commission, will request this further clarification. If a proper explanation is not forthcoming then we may wish to consider seeking to delete this Annex in its entirety. We would seek the views of other Member States if this should occur.

For proposed EU legislation to satisfy the principle of subsidiarity, it is necessary to show that the objective - in this case reducing end of life management costs, boosting performance and ensuring a level-playing field to avoid obstacles to the functioning of the internal market (as set out in recital 20 of the Proposal) – cannot be adequately achieved by Member States acting on their own and that it can be better achieved by action at EU level.

Currently Member States have power under Article 8 of the WFD to introduce extended producer responsibility (EPR) in relation to specific problems at a local level. Where this power is exercised, they may choose the content of the scheme including any new burden imposed on businesses or individuals. For example, for packaging, there are EPR schemes with different structures in different Member States. Under the new proposals it appears that the content would be set at an EU level, leaving less flexibility for individual Member States to tailor such schemes to their local needs and resources. The producer responsibility schemes established by domestic regulations governing Waste

Electronic and Electrical Equipment (WEEE) and End of Life Vehicles (ELV) facilitate the collection, treatment and environmentally sound disposal of waste by utilising the UK's existing waste management infrastructure.

The advantage of Member States being able to use their existing infrastructure in this way is that it minimises additional burdens (both financial and administrative) on individual Member States and their stakeholders that would be caused by being bound, by EU legislation, to create entirely new bodies or facilities, to satisfy the strict requirements of the legislation. We are not aware of any evidence that the current regime has resulted in an uneven playing field or has presented obstacles to the internal market and is therefore not convinced that action at EU level is required. The existing WFD requirements are sufficient.

Further, it seems odd that if the Commission's intention is to create a level playing field and remove obstacles, Member States retain the discretion as to whether or not to introduce an EPR scheme. This would appear to undermine the argument for the need for action at EU level as it would be difficult to create a level playing field if some Member States choose to implement EPR schemes and others do not. It would logically follow that if Member States are best placed to decide whether an EPR scheme is desirable, they are best placed to decide what the structure of that scheme should be.

We would like to seek clarity from the Commission as to whether Annex VII would apply to existing schemes as, if they do, this would have far reaching ramifications. For example, if applied to the existing UK scheme for packaging, the implications would be that the UK would probably have to dismantle its existing market based system (the Packaging Recovery Note (PRN) system) as this does not currently meet all of the criteria as laid out in Annex VII. In particular, in the UK, the cost of collection of packaging waste remains with local authorities, rather than the producers through the producer responsibility scheme. If Annex VII were to be applied to the existing UK scheme for packaging, this would need to change, effectively imposing a European-style packaging recycling tax on producers to cover the whole cost of recovery of packaging waste. This would increase the costs on industry significantly and would be difficult to implement domestically.

Furthermore, the application of Annex VII requirements could prove to be a disincentive to Member States to develop and apply any future EPR schemes on new waste streams. Member States would find themselves wedded to specific criteria, which may not prove to be economically viable or work effectively at a domestic level, and may prevent them from being able to take account of local problems and infrastructure. Not all waste streams that might be considered appropriate for the development of an EPR scheme would be suited to all the criteria listed in Annex VII. For example, there is a requirement that financial contributions into the EPR scheme support litter prevention and clean-up operations. However, this might not be applicable to very specific waste streams that do not cause public littering or clean-up issues, for example, agricultural waste plastics.

The principle of proportionality requires that the measures proposed must be necessary to achieve the stated objective and are appropriate to achieve that objective. In particular, the requirement in Annex VII for financial contributions to cover the entire cost of waste management is not necessary, in relation to some waste streams, in order to achieve the waste management objectives of the WFD. For example, for packaging, the UK's current EPR scheme does not require producers to cover the entire cost of waste management.

You have asked for our view on the publication of Annex VII as a separate paper to the draft legislative proposals. We agree with the Committee that this is not normal practice and is not a good way to ensure transparency and facilitate effective negotiations. We will be covering this point in our letter to the EU Presidency and the Commission referred to above.

The Committee asked for an explanation for the delay in depositing the EM and recognition of its impact on the UK Parliament's ability to take action. As you have noted, this is a complex package of proposals amending 6 important EU Directives, with responsibilities shared between two Departments, and interest from across Whitehall and the Devolved Administrations. Unfortunately this meant that it took longer than usual to secure appropriate clearances and to deposit the EM. We recognise the importance of Parliament having to complete their role, and we made every endeavour to have the EM with you in time for your last Committee meeting ahead of the summer.

We note that, after further considerations, the Committee may write to the Commission in the autumn setting out some of its concerns. We will therefore provide the Committee with a further

update on progress and the responses to our request for greater clarity following the Working Party meetings planned for next month.

29 August 2014

### **Letter from the Chairman to Dan Rogerson MP and Matthew Hancock MP**

Your joint letter of 29 August 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

The logic of the Government's position with regard to Annex VII, setting out minimum requirements for Extended Producer Responsibility (EPR) is now much clearer. We can see that there are aspects of the proposed Annex VII that may be unhelpful for the UK. Nevertheless, it may also be that other aspects of the minimum requirements for EPR are desirable, where Member States choose to introduce such systems. As we indicated in our previous letter, a commonly agreed approach to reporting and recognition might be helpful. We would therefore urge you to tread with care in negotiating Annex VII, ensuring that you assess the inclusion of the distinct elements of the Annex on a case by case basis.

Since we wrote to you at the end of July, we have had an opportunity to consider the detail of the proposal in greater detail. While acknowledging that your own analysis remains incomplete and you are awaiting clarification from the Commission on a range of issues, we would make the following points on which we would welcome further comment.

In your EM, you were critical of the European Commission's Impact Assessment and added that economic modelling is underway to establish a robust estimate of the cost of the proposed amendments. We would emphasise the need to take full account of the long term benefits and costs avoided as well as the immediate costs of implementing the proposal. The recent "Waste or resource? Stimulating a bioeconomy" Report by our Science and Technology Committee<sup>11</sup> noted, for example, that while investing in infrastructure for separate waste collection and the transformation of waste into high value products required capital investment, this could be recovered over the long term by using waste as a resource.

On the proposed new definition of municipal waste, you raise concerns about the extension of the definition beyond household waste. While we understand your points, it seems to us appropriate to include non-household waste of a similar nature within the definition of municipal waste. We look forward in due course to receipt of information from you on the levels of waste that would potentially be captured by the extension of the definition. That will in turn inform discussion on the feasibility of the target of 70% of municipal waste to be recycled by 2030.

We would agree with you that the proposed definition of food waste should be limited to post farm gate waste and that this needs to be clear in the proposal. Ideally, though, definitions of food waste should be tweaked according to each stage of the supply chain as, for example, wastage by consumers is very different to wastage by food and drink manufacturers. We share your misgivings about the setting of the baseline for the food waste target in 2017. As an alternative, we would welcome your view on the possibility of setting a food waste avoidance target as a proportion of overall food production and, possibly, consumption. This would reward those Member States that have already taken action and would ensure that other Member States act swiftly to reduce food waste. On the issue of the baseline, we would also add that a baseline in 2017 would not take into account the impact of subsequent economic and population growth. Your comment on how growth can be taken into account in the setting of a food waste target would therefore also be of interest.

Turning to backfilling, we are unclear how you consider that the waste-derived products to which you refer (metal, woodchip board, glass aggregate and insulation) should be classified if used in backfilling rather than being put to higher value use. Your EM implies that they should count towards a recycling target, even if used only as backfilling. We note the relevance of this definition to meeting the proposed new recycling targets under the revised Packaging Directive.

Your EM makes reference to the proposed Early Warning System, which is designed to monitor compliance and to assist Member States to meet the identified targets and measures once agreed. You express some concern about the provision, but clearly effective implementation is paramount and

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<sup>11</sup> Science and Technology Committee, 3rd Report of Session 2013-14, *Waste or resource? Stimulating a bioeconomy* (HL 141)

has been a particular weakness of EU environmental legislation in the past. We would welcome confirmation that you support effective implementation, clear reporting against targets and firm action by the Commission when Member States fail to implement and enforce agreed legislation. If so, it would be helpful if you could clarify the elements of the proposed Early Warning System that you consider surplus to requirements in order to achieve those objectives across the EU.

The proposal for mandatory separate collection of biowaste is clearly a controversial one. We note your resistance and acknowledge the underlying concerns. We would remind you, though, that separate collection of biowaste can maximise its value, thus leading to economic benefits. In your analysis, we would urge you to take those benefits into account.

We would agree with you that exemptions from permit requirements must be treated with care as there would be the potential for monitoring of implementation of the legislation to become challenging, and potentially impossible, as a result.

Under the revised Article 28 of the Waste Framework Directive, Member State Waste Management Plans should include measures to combat littering. Can you confirm whether or not this would extend to measures taken to combat marine litter? If so, do you remain confident that this is unlikely to be a significant burden?

Turning to the proposed revisions to the Packaging Directive, you will recall that we observed in our food waste Report<sup>12</sup> that food packaging often performs an important waste prevention function. We therefore recommended that the revised Directive did not introduce provisions that may have the unintended consequences of discouraging innovative packaging that might help to prevent food waste. Clearly, it is possible that the more stringent targets will have that effect. Equally, though, such a danger might be offset by the requirement on Member States to take appropriate measures to encourage the design of packaging in order to reduce its environmental impact and the generation of waste. You are concerned that this provision might be interpreted by Member States as permitting the introduction of varying national packaging design requirements, which could distort the single market. The wording of the proposal would appear to encourage incentive measures rather than regulatory measures. It would be helpful if you could clarify with the European Commission the type of measures foreseen in order to identify whether it is possible to maintain this provision while ensuring that there is no distortion of the single market.

We note from your comments on the revision to the Landfill Directive that the net cost associated with landfill restrictions is largely due to the costs of separate collections, to which we alluded above. We reiterate the importance of considering the economic benefit to be derived from the separate collection of biowaste, as also from the separate collection of other waste streams.

We understand that discussions are underway among Member State representatives. We would welcome any update that you are able to offer, including insight into the views of other Member States and any helpful clarification that the Commission has given to address some of the uncertainties highlighted in your EM. This is particularly salient to the establishment of baselines, notably to assess the feasibility of the revised targets across the various amended Directives.

We indicated in our previous letter our intention to write to the Commission setting out some procedural concerns. A copy of that letter is attached [not printed] for your information.

We will retain the proposal under scrutiny and look forward to your response by 6 October 2014.

*10 September 2014*

### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter of the 10<sup>th</sup> of September. The Committee raised a number of points for further clarification following our last letter. I am responding to your letter as your questions mainly refer to my Department's policies and BIS officials have cleared the points on which my Department shares an interest with BIS.

I acknowledge your advice on treading with care when negotiating Annex VII on Producer Responsibility and will take care to assess the inclusion of the elements of the Annex on a case by

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<sup>12</sup> European Union Committee, 10th Report of Session 2013-14, *Counting the Cost of Food Waste: EU Food Waste Prevention* (HL 154)

case basis. Although we are still awaiting written confirmation, it appears that the Commission's intention is for these requirements to apply to existing Producer Responsibility Schemes such as those on the Packaging, Batteries and Waste Electrical and Electronic Equipment. Application of some of the further-reaching requirements (for example covering the full costs of waste management and costs of littering) will potentially have far reaching implications for our existing regulatory framework, and potentially require substantial change to the way in which our current systems operate in practice.

I would also like to reassure the Committee that we will endeavour to take account of the long term economic benefits, as well as associated costs, in our assessment of the proposed amendments. We will consider the relative costs and benefits of the separate collection requirements for biowastes, and to meet the new landfill targets.

The Committee asked for information in due course on the levels of waste which would potentially be captured by the extension of the definition of municipal waste. I agree that this information is essential in order to accurately assess the feasibility of a 70% municipal waste recycling target. One of our key concerns is to use a definition of municipal waste against which we can robustly monitor and report data. We do not currently collect data on some of the waste potentially captured by this definition, or indeed have an understanding of the quantities. Estimating the potential volume of "municipal waste" under this definition will therefore take some time. We will also need to consider how systems must be developed in order to capture these data robustly on an annual basis.

The Committee asked for our view on a different type of food waste target and how growth might be taken into account in developing such a target.

In our negotiations, we are focussing on ensuring that the Commission approach to food waste definition, targeting and reporting is sensible, adds value, and will not constitute an unreasonable burden on the UK.

The Commission has proposed a food waste *definition* which encompasses waste generation along the whole food supply chain. This is in line with our approach of encouraging collaboration to address food waste across the entire food supply chain. However, our position is that the voluntary *target* and associated *reporting* of food waste reductions should only monitor post farm gate food waste due to a current lack of data on farm food losses across Europe, including the UK. The Commission has now published its Impact Assessment which confirms that it shares our views and does not intend to include losses in the production stage within the target.

The proposed reporting regime covers four sectors: manufacturing, retail/ distribution, food service/ hospitality and household. This would be well aligned with the UK's current approach of working with the different sectors through voluntary agreements on food waste prevention alongside consumer messaging which has already delivered a 15% reduction in household waste since 2007. To avoid any new burdens in the UK, we would want to ensure that our existing, and effective, systems are changed as little as possible and that would be best achieved by not changing the characteristics of the proposed voluntary target. There would be complexities involved in setting targets against consumption or production due to the import and export of food, which could make measurement more difficult and could have unintended consequences and it would be more straightforward to base proposals on existing methods of measurement and the data we already collect.

The simplest solution to the proposed 2017 baseline would be to provide flexibility in the baseline to recognise the UK progress since 2007 or remove the baseline altogether rather than to seek a change to the proposed targeting approach. We have been pressing for this and the Commission's Impact Assessment states that those Member States that have already made efforts to reduce food waste could have these reductions recognised by setting an early baseline date. We will continue to push for this to be made explicit in the text of the proposal.

Regarding population and economic growth, we are considering the implications for meeting food waste reduction targets and would be happy to share our analysis in this area once it is complete.

On the new definition of Backfilling, the Committee requested further clarity on our concerns that some waste-derived products would not be counted as recycling. Our concern lies with the definition being broad enough to allow very wide interpretation, or misinterpretation, of what counts as backfilling in the future. The inclusion of "waste used in construction" has the potential to be misinterpreted to include many uses of waste-derived products (e.g. woodchip board) which currently count as recycling within the waste hierarchy, *even if these are not used to fill an excavation*. Although

perhaps not the intention behind the text - we are clarifying this with the Commission - we would be concerned to leave this article open to possible future misinterpretation which risks putting high value uses of quality waste-derived products out with the scope of “recycling”.

On the Early Warning System; I can confirm that we support effective implementation of legislation. For Member States at risk of not meeting the targets, obtaining a delay to the deadline is dependent on the acceptance of Compliance Plans by the Commission. Our concern is that Annex VIII specifies overly prescriptive requirements for the measures which “shall be considered” by these Plans. These include economic instruments, including taxation, which should be a matter for national governments to decide. Moreover, there may be pressure to apply these requirements, whether or not these have been shown to work within their circumstances. For example, Article 11a (paragraphs 3 and 4) implies that if the Commission’s recommendations are not included, the Commission reserves the ability to reject the compliance plan and associated request for a deadline extension.

On the Member State Waste Management Plans; it is not our understanding that the provisions on littering should include marine litter. The Commission did not include this in their presentations on the proposals in Working Parties this month, but we will seek to clarify this point.

The proposal includes an amendment on packaging design within the Packaging Directive. It is important to note that the primary purpose of packaging is to protect and preserve the product, and reducing the packaging may have the effect of increasing the produce wastage and reducing the product hygiene with the environmental impacts much greater than that of the packaging saved. As you comment in your letter, the goal of the new article appears laudable. On closer examination, it appears that this is an alignment with the Waste Framework Directive with no connection made to pre-existing design requirements set out in the Packaging Directive, which already address obligations for packaging placed on the market. Given that design provisions are already in place, we believe it would be better to address this issue through a review of those requirements rather than an additional obligation open to different interpretations across the EU-28. While Member States could choose whether to regulate, conflicting national design requirements could increase the burden on business supply chains needing to adapt products for different markets. The Commission has already identified this as an area for review and we expect this to be brought forward in a later recast of the Packaging Directive. We will seek clarification from the Commission on the measures foreseen.

You asked for any updates on the discussions currently underway between Member States, the Presidency and the Commission. We have had some further clarification on some of our concerns verbally but we are awaiting written confirmation:

- As mentioned above we have learnt that it is the Commission’s intention that the new minimum requirements for Extended Producer Responsibility apply to existing schemes. A number of other Member States are also concerned about the prescriptive nature of both Annex’s VII and VIII on the Early Warning System.
- That the landfill limit will be more restrictive than they at first appear: by setting a 25% limit based on municipal waste but requiring that this apply to *all* landfilled waste, will approximately halve the limit in practice for the UK. In combination, applying the new definition of municipal waste could restrict this still further.
- It appears that the modelling informing the Commission’s Impact Assessment has indeed set a baseline scenario using a different definition of municipal waste to that in the proposals. This means we have more to do to assess the actual costs of implementing the proposals in the UK, and how different definitions and calculation methods might affect those costs.
- More positively, it appears that Member States may be misinterpreting the new calculation point for recycling and that this may not include the losses inherent in any recycling process. Naturally we are seeking clarification in the text to put this beyond doubt.

7 October 2014

### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 7 October 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 22 October 2014.

We are grateful for your comprehensive response to our letter.

Like you, we are pleased that the Commission's Communication clarifies the Commission's intentions for actions on food waste prevention. It is clearly essential that the legislative proposal reflects these intentions, including the view that efforts already made should be recognised. We look forward to a report from you on progress in that regard, as also on your analysis of the implications of population and economic growth for meeting food reduction targets.

We take note of your position on the possibility of setting a food waste target against food consumption or production.

As regards the Early Warning System, we understand your position but we would emphasise that there is a balance to be struck between pressure to take any action and pressure to apply specific measures.

We look forward to clarification on both the inclusion of marine litter within the littering provisions and on the measures foreseen under the amendments to the Packaging Directive designed to encourage packaging with a lower environmental and waste impact.

We will retain the proposal under scrutiny and would welcome a further update in due course covering the progress of negotiations, the issues highlighted above and any conclusions of the further analysis that you are undertaking.

*22 October 2014*

### **PLANT REPRODUCTIVE MATERIAL LAW (9527/13)**

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

I wrote to you in June 2013 about the above proposal, with an update in January 2014. The European Commission launched its proposal for changes to EU legislation for the marketing of seed and other reproductive material in May 2013. This is part of the 'Smarter Rules for Safer Food' package and closely linked to the proposal for Official Food and Feed Controls. I am writing now to give the current situation.

#### **NEGOTIATION IN EUROPEAN COUNCIL AND EUROPEAN PARLIAMENT**

The read through of the proposal for plant reproductive material has been completed in Council Working Party and European Parliament has completed its first reading.

European Parliament rejected the proposal when the Commission refused to withdraw and redraft it. Before this, MEPs had proposed a large number of amendments, indicating their dissatisfaction.

In Council, the Committee of Permanent Representatives considered European Parliament's position and decided to continue working on the proposal. It asked the Commission to present a revised draft following guidance to be developed by Council Working Party. The Greek Presidency has now presented a state of play report to Agriculture and Fisheries Council of Ministers on 16/17 June, which is also intended as guidance to the Commission for its redrafting. George Eustice, Defra's Under Secretary of State, supported the Presidency's report, to emphasise to the Commission the changes expected in the next draft.

The Commission has not committed to a timetable for redrafting its proposal for plant reproductive material, explaining that the new Commissioner for DG Sanco, to be appointed in October 2014, will need to finalise the revised proposal. It is therefore uncertain when a revised proposal will be published.

#### KEY ISSUES FOR REDRAFTING

In its state of play report to Council of Ministers, the Presidency summarised issues raised by Council Working Party and European Parliament. In Council Working Party, Member States reached a high level of agreement which closely aligns with almost all UK objectives at this level. The four key issues and the guidance are:

#### SCOPE AND SIMPLIFICATION

Forest reproductive material should be excluded and different sectors should be regulated proportionately. The focus should be on professional operators and exclude transactions between private persons.

#### LEGAL SECURITY AND USE OF DELEGATED AND IMPLEMENTING ACTS

A single regulation should be retained but with sections for different types of reproductive material. The list of species important for food security and other issues should be stated in the regulation, together with the species requiring testing of new varieties for 'value for cultivation and use' and mandatory certification of reproductive material. Exclusions should be clear in the regulation itself, reducing secondary acts.

#### COST RECOVERY

Member States should have flexibility and there should be no exemption for micro businesses. Simplified access for certain types of material should be used to reduce costs and other measures to reduce costs considered.

#### EFFECTIVENESS, EFFICIENCY, HARMONISATION AND REDUCTION OF ADMINISTRATIVE BURDEN

The revised proposals should be less prescriptive, increase activities which can be done by businesses under official supervision, and make use of links with Plant Breeders Rights to avoid duplication of testing.

I hope this update serves to keep the Committee informed but do let me know if there are any areas where further information would be useful. I will write again when the Commission publishes its revised proposal and negotiations in Council Working Party and European Parliament have restarted.

*26 June 2014*

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

Your letter of 26 June 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 July 2014.

We note that negotiations have stalled on this Proposal. We look forward to an update from you once a revised Proposal has been tabled by the Commission.

In the meantime, we will retain the current Proposal under scrutiny.

*10 July 2014*

#### PLURILATERAL NEGOTIATIONS ON ENVIRONMENTAL GOODS (UNNUMBERED)

#### **Letter from Lord Livingstone of Parkhead, Minister of State for Trade and Investment, Department for Business, Innovation and Skills, to the Chairman**

I am writing to inform you of the launch of plurilateral negotiations for environmental goods on 8 July. The first round of negotiations took place on 9-10 July.



14 members of the WTO<sup>13</sup>, including the UK and the EU have begun negotiations to reduce tariffs on environmental goods. The aim of negotiations is to build on the agreement reached by the Asia Pacific Economic Community (APEC) on the liberalisation of 54 environmental goods.<sup>14</sup> The agreement is intended to reinforce the rules based multilateral trading system and benefit all WTO members by involving all the major traders and applying the principle of most favoured nation. Such an agreement would take place once a critical mass of WTO members participate limiting the potential for free-riding.

The UK stands to benefit significantly from lower tariffs on trade in green goods. Even on a narrow definition of green goods, UK exports outside the EU exceeded £7bn in 2012. Importing lower cost green goods and services can also bring benefits to the UK, for example through more rapid diffusion of technologies. An agreement would also complement our efforts in the UN climate negotiations to deliver a credible deal in Paris in 2015 and scale up the use of low carbon technologies where the UK is a global leader, thus providing direct prosperity dividends.

The UK fully supports these negotiations and wants to see an ambitious agreement (ideally achieved by end 2015) with as many countries as possible (ideally exceeding the critical mass of 90% of global trade in green goods – the current 14 WTO members represent 86%). We will approach these negotiations with the following objectives:

(a) the reduction of tariffs on additional environmental products to that of the Asia Pacific Economic Community list of 54 environmental products; (b) the elimination of all tariffs contained in the agreement; (c) explore further and if desirable the liberalisation of a limited number of environmental services; (d) an expansion of the membership and; (e) a review mechanism which will allow the inclusion of additional products, and environmental non-tariff barriers and services at a later date.

The negotiations are proceeding under the existing WTO Doha Development Mandate, under which the Commission conducts negotiations on the Doha Development Agenda (DDA) on behalf of the EU and Member States. The UK secured additional Council Conclusions clarifying the relationship between these negotiations and the wider DDA, and expressing support for the negotiations. In conjunction with this, negotiating directives were also adopted in Trade FAC on 8th May. These were adopted in order to provide further direction to the Commission on the conduct of these specific negotiations.

28 July 2014

## PROGRESS TOWARDS THE INTERNAL ENERGY MARKET (14225/14)

### **Letter from the Chairman to Matt Hancock MP, Minister of State for Business, Enterprise and Energy, Department for Business, Innovation and Skills**

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting on 3 December 2014.

We note your general support for the update provided by the Commission on the progress towards completing the EU Internal Energy Market and are particularly pleased to note your reaffirmation of the Government's commitment to increased interconnection.

It would be good to hear about the current barriers to fully connecting the transmission grids within the Iberian Peninsula to the rest of Europe and what can be done to alleviate the bottleneck effect of low electricity grid transmission capacity across the Pyrenees. As you will be aware, a successful outcome in this area has the potential to increase stability and security of energy supply to Central

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<sup>13</sup> EU; US; China; Australia; Canada; Costa Rica; Hong Kong, China; Japan; New Zealand; Norway; Singapore; Switzerland; Chinese Taipei; and Korea (Korea is currently finalising its domestic procedures)

<sup>14</sup> At the 2012 APEC summit, APEC members agreed to limit tariffs on 54 groups of products of green goods to no more than 5%. The majority of these products are for renewable energy production (28%), environmental monitoring and assessment (28%) and management of solid and hazardous waste and recycling systems (22%). The agreement is non-binding.

and West European Member States. We would appreciate an update on the current state of political negotiations between France and Spain in this regard.

Moreover, we would welcome details on the specific obstacles that exist to the finalising and implementing of cross border electricity network codes and whether the solution is expected to be of a technical or political nature. We note that progress on this issue has been relatively slow and would welcome your views on how the regulators can help.

Finally, we would be interested to learn more about the progress to date here in the UK on the smart metering programme and the relationship you enjoy with energy providers on this subject. The Smart Metering Implementation Programme receives statistical updates on a quarterly basis and it would be good to know the progress to date ahead of the main installation stage which is due to commence in late 2015.

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

*3 December 2014*

**PROPOSAL FOR A COUNCIL REGULATION ON UNION SUPPORT FOR THE  
NUCLEAR DECOMMISSIONING ASSISTANCE PROGRAMMES IN BULGARIA,  
LITHUANIA AND SLOVAKIA (17752/11)**

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

Your letter of 3 June 2014 on the above dossier was considered by our Sub-Committee on Agriculture, Fisheries, Environment and Energy at its meeting of 11 June 2014.

The situation and the UK position have been helpfully clarified. We are now content to close this strand of correspondence.

*11 June 2014*

**PROTECTION OF SOIL (13388/06, 13401/06)**

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

Thank you for your letter dated 28 November 2013. Following my letter dated

11 November about the proposed EU Soil Framework Directive, I am pleased to be able to inform you that the Official Journal of the European Union published formal withdrawal of the proposed Directive at the end of May.

It is likely that the Commission will propose a new initiative on soils as part of their anticipated 2015 *Land as a Resource Communication*, but it is unclear what form such an initiative will take. While Defra supports the objective of protecting Europe's soils, we already have policies in place for the sustainable management of soils in the UK and do not consider further European legislation to be necessary in this area.

We will continue to work with other Member States and the Commission to explore alternative non-legislative approaches to soil protection.

*14 June 2014*

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

Your letter of 14 June 2014 on the above dossiers was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 25 June 2014.

Thank you for the confirmation that the proposed Directive was formally withdrawn by the Commission at the end of May.

We are now content to release these documents from scrutiny and to close this strand of correspondence.

In so doing, we would nevertheless re-iterate our view that soil protection and use across the EU remains a critically important issue. We look forward to the Commission's new initiative on soil next year as part of its Communication on "Land as a Resource".

26 June 2014

## PROTECTIVE MEASURES AGAINST PESTS OF PLANTS (9574/13)

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

Further to my letter in January, I am writing to update you on the negotiations on the above proposal. This proposal forms one of the five elements of the "Smarter Rules for Safer Food package". There have been a number of Council Working Group meetings on the plant health proposals to date. Having now completed a first 'read through' of the Commission's proposal, the Greek Presidency has produced an initial compromise text on which discussions have commenced.

I should like to update you on the developments on the key issues which I reported on in my previous letter.

The use of tertiary legislation continues to be an issue, with Member States questioning the need for such acts or, where the text includes provision for a delegated act, suggesting a preference for the use of an implementing act. This latter approach would exclude the need for involvement with the European Parliament. The UK remains supportive of the Commission's proposal to list individual pests and diseases in implementing acts but with the criteria for listing contained within the parent legislation. We continue to believe this approach would help facilitate the UK's objective of achieving faster decision making by avoiding the need for separate consideration by the European Parliament on what are essentially detailed technical considerations on the application of the rules to a large number of pest and disease threats. We await further advice from the Council Legal Services following consultation with the Commission Legal Services and the European Parliament Secretariat. In the meantime the Presidency compromise text continues to reflect the Commission's original approach on this issue, which we support.

As you know, a key concern for the UK is to ensure that EU action is risk based and proportionate whilst securing satisfactory protection for our trees and other plants. You may recall that an upper limit of 10% of currently listed pests was being proposed for 'priority pests'. Although a number of Member States, including the UK, have raised concerns about this arbitrary limit, the new compromise text still includes this provision. We will continue to press the Commission on this point as we believe setting such a limit is impractical.

We are also concerned to see a strengthening of the current measures applying to new import trades which are permitted without prior assessment of risk. This issue has generated considerable discussion both in the Council Working Groups and the European Parliament. French proposals for a much more restrictive import regime, based on a total reversal of the EU's current import policy, were supported by the European Parliament Agri Committee and included in amendments presented for endorsement by the full European Parliament. The UK did not support this approach believing it to be disproportionate and likely to have an adverse impact on existing low risk trades. Having received briefing on the likely implications of this approach, the European Parliament decided to reject this element of the proposal. The latest compromise text from the Greek Presidency on this issue presented at Council Working Group is essentially a prohibition on all new trades in plants for planting until they have been assessed. While not as extreme as the French proposal, we believe this approach is still problematic in that there is insufficient evidence to justify the proposed blanket default prohibition pending risk assessment, other than for woody planting material. For this reason the UK is arguing, with support from several other Member States, for a proposal which focuses on high risk woody planting material but with an option to extend the approach to other new trades if

evidence of risk is identified. The UK has worked with Germany, Netherlands, Denmark, Sweden and Finland on an alternative text along these lines which we will continue to press for.

Although the Italian Presidency has scheduled Working Group meetings for July and October, there are no indications that they intend to give this dossier priority. There is clearly some way to go in the negotiations and I will keep the Committee updated as these progress.

I hope this further update serves to keep the Committee informed but do let me know if there are other specific points where further information would be welcome.

*30 June 2014*

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

Your letter of 30 June 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 July 2014.

Thank you for your update regarding the progress of negotiations on this Proposal. Across the Smarter Rules for Safer Food package, we have emphasised the need to ensure that the strategic aim of simplification and delivering a safe environment does not become lost during the negotiation of detail. We would welcome an assurance that you are negotiating on that basis and that you are confident that the direction of progress is supportive of that principle. In particular, we would emphasise the importance of ensuring that trade facilitation, both within the EU and externally, does not compromise plant health given that any failure to protect plant health can have catastrophic trade implications. We are concerned that your position may err too far towards short term trade interests.

It is very disappointing that you have not yet managed to build a sufficiently large coalition of support against the proposed arbitrary upper limit of 10% of current listed pests to be listed as "priority pests". You commit to pressing the European Commission on this point, which would be helpful but we would encourage you also to work with those Member States that may not already have signalled their resistance to the provision. We note that the other half of the EU's legislature, the European Parliament, deleted the provision during its first reading of the Proposal.

Evidently, the approach to imports is proving challenging and this is an area to which we also attach great importance. Your own policy is still not entirely clear to us. We understand that you wish to strengthen the current regime, and that you would like to focus efforts on high risk woody planting material. It is unclear, though, what your approach to the import of lower risk new import material is. Some clarification from you on this would be helpful, including an indication of the content of the alternative text on which you are working with various other Member States.

Finally, we would be interested in your analysis of Member State comments on the compromise text and whether the outstanding issues remaining to be resolved are those to which you referred in your letter.

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

*10 July 2014*

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

Thank you for your letter of 10 July raising a number of important points concerning the negotiations on this proposal.

First, on the overall approach, achieving an effective simplified regime is what we are seeking. The UK has taken the lead in impressing upon the Commission the need to have measures that both deliver the safeguards needed and that are easily understood. I would also emphasise categorically that protecting plant health is our number one priority for these negotiations. I apologise if my previous letter gave any impression to the contrary. That was certainly not my intention.

On priority pests, as you suggest, we will continue to work with other Member States to build support for a more sensible approach than the proposed arbitrary limit.

In relation to imports, our aim is to ensure that EU controls are focussed on the key risks and are evidence based. One of the main UK negotiating objectives is to ensure the gap in the current regime which allows new high risk trades to start without any prior assessment of plant health risks is closed. Although the Commission has attempted to address this issue in its first draft, the UK and others have reservations about the effectiveness of the proposal and France and Germany have produced alternative approaches. The French proposal for a much more restrictive import regime, based on a total reversal of the EU's current import policy, was supported by the European Parliament Agri Committee and included in amendments presented for endorsement by the full EP. However, following lobbying by the UK and other like-minded Member States, this proposed amendment was rejected by the EP on 15 April.

The latest compromise text from the Greek Presidency on this issue is for a prohibition on all new trades in plants for planting until they have been assessed. While not as extreme as the French proposal, we believe that this approach is still problematic in that there is insufficient evidence to justify the proposed default prohibition pending risk assessment for all plants for planting, other than for woody planting material. For this reason the UK is arguing, with support from several other Member States, for a proposal which requires prior assessment of new trades in woody planting material, with an option to extend the approach to other new trades if evidence of risk is identified, for instance through horizon scanning. The UK has worked with Germany, Netherlands, Denmark, Sweden and Finland on an alternative text along these lines which we will continue to press for. This proposal has also received support from Slovenia, Czech Republic, Latvia and Lithuania.

For other lower risk trades, the Commission's original proposal (Article 47) provides for the possibility of temporary measures (including prohibition) to be adopted pending risk assessment, in the event of problems occurring. We believe the approach outlined for high risk trades which we are pressing for, together with the Commission's proposal for temporary measures for other new trades, offers an effective risk targeted control regime.

As regards Member State's comments on the compromise text, there have been a number of interventions made during the negotiations, mostly seeking clarification of the provisions or suggesting drafting amendments to the current text. Only a small number of Member States have submitted written comments to the Presidency. In addition to the issues I have already mentioned, other comments made by Member States on items of substance are shown in the attached Annex [not printed].

I hope this explains more clearly our objectives for the negotiations and offers reassurance that protecting plant health remains our primary aim.

*21 July 2014*

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

Your letter of 21 July 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We are re-assured that the protection of plant health is your number one priority for these negotiations. Your explanation of your policy on imports is now clearer and we understand the risk-based balance that you and others are seeking to achieve.

We are grateful for the summary of Member State comments on the compromise text, accompanied by the UK position.

We will retain the Proposal under scrutiny and look forward to an update in due course.

*10 September 2014*

QUALITY OF PETROL AND DIESEL FUELS AND RENEWABLE SOURCES OF ENERGY  
(15189/12)

**Letter from the Chairman to the Baroness Kramer, Minister of State, Department for Transport**

Your letter of 2 June 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee on 11 June 2014.

We are grateful for the update and pleased to note that Member States appear to be coalescing around a workable compromise involving an advanced biofuels sub-target, with some flexibility, and multiple counting for advanced biofuels.

You observe that there is little prospect of making any further progress in the negotiations and therefore that it is important to support this agreement. We would support your approach, although we would also note that the process still has some distance to go and will depend on the position taken by the new European Parliament.

We will retain the proposal under scrutiny but, under the terms of the scrutiny reserve resolution, you need not withhold your agreement to the Proposal at the Energy Council on 13 June.

*11 June 2014*

**Letter from the Baroness Kramer to the Chairman**

Thank you for your letter of 11<sup>th</sup> June. I am grateful to the Committee for granting a scrutiny waiver on this proposal and am writing to update you on the outcome from the Energy Council vote on 13<sup>th</sup> June.

I am pleased to inform you that the vote passed, with only two countries opposing, so we now have a political agreement in the Council of Ministers.

The next step is for the European Parliament to award a mandate to a new rapporteur to enter dialogue negotiations with the Council. With the new European Parliament still agreeing its responsibilities, it is too early to predict a likely outcome, but I will continue to keep you updated of progress. I am hopeful agreement can be reached in early 2015.

*24 June 2014*

**Letter from the Chairman to the Baroness Kramer**

Your letter of 24 June 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee on 2 July 2014.

We note that political agreement on the proposal was reached at the 13 June Energy Council. We look forward to an update on the progress of negotiations with the European Parliament in due course.

We will continue to retain the proposal under scrutiny.

*3 July 2014*

QUOTAS FOR THE EU FISHING FLEET (11188/14)

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

This proposal relates to the amendment of EU regulation 43/2014 on the setting of total allowable catches (TACs) and Quotas for the EU fishing fleet. The main driver behind the amendment is to include the TAC and Quotas relating to the capelin stock. Capelin is not negotiated alongside other stocks at December Council because the relevant International Council for the Exploration of the Sea

(ICES) advice is not released until May each year. This year there was an unusual length of time between the advice being available and the Coastal States (Iceland and Greenland) setting a TAC.

The proposal also contained a number of other amendments relating to corrections in the original document on Greenland halibut, mackerel and redfish. There are also changes reflecting commitments at Regional Fisheries Management Organisations (RFMOs) on vulnerable species of sharks. The proposal also includes changes related to the cod recovery plan, to exempt some UK Nephrops vessels from the effort regime having established that the required exemption criterion has been met.

With the fishery season for capelin due to start on the 20 of June, a TAC was set by the Coastal States on 16 June. Greenland subsequently offered 7.7% of the total TAC to the EU (this is the traditional amount offered). As the fishery takes place shortly after the setting of the TAC and the fishing season for capelin is short, it was important to agree this change swiftly to avoid any disruption to the EU fleet.

The need for this to be adopted as quickly as possible meant that the written procedure was used. The UK abstained due to a lack of time to clear parliamentary scrutiny, although indicating support for the substance.

I regret that the original draft document circulated by the Council Secretariat on 23 June was not deposited rapidly to enable the need for an urgent explanatory memorandum to be recognised at an early enough point – accompanying this covering letter therefore is the relevant EM. A final version of the proposal (11215/14) was received shortly before the commencement of written procedure on 2 July, and the proposal was successfully adopted on 3 July 2014.

8 July 2014

## REDUCING CATCHES OF SEA BIRDS IN FISHING GEAR (16518/12)

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

I am writing to update you on our progress taking forward the EU Action Plan for Reducing Incidental Catches of Seabirds in Fishing Gears.

We continue the engage with the European Commission and other Member States. Following recent reforms to the Common Fisheries Policy, the Commission is updating relevant legislation including the Technical Conservation Measures Framework and the Data Collection Multi-Annual Programme (or DCMAP). We anticipate that these future framework regulations may include new provisions for mitigating and monitoring seabird bycatch as part of wider measures for protected species. We have therefore been seeking to influence the early stages of discussion and development of these proposals.

In January 2014 Defra officials attended a workshop to discuss possible improvements for the revision of the fisheries Data Collection Framework. It was agreed that the scope of the framework should be adapted to reflect an ecosystem based approach and that the impact of fisheries on ecosystems, including by-catch of non-target species such as seabirds, should be assessed.

The European Commission ran a consultation on the Technical Conservation Measures Framework between January and May 2014, to which the UK submitted comments. The responses received are now being considered by the Commission before bringing forward a proposal – we anticipate the overhaul of this legislation to begin in 2015. We aim to continue with our engagement in this process.

The UK is continuing to progress work that will inform the UK Plan of Action (PoA). The research funded by Defra and led by the Joint Nature Conservation Committee (JNCC) and the Wildfowl and Wetlands Trust (WWT) will identify any potential hotspots of seabird bycatch in UK waters and will be finalised in early 2015. Furthermore, we are undertaking innovative research to establish the feasibility of using earth observation data to monitor the marine environment, including seabirds, in efforts to provide better and more cost effective ways to monitor parameters such as species density and distribution.

The first draft of the UK PoA is currently under development. We have been talking with the UK devolved administrations to ensure a UK PoA can be implemented effectively. An indicative timeline has been developed that will seek wider stakeholder engagement in 2015, ahead of agreeing the final PoA next year.

With regard to the Marine Strategy Framework Directive, following the consultation earlier this year on monitoring the marine environment to meet our commitment to achieve Good Environmental Status (GES) by 2020, the programme of measures is now being developed. The draft Programme of Measures is based on existing and planned measures needed to achieve GES for seabirds. A consultation on the Programme of Measures is planned for the New Year.

Following these developments, I hope to be in a position to update the Committee of our progress in 2015.

*30 November 2014*

## REDUCING PASTIC CARRIER BAG USE (15845/13)

### **Letter from Matt Hancock MP, Minister of State for Business, Enterprise and Energy, Department for Business, Innovation and Skills, to the Chairman**

Further to your letter of December 2013 asking to be kept informed of developments, I am writing to provide a further update on the EU carrier bag proposal.

Since December there has been some progress on this proposal at a European level. The European Parliament has adopted a package of amendments which represents a First Reading position. This includes a proposal to introduce targets for a reduction in bag consumption on member states. Given the will of the Parliament on this matter, targets are highly likely to feature in the later stages of the negotiations.

Progress in Council Working Group has been much slower, with work being undertaken in three half day working group meetings in the past three months with no conclusions or first reading text having been agreed. At the June Environment Council the incoming Italian Presidency confirmed that this proposal will be prioritised in Council under its presidency, although no working group meetings are scheduled on this dossier until September. With this we will be unlikely to move to reaching a deal until later in the autumn.

*10 September 2014*

### **Letter from the Chairman to Matt Hancock MP**

Your letter of 10 September 2014 was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We note the slow progress thus far but that negotiations could accelerate over the next month or so. We look forward to a timely update in due course, including on the matter of the proposed common definition of a lightweight plastic bag, which we highlighted in our earlier letter to you.

In the meantime, we will retain the Proposal under scrutiny.

*16 October 2014*

### **Letter from Matt Hancock MP to the Chairman**

Further to your letter of 16 October, I am writing to provide a further update on the EU proposal to reduce the use of lightweight plastic carrier bags.

I understand that you have not received an answer to your question on stakeholder comments regarding definitions, of which there were none. It appears the letter from my predecessor of December 2013 was lost during administrative process here and was never signed and sent, for which on his behalf I apologise.



Moving on to the current situation, agreement on the proposal was reached in Coreper on Friday 21 November following the final package negotiated between the Parliament, Council and Commission on 17 November. The UK noted its scrutiny reserve.

The European Parliament has weakened the demands for targets and charging. The compromise text agreed allows member states to choose whether to reach a per capita target for plastic bags or introduce pricing on plastic bags by December 2018. This allows the UK to develop the pricing option with a separate scheme for small and medium sized businesses.

On oxo-biodegradable bags, where the UK has specific interests from two UK companies, my officials have worked closely with the sector to secure changes to the proposed European Parliament wording. This has successfully removed wording banning this material in both plastic packaging and plastic bags, limiting action by the Commission to undertake a review of the impact of oxo-degradable plastic bags.

The changes we have secured mean we wish to support adoption of the text in Council. We expect the text to be presented to Environment Council on 17 December. I am therefore seeking the clearance from scrutiny of your committee.

27 November 2014

## RESOURCE EFFICIENCY IN THE BUILDING SECTOR (11609/14)

### **Letter from the Chairman to Matt Hancock MP, Minister of State for Business, Enterprise and Energy, Department for Business, Innovation and Skills**

We would broadly agree that resource efficiency of buildings is primarily a matter to be managed at national level. Nevertheless, it is clear that there is valuable work under way in the UK and it would seem helpful to share this work with others and to understand alternative approaches that are evolving elsewhere which might inform work throughout the UK.

More generally, and as the Commission points out, a range of EU legislation pertains to resource efficiency in buildings but at different stages of the life-cycle and not in a coherent fashion. Might some form of guidance on delivering that range of legislation coherently within the single market, and with the aim of developing resource efficient buildings, be helpful?

Finally, you noted that you were picking up some indications of a possible ministerial discussion in Council in the autumn but that these were unconfirmed. We would welcome an update on likely discussions in Council and whether these may ultimately lead to Council Conclusions.

We will maintain the Communication under scrutiny and look forward to your response by 6 October 2014.

10 September 2014

### **Letter from Nick Boles MP, Minister of State for Skills and Equalities Department of Business, Innovation and Skills, to the Chairman**

Thank you for your letter of 10 September to Matthew Hancock on the above. I am replying to the Sub-Committee as I am now the BIS Minister responsible for the construction sector.

It is important that we continue the momentum towards a circular economy, keeping resources in use for as long as possible, extracting the maximum value from them and then recovering and regenerating products and materials at service life end. This is happening and, as noted in the Explanatory Memorandum, actions we are taking already are in line with some of the measures set out in the Communication. Improved efficiency in the way the building sector uses resources such as raw materials, energy, and water and in waste reduction, can make a significant financial contribution to profits, help improve competitiveness and provide new market opportunities while also protecting and improving the environment and aiding our carbon reduction commitment.

I note the Sub-Committee's agreement that resource efficiency of buildings is primarily a matter to be managed at national level. Achieving improved performance of buildings and the construction process is central to the UK Government's approach with the construction industry through *Construction 2025*

- the industrial strategy for construction. It is a sector where Britain has a strong competitive edge. To provide clarity of purpose and strength of leadership we created the *Construction Leadership Council* in 2013, which is co-chaired by Dr Vince Cable, Secretary of State for BIS and by Sir David Higgins, Chairman of HS2. *Construction 2025* sets out a vision and four long-term ambitions for the industry:

- 33% reduction in both the initial cost of construction and the whole life cost of assets
- 50% reduction in the time from the outset to completion for new build and refurbished assets
- 50% reduction in greenhouse gas emissions in the built environment; and
- 50% reduction in the trade gap between total exports and total imports for construction products and materials.

The role of the Council is to identify and deliver priority actions to help achieve these joint industry/government ambitions, by 2025. The efficient use of resources will have a key role to play.

We continue to work with the Commission and other Member States to promote UK policies and practices and also to understand the approaches developing in other Member States and the Commission's thinking. The government construction strategy, *Construction 2025*, for example, announced our intention to require collaborative 3D Building Information Modelling (BIM) (with all project and asset information, documentation and data being electronic) on its projects by 2016. Essentially the UK Government has embarked with industry on a four year programme for sector modernisation with the key objective of reducing capital cost and the carbon burden from the construction and operation of the built environment. Central to these ambitions is the adoption of information-rich BIM technologies, process and collaborative behaviours that will unlock new more efficient ways of working at all stages of the project life-cycle. Use of BIM goes beyond the planning and design phase of the project, extending throughout the building life cycle. We want to give greater European prominence to the benefits of BIM.

We also have a number of private sector schemes successfully operating. BREEAM is one of the foremost environmental assessment method and rating systems for buildings, with 250,000 buildings with certified BREEAM assessment ratings and over a million registered for assessment since it was first launched in 1990. It is internationally recognised. We also have CEEQUAL, the sustainability assessment, rating and awards scheme for civil engineering; and WRAP which helps buildings makes the best use of materials in buildings.

The Devolved Administrations also operate a number of schemes. For example, the Resource Efficient Scotland Programme provides advice and support to businesses to implement energy, material resource and water efficiency measures that will translate into cost savings, increased competitiveness and reduced emissions. Welsh Ministers operate Enabling Zero Waste and associated schemes.

You wonder whether we might consider developing some form of guidance on delivering the range of legislation and schemes. We will reflect further and take account of the views of stakeholders on the appetite for this. We will also suggest this to the Commission.

You asked for an update on how this will be taken forward by the Council. While there will not be a specific response to this Communication (on Resource Efficiency Opportunities in the Building Sector), the Presidency of the Council of the European Union intends for Environment Ministers, at its next formal Council meeting on 28 October in Luxembourg, to agree a set of Council Conclusions on all the Communications that formed part of the Circular Economy Package. The Conclusions will flow from the discussion on this subject at the Informal Meeting of EU Environment Ministers and Informal Joint Meeting of EU Environment and Labour Ministers which took place in Milan in July 2014. Therefore, the Presidency's main focus is on how to reinforce the environmental dimension of the Europe 2020 Strategy and the European Semester. This is likely to be a public debate.

8 October 2014

#### **Letter from the Chairman to Nick Boles MP**

Your letter of 8 October 2014 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 22 October 2014.

Your response to our letter was helpful and clear.

We are therefore content to release the Communication from scrutiny. It would be helpful if you would write to us after the Council meeting highlighting any Conclusions of relevance to this Communication and any follow-up action which may be required.

We look forward to a response in due course.

*22 October 2014*

#### **Letter from Nick Boles MP to the Chairman**

Thank you for your further letter of 22 October in which you asked that I write to you after the 28 October Luxembourg Environment Council meeting, highlighting any conclusions relevant to the above Communication.

As foreshadowed, the public policy debate focused on a legislative proposal amending six different waste-related directives – as part of the Circular Economy Package, of which the above Communication is a part. It did not debate the above Communication specifically.

In addition, this Communication and the other related Communications making up the Circular Economy Package were referenced in the Brussels' Council Conclusions on Greening the European Semester and the Europe 2020 Strategy – Mid-term review. Those conclusions, which were agreed at the Environment Council meeting, welcomed those Communications without specifically referring to the above.

*4 November 2014*

#### **Letter from the Chairman to Nick Boles MP**

Your letter of 4 November on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 26 November 2014.

We note the information that you have provided and we are content to close the strand of correspondence.

*26 November 2014*

### **SHIPMENTS OF WASTE (12633/13)**

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

Thank you for your letter of 26<sup>th</sup> February 2014 about the European Commission's proposal to amend the Waste Shipments Regulation (WSR). The proposal is intended to improve compliance across the EU by requiring more rigorous inspection planning by Member States. You requested an update on the dossier as a result of the negotiations, and I am pleased to say I am now able to provide the Committee with this.

The negotiations progressed as I set out in my letter of 17<sup>th</sup> February 2014. The main amendments are as follows: each Member State is to produce inspection plans which should be based on a risk assessment, but this will not be overly prescriptive. Member States agreed that the outcome of such inspections should be made publicly available, as opposed to the original proposal of the Commission which asked for the inspection plans to be published. The UK fully supported this approach as publishing details of our inspection plans would be counterproductive since it would alert industry of what we are doing and our methods of intelligence gathering. The agreed approach means that we are still making visible the actions taken to tackle illegal exports of waste. The first inspection plans are to be adopted by 1<sup>st</sup> January 2017.

The text of the amendments to the WSR was agreed by Coreper on 12<sup>th</sup> March. Votes at the European Parliament took place on 17<sup>th</sup> April and the file was adopted at plenary. On 6<sup>th</sup> May, Economic and Financial Affairs Council (ECOFIN) voted in support of the amended proposal. This

means a first Reading agreement has been reached and we would expect the amendments to enter into force on the 20<sup>th</sup> day after it is published in the Official Journal.

I would like to reassure you that we are content with the amendments that have been agreed for the WSR. We do not expect there to be significant changes for the UK as a result of these amendments, since the UK already plan inspections on a risk-assessed basis. In terms of implementing the new amendments, we expect to take the same approach as with the current regulations, and will continue working with our competent authorities to ensure the UK is in compliance with the amended regulations.

*4 June 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 4 June 2014 on the above Proposal was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 18 June 2014.

We note that a First Reading agreement was reached along the lines that you set out in previous correspondence. We are now content to close this strand of correspondence.

*19 June 2014*

### **SUSTAINABLE USE OF PHOSPHORUS (12242/13)**

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

I am writing to give you an update on the above dossier. There has been little progress on this proposal until now to report back to the Committee. We were hoping to get a detailed update from Directorate General Environment (DG ENV) during a recent European Commission Directorate General Enterprise (DG ENTR) Fertilisers Working Group meeting on the consultation process, in particular on its outcomes and next steps. Although DG ENV did give its presentation, the findings presented were fairly high level and were very vague on the subject of how they intend to proceed further. We are envisaging a more detailed summary of the results to be published by DG ENV in early July. Assuming the public update proceeds according to plan, we will be in a better position to provide the Committee with a substantive response in the coming months.

The Consultative Communication mentioned the European Innovation Partnership (EIP) for agricultural productivity and sustainability. We will be supporting this through our farming and forestry productivity scheme within the next rural development programme. We are continuing to develop the policy approach ready for the new programme to commence in early 2015. Further updates on EIP will be communicated through EM 7278-12 Communication from the Commission to the European Parliament and the Council on the European Innovation Partnership 'Agricultural Productivity and Sustainability.

*30 June 2014*

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

Your letter of 30 June 2014 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 9 July 2014.

We were pleased to learn that the Government will be supporting the European Innovation Partnership (EIP) for agricultural productivity and sustainability within the next rural development programme. As you indicate, we are monitoring the evolution of the EIP through a separate strand of correspondence.

You note that, otherwise, there has been little to report back to the Committee in terms of further progress from the Commission. We look forward to a substantive response in due course, once the Commission's intentions are clearer.

*17 July 2014*

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

You will recall that I wrote to you on June 30th on this issue. I am writing again to give you a further update on the above dossier. The European Commission have recently released a summary of the responses to the above consultation - Commission Staff Working Document 12369-14 (attached in Annex I [not printed]). Copies of all 125 responses have also been uploaded to the relevant DG ENV webpage (<http://ec.europa.eu/environment/natres/phosphorus.htm>).

Approximately half of the responses addressed all eleven specific questions raised by DG ENV in the consultation document. Somewhat surprisingly, only nine Member State government administrations in total wrote responses to the Commission. I noted that the UK Government's response was among the most comprehensive and detailed of those submitted to the Commission, and feedback from DG ENV was that they found it very helpful. The UK as a whole provided the second highest number of responses from all individual Member State's sectors, including public bodies, academia, industry trade associations, NGOs, and individuals (14), with only Germany sending more (25). The replies demonstrated a clear interest in the topic and a desire that work on it should continue.

The Commission said it had received useful contributions on all questions posed, with respondents suggesting various actions that the Commission could consider taking. The feedback identified policy options across different areas, gaps as regards data and data sources, and ways to improve the technical terminology. Alternative views were offered on some of the assumptions or statements made in the Communication. Annex 2 [not printed] describes key points from some of the responses.

With regards to next steps, DG ENV officials have said to Defra that the Communication was not designed with specific legislation on phosphorus in mind. Nevertheless, the Commission will continue its work on the sustainable use of phosphorus, in the context of implementation of existing policies and integration within revised or new policies, including for instance the recent communication on circular economy (COM (2014) 398). The views of the stakeholders will be taken into account in this work and will help the Commission shape its further action.

*14 September 2014*

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

Your letter of 14 September 2014 was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

It is pleasing to note that UK representatives were particularly engaged in the Consultation on this topic. We were interested to note the call for drivers or incentives to encourage more phosphorus recovery and loss prevention from food waste.

We are content to close this strand of correspondence, but will follow further developments with interest.

*16 October 2014*

### **TACKLING UNFAIR TRADING PRACTICES IN THE BUSINESS-TO-BUSINESS FOOD SUPPLY CHAIN (12233/14)**

#### **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 Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

The topic covered by the Commission's Communication is one that we considered in our recent inquiry into EU food waste prevention. Anecdotally, the issue is a significant one and does lead to overproduction and food waste, as observed by the European Commission.

Your approach to the matter is far from clear. Paragraph 18 of your EM might be interpreted as a defence of UTPs on the basis that they can be potentially beneficial to consumers and it is not possible to state definitively that they are harmful to small suppliers. Unlike the Commission, you do not offer a view on the impact of UTPs on overproduction and therefore on food waste. Thus, we do not sense that the Government is committed to addressing the issue comprehensively as suggested by the Commission. Indeed, your EM does not unequivocally accept that there is even an issue to be addressed throughout the supply chain.

You refer to the Groceries Code Adjudicator, from whom we took evidence in our inquiry. Clearly, her role is restricted to direct relationships between the ten largest grocery retailers and their direct suppliers. The issue covered by the Commission goes much wider than that. You are clear that you have no intention of taking any further action.

Your reluctance on this matter is extremely disappointing. We would expect you in such an EM to address the various suggestions for action put forward by the Commission, many of which are addressed to Member States. We would therefore welcome your position on each suggestion addressed to Member States and the reasons why you might consider them unacceptable to the UK Government. At the very least, we consider that it might be deemed entirely reasonable to encourage greater participation in the Supply Chain Initiative and to assess whether enforcement mechanisms in the UK are sufficient and allow for effective enforcement of cross-border UTPs.

We will retain the Communication under scrutiny and look forward to your response by 6 October 2014.

10 September 2014

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

Thank you for your letter of 10 September regarding the Explanatory Memorandum (EM) 12233/14 considered by the Agriculture and Environment Sub-Committee

In your letter you raise concerns regarding the impact of Unfair Trading Practices (UTPs) on overproduction, and therefore waste, and how is the Government addressing this issue. Cooperation through the supply chain is an important component of work to prevent food waste. The Ministry leading on this dossier, the Department for Environment, Food and Rural Affairs (Defra), is delivering or planning measures to address this issue, working with WRAP (Waste and Resources Action Programme). There are supply chain targets in place in the Courtauld Commitment which reflect the impact that decisions by retailers can have on waste at the production end of the supply chain. Retailers should work with the whole supply chain to identify where waste arises throughout the value chain. They can also consider the performance specification required for packaging and create fit-for-purpose solutions which meet consumer needs, thereby reducing waste before products reach the consumer through smarter design, packaging optimisation and delivery systems.

In addition, through WRAP, Defra supports the work of the Product Sustainability Forum (PSF). This is a collaboration of organisations made up of grocery retailers and suppliers, academics, NGOs and Government representatives. PSF provides a platform for these organisations to work together to measure, improve and communicate the environmental performance of the grocery products. In 2013, PSF published the report '*An initial assessment of the environmental impact of grocery products*', which identified the waste, water, carbon and energy hotspots for the top 50 grocery products. PSF has also supported pathfinder projects that demonstrate the benefit of taking a whole chain approach to resource efficiency on priority products such as potatoes, milk/chocolate, fish, onions, and apples, from farm gate to retail shelf.

WRAP are now building on this approach to develop proposals for an industry-led collaborative framework to promote action on grocery products with the highest environmental impact across the whole food supply chain, and reducing food waste will be a key element of these proposals.

This will build on the success of the current voluntary agreements on food waste and will enable businesses to take increased ownership of these issues.

In response to your query regarding paragraph 18 of the EM, there does not appear to be sufficient evidence that action is required in this area. Furthermore, we would consider our position to be fully in line with the European Commission's own recognition in its final recommendation that in developing and applying enforcement measures, Member States should act proportionally, bearing in mind any impact for stakeholder and consumer welfare.

You note that the role of the Groceries Code Adjudicator (GCA) is restricted to the relationships between the ten largest UK supermarkets and their direct suppliers; and comment that the Government does not propose to take further action. Perhaps it would be helpful here to clarify that the regulatory regime now enforced by the GCA is the culmination of a lengthy process of investigation by the UK competition authorities and legislation and the Government.

The relationship between the large retailers and their suppliers was the subject of a Market Investigation by the Competition Commission, which resulted in their Report into the Groceries Market in 2008. The Commission itself introduced the Groceries Supply Code of Practice in its Groceries (Supply Chain Practices) Market Investigation Order 2009; and it was the decision of the Competition Commission, based on the evidence from its investigation, that the Code should apply to the ten largest retailers and their direct suppliers. The Order also required regulated retailers to appoint a Code Compliance Officer.

The Groceries Code Adjudicator Act 2013 did not alter the scope or nature of the Code. Rather, it created the Adjudicator as an independent regulator to oversee its operation; and gives her powers to arbitrate in individual disputes and to take enforcement action where she has reasonable grounds to suspect a breach of the Code. The Act requires the Adjudicator to report annually to Parliament on her activities; and requires the Secretary of State to conduct periodic statutory reviews of the performance of the Adjudicator. The first of these reviews is due after 31st March 2016.

While the scope of the GCA regime is therefore narrower than that promoted by the European Commission, I trust you will appreciate that the UK's work in this area actually significantly pre dates initiatives in the EU. Consequently, we already have a working regulatory model in this area; and one that is based on a detailed investigation of the market by the competition authorities. We have recently augmented that with a dedicated regulatory body. All of this being the case, the Government therefore believes that the appropriate time to consider the scope and powers of the Groceries Code Adjudicator regime will be at the time of the statutory review required in 2016.

You also asked for the Government's views on each of the proposals put forward in the Communication.

The Communication encourages Member States to consider whether their current regulatory framework is appropriate to address UTPs, taking into account best practice in other Member States. For the reasons set out above, the Government maintains that it has taken a lead in this area through the creation of the GCA regime - which we believe delivers the kind of scrutiny and oversight of grocery supply chain practices that the communication addresses. Similarly, we would point to the detailed requirements set out in the Groceries Supply Code of Practice as evidence that the Government has already met the recommendation in the Communication that the national regime should include a list of practices or a general provision that allows for addressing possible breaches.

We note that the Communication recommends the continued exchange of best practice and co operation between member states. You will want to be aware that the Adjudicator has established political and sector contacts within the EU aimed at promoting the GCA model to a European audience. There was a significant EU presence at her first annual conference in London in June.

The Communication calls on Member States to assess the effectiveness and credibility of available mechanisms for enforcement of rules against UTPs, including through investigations. Again, the Government would point to the creation of the Groceries Code Adjudicator- and the addition of her arbitration, investigatory and enforcement powers to the Groceries Code Regime - as evidence of the UK's compliance with this proposal.

We hope that this letter addresses the concerns that you have expressed on the EM 12233/14 satisfactorily.

*1 October 2014*

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

Your letter of 1 October 2014 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

Despite the content of your letter, we retain some concerns about the Government's approach.

We are well aware of the background to the Groceries Supply Code of Practice and the Groceries Code Adjudicator. Indeed, some of our Members were directly involved in the passage of the legislation through this House. The Code was a significant, and very welcome, step forward. We are pleased to learn from you that the GCA is seeking to promote the GCA model beyond the UK and that there appears to be EU interest. This is an important example of the sharing of best practice between Member States, as proposed by the Commission in its Communication.

It remains the case, however, that the scope of the GCA is restricted. This raises the issue, therefore, of your current approach to unfair trading practices in the business-to-business food supply chain beyond the relationship between the large retailers and their direct suppliers.

You set out the work that the Department for Environment, Food and Rural Affairs has been doing to tackle food waste throughout the supply chain, in collaboration with the Waste and Resources Action Programme (WRAP). You did not, though, comment on whether greater participation in the EU's Supply Chain Initiative might be encouraged. In addition to a response on that point, we would also welcome clarity on effective enforcement of cross-border Unfair Trading Practices in the business-to-business food supply chain.

Finally, we accept that it would not be appropriate to re-consider the scope and powers of the GCA regime prematurely. Nevertheless, we would be interested to know if you see any potential for additional, voluntary, measures to be taken in the meantime to promote more effective cooperation throughout the supply chain.

It is our hope that the UK, having introduced the Code and the Adjudicator and having made significant steps to reduce food waste, is in an excellent position to lead this debate within the European Union. Such debate must, though, encompass the whole of the supply chain.

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

*16 October 2014*

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

Thank you for your further letter of 16<sup>th</sup> October reporting the views of your Agriculture, Fisheries, Environment and Energy Sub-Committee on my response of 1<sup>st</sup> October to your original correspondence on the above communication.

I welcome the recognition in your latest letter that the Code at the heart of the Groceries Code Adjudicator regime has been a significant step towards ensuring fairer commercial relationships between the large retailers and their suppliers. While I appreciate your continuing concerns about the application of the Code to only the ten largest supermarkets and their direct suppliers, I share your opinion that the appropriate time to re-consider the scope and powers of the Adjudicator will be as part of her first statutory review after March 2016. That, I believe, would also be the most appropriate time to consider the Government's approach to unfair trading practices in the business-to-business food supply chain, as you suggest.

That being said, I strongly agree with your view that there is much that the Adjudicator can do to influence and promote voluntary measures in the sector. With that in mind, I was pleased to see confirmation in the Adjudicator's annual report that eight of the ten supermarkets that she regulates have agreed to limit their forensic audits with suppliers to the preceding two years, as opposed to the six year periods that had become the industry standard.

At the European level, the Government recognises and supports the role that the Supply Chain Initiative has to play in promoting fairness in EU-wide business-to-business transactions. The UK experience and action in this area pre-dates the attention from the EU. One of the advantages of having created the Groceries Code Adjudicator is that the UK now has a national focus for supply chain issues; and the Adjudicator has used her position to inform debate beyond the UK – both in



Brussels and with the international audience that attended her inaugural Annual Conference in June this year.

The interest of your Committee provides an influential voice in support of the Adjudicator's work. As other Member States begin to develop their own approaches to fairness in the supply chain, I hope and expect that the Adjudicator will continue to use her position – and her enforcement powers – to promote business transparency within the sector.

29 October 2014

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

Your letter of 29 October 2014 on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 November 2014.

As we have emphasised in our correspondence with you, balance throughout the business to-business food supply chain is essential and is the policy issue at the heart of the Commission Communication. This, as you recognise, extends beyond the direct relationships between the major supermarkets and their suppliers.

Like you, we hope that the introduction of the Groceries Supply Code of Practice and the Adjudicator in the UK can lead to consideration of balance in the wider supply chain, both in the UK and the rest of the EU.

We are now content to close this strand of correspondence, but we look forward to working on this issue as work develops at both EU and national levels.

19 November 2014

### **TOWARDS A CIRCULAR ECONOMY: A ZERO WASTE PROGRAMME FOR EUROPE ZERO WASTE PROGRAMME FOR EUROPE (11592/14)**

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

Your Explanatory Memorandum (EM) on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 10 September 2014.

We note that your position is supportive of the Commission's overall goal but is largely defensive in tone. We would encourage you to approach the topic with a greater degree of enthusiasm, as also recommended by the House of Commons Environmental Audit Committee in its Report on the circular economy.<sup>15</sup>

Clearly, the aspirational resource efficiency target is a particularly important element of the Communication. We would welcome your view on the reliability of any assessment of Raw Material Consumption.

You make reference to some of the specific suggestions for action proposed by the Commission. We would also welcome your views on the development of innovative financial instruments and on consumer engagement.

Finally, we noted with interest the Commission's statement at page 10 of the Communication that "Making the best use of available waste management capacity in the EU would require better planning and information-sharing and may involve tolerating more shipments of waste within the EU towards the most modern and efficient installations, at least as a transitional measure." The recent House of Lords Science and Technology Committee Report on waste and the bioeconomy<sup>16</sup> expressed concern about the shipment of waste to Member States with overcapacity for energy recovery as this

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<sup>15</sup> Environmental Audit Committee, *Growing a circular economy: Ending the throwaway society* (3rd Report, Session 2014-15, HC Paper 214)

<sup>16</sup> Science and Technology Committee, *Waste or resource? Stimulating a bioeconomy* (3rd Report of Session 2013-14, HL Paper 141)

was hampering investment in infrastructure for extracting value from waste in the UK. We would welcome your reaction to the Commission's statement and its potential implications.

We note that Council Conclusions are expected in December. We look forward to your response to the issues raised above by 6 October 2014 and would also welcome any information that you may have on the progress of discussions towards those Conclusions, including any consensus that arose from the informal Ministerial meeting in Milan in July.

In the meantime, we will retain the Communication under scrutiny.

*10 September 2014*

### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter of 10 September 2014 asking for further information about the Government's position on this Commission Communication. I will respond to each of the points you have raised in the same order as in your letter.

We do welcome the Communication. It is important we continue to move towards a circular economy and we recognise that the Government has a role to play in delivering this. This is happening and, as noted in the Explanatory Memorandum, actions we are taking already are in line with some of the measures set out in the Communication. We welcome the fact that a strong theme running through the Communication is how a more efficient use of resources can contribute to new growth and job opportunities as well as protecting and improving the environment. We recognise that improved efficiency in the way business use resources, such as energy, water and raw materials, and reducing waste can make a significant financial contribution to businesses, helping to improve their competitiveness and provide opportunities for new markets.

This is the driver for what we are doing to improve resource efficiency and reduce waste. We support the Commission's approach in identifying how best to deliver these related objectives. In particular, working with stakeholders to develop an enabling framework for

the circular economy using measures which combine smart regulation, market-based instruments, research and innovation, incentives, information exchange and support for voluntary approaches.

In your letter you asked for our view on the reliability of any assessment of Raw Material Consumption (RMC). We agree that indicators that are well-designed and robust can encourage increased resource productivity. They measure the effect of those policy actions taken by Member States and the EU to increase resource efficiency. As one of only five Member States holding data on RMC, we can see the benefits of this being the basis for an aspirational target in the future. We agree that RMC does provide a more accurate indicator of resource use than Domestic Material Consumption (DMC) as it measures all the material resources used in the economy as well as taking account of resource use embedded in imports. We also welcome the fact that the Commission recognises that it will be for Member States to decide for themselves the best policy mix and actions to improve resource efficiency.

However, we also share the Commission's view that more work is needed to ensure that RMC is fit for purpose. In particular, we will need to establish a commonly accepted methodology across the EU in order to calculate RMC at national level. We will work with the responsible EU bodies to help them do that and to develop what has already been done on other indicators mentioned in the Communication covering land and water.

You have also asked for our views on the development of innovative financial instruments and consumer engagement. On financial instruments, we welcome the fact that the Commission recognises the part that an innovative approach can play in helping to unlock investment and how that in turn can help businesses make the transition to more circular models. We have noted the Commission's intention to, "take up promising areas identified by the Resource Efficiency Finance Roundtable...". Two very different examples of related action we are taking are:

- Set up the Green Investment Bank (GIB) to mobilise additional private sector investment into green infrastructure projects, helping to address specific market failures relating to the limited availability of finance in these sectors. This is aligned and supports other Government policy measures designed to promote the circular economy. The GIB is actively investing in the waste sector and has

supported a number of projects that deploy a range of technologies, including anaerobic digestion and new technologies not previously used in the UK.

- We have made Innovate UK (formerly the Technology Strategy Board) the Government's prime channel for supporting business-led technology innovation, simplifying the way in which companies seek and receive support. Innovate UK's next resource competition, due to launch in October 2014 with £4m funding available, will be looking at the general waste stream and recovery of 'value' from materials/parts and reducing production waste; rather than the product design end covered in earlier competitions. This includes looking for things like identification /recovery at speed of low volume/high value or high volume/low value waste.

We recognise the importance of effective consumer engagement and the need to raise awareness of the benefits of sustainable consumption. Perhaps the best example of this is our support for WRAP's successful Love Food Hate Waste campaign. Environmental labelling and green claims help businesses communicate and consumers understand the environmental impact of products and services. We believe that activity focussed on improving the green labelling and claims markets should be primarily the responsibility of businesses and labelling schemes. To support this, the Government published Green Claims Guidance for businesses in 2011 and is working with organisations such as BSI and ISEAL to strengthen the environmental standards and credentials of UK businesses and environmental labelling schemes.

At an EU level, the European Commission published a report from its Multi-Stakeholder Dialogue on Environmental Claims (MDEC) in March 2013. This was the product of extended stakeholder dialogue to help consumers make informed green choices and ensure a level playing field for business in making good environmental claims. Defra engaged with the MDEC from an early stage, and is continuing to work with the EC as it takes forward the report's recommendations.

In your letter you ask for our reaction to the Commission's statement in the Communication on shipment of waste in the light of the concern expressed about this practice in the recent House of Lords Science and Technology Committee Report. Waste should be seen as a resource and, as with any resource, trade with other countries is important but we must ensure that environmental goals are still met and that the UK is competitive within the marketplace. The Government wishes to maximise the amount of energy recovered from genuinely residual waste. In global/ greenhouse gas terms, we consider that exporting the material for genuine energy recovery is preferable to placing it in landfill here, especially where the facilities produce outputs beyond electricity.

We are aware of concerns that exporting waste could mean the loss of resources and hamper investment in domestic infrastructure. Earlier this year we issued a call for evidence on the Refuse Derived Fuel market in England, which included the effect of exports on the domestic market. We are considering the evidence received and intend to respond later in the Autumn. We are governed by international trade agreements through organisations such as the World Trade Organisation (WTO), which do not allow countries to discriminate between their own and foreign products. We must take this into account in developing our policy.

Finally, you have asked for an update on related work at an EU level on possible Council Conclusions and following on from the Informal Joint Environment and Employment Council in Milan in July. That joint Ministerial meeting was intended to highlight the Italian Presidency's priorities of green growth and jobs and the main focus was on Greening the Semester and the current Mid Term Review of the Europe 2020 Strategy.

However, the Commission Communication did feature in discussions in terms of how the measure it outlines could contribute to those priorities. There was broad consensus on the main theme of that Communication in terms of how improving resource efficiency and treating waste as a resource brought economic as well as environmental and social benefits. In addition, most Member States welcomed the Commission's suggestion for a non-binding aspirational target based on RMC for resource efficiency.

Given the current Presidency's priorities, it has followed up from the Milan Informal by proposing Council Conclusions linked to Greening the European Semester and the Europe 2020 Strategy. Therefore, these draft Conclusions do not relate directly to the Commission Communication on the Circular Economy although they do propose the inclusion of the aspirational resource target within

the 2020 Strategy and that it should be monitored within the European Semester. Discussions on the draft Conclusions began in Council Working Group on 17 September and will continue in October with the Presidency hoping to get agreement at Environment Council on 28 October.

We have made it clear that we support the objective of moving towards the circular economy and the delivery of the EU 2020 objectives on smart, sustainable and inclusive growth. However, we have opposed the two proposals relating to the aspirational target as outlined in the previous paragraph on the twin grounds that the review of the EU 2020 Strategy is still ongoing with the public consultation not ending until 31 October and more work is needed on the methodology relating to the RMC indicator. Therefore it would be premature to cover those in the Council Conclusions.

*1 October 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 1 October on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 15 October 2014.

We were pleased to note the more positive nature of your tone compared to the original EM. We note the tension between the inclusion in the Council Conclusions on Europe 2020 and the European Semester of a Raw Material Consumption (RMC) target. We share your view that more work is required on the methodology relating to the RMC indicator. On the other hand, if the UK is one of only five Member States holding data on RMC, this suggests that some form of statement on it in the Conclusions would be helpful, if only to bolster the urgency of work on the methodology. We would urge you, therefore, to negotiate along those lines.

We are content to release the Communication from scrutiny and look forward to an update after the 28 October Council.

*16 October 2014*

#### **Letter from Dan Rogerson MP to the Chairman**

Thank you for your letter of 16 October which informed me that the Committee had released this Communication from scrutiny and asked for an update after the 28 October Environment Council. You were interested, in particular, on the inclusion of a statement on the need for more work to be done in relation to a possible target based on Raw Material Consumption (RMC) in the Council Conclusions on Greening the European Semester and the Europe 2020 Strategy.

I am pleased to say that all Member States were able to agree those Council Conclusions, and that those Conclusions did strike a balance between our wish not to include a specific reference to a resource efficiency target in the Semester and Europe 2020, and the need to reflect the need for more work to be done on the methodology relating to the RMC indicator. I am attaching [not printed] a copy of the Conclusions and would draw the Committee's attention to paragraphs 4a, 4b and 5a which refer to a non-binding aspirational target and to paragraphs 4c and 5e which address the need for more work to be done. We will work together with other Member States to help Eurostat to do this.

I thought it might also be helpful to update you on the related orientation debate on the legislative proposal amending six different waste-related directives which also took place at this Council. This proposal is the subject of EM 11598-14.

There was a detailed discussion on the Commission's proposal to review waste targets in Council. The UK, and all Member States who spoke, gave broad support for both the aims of the circular economy package and the waste prevention measures in the proposal. However, a number of Member States did express concern that the new targets were unrealistic and ultimately unachievable. I made the point that the danger of having high targets would be that this would require us to recycle materials that were more difficult to handle. The carbon cost of doing that is likely to outweigh the benefit and so not "resource efficient". In addition, I reiterated our concern that we do not currently see an evidence-based case to justify any further targets. If these remain, then they would need to be re-examined to ensure they are technically feasible and cost-effective.

You have asked to be kept updated on the progress of these negotiations (EM 11598/14), and we will be happy to report back to you in late January, once the European Parliament and Council have exchanged their initial views.

*7 November 2014*

#### **Letter from the Chairman to Dan Rogerson MP**

Your letter of 7 November on the above Communication was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 November 2014.

We note the adoption of the Council Conclusions on Greening the European Semester and the Europe 2020 Strategy. We were pleased to see agreement on both an aspirational resource efficiency target and the need for more work to be done in order to support Member States in their efforts to achieve, and measure progress towards, that target.

Your update on developments with regard to the waste review legislative proposal (11598/14) was helpful and we look forward to the requested update in due course.

We are content to close the strand of correspondence on the Circular Economy Communication (11592/14).

*19 November 2014*

#### **VETERINARY MEDICINAL PRODUCTS (13289/14, 13240/14)**

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

Your Explanatory Memorandum (EM) on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 22 October 2014.

We agree that this is a welcome attempt to simplify the applicable legislation.

You highlight a range of issues that you will wish to monitor and clarify, including a concern about how the revised authorisation procedures will operate. As there are several possible procedures, it would be helpful if you could spell out your concerns in more detail.

We would also welcome more detail on the extent to which you consider the Proposal as drafted successfully contributes to the need to tackle antibiotic resistance. Release of antibiotics into the environment (and subsequently back to humans and animals) is a particular problem from livestock. Your view on whether information about antibiotic use and resistance might helpfully form part of advice made available to farmers would also be helpful.

The potential effects of the use of antibiotics in animals on the food supply chain is a matter of concern. We would welcome your views on how they can be used responsibly in animals without compromising food safety and human health, as well as animal health, welfare and productivity.

You express no concerns about the proposals for tertiary legislation. This includes the possibility to display information by way of pictograms common throughout the Union. A list of these would be adopted at a later stage through Commission implementing legislation. We would welcome your view on this suggestion.

Finally, any intelligence at this early stage on the extent to which the Government's emerging concerns are shared by other Member States would be of interest.

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

*22 October 2014*

## Letter from George Eustice MP to the Chairman

Thank you for your letter of 22 October, requesting more detail from our analysis of the impact of the above proposals.

You asked for more detail about our concerns over the changes to the authorisations procedures. There are four routes by which a Marketing Authorisation may be obtained: the Centralised procedure, the National procedure, the Mutual Recognition procedure or the Decentralised procedure. A centrally authorised product is one that has been assessed and approved on a community level and the authorisation is valid in all member states. A product authorisation nationally is only authorised in one member state. A product authorised by either the Mutual Recognition procedure or Decentralised procedure is valid in at least 2 member states, which are chosen by the applicant company and again the assessment of the product dossier is carried out by those member states.

In the UK the Veterinary Medicines Directorate (VMD) is a cost-recovery agency and is able to set its own fees for assessment work carried out at the request of manufacturers. This is not the situation with applications made to the European Medicines Agency (EMA), where the fee is set in a European Regulation and half is divided among the member states doing the assessment work in their respective roles on the Committee for Medicinal Products for Veterinary Use (CVMP).

There are two areas of concern relating to changes to the authorisation procedures. The first is that currently manufacturers have to use the centralised route for products developed using new technologies but this route is closed for applications for conventional products for which the other three routes are available.

The proposal is to open up the centralised route to all products with the applicant nominating the member states in which they want to market their products. The EMA's fees structure is being reconsidered as a part of these changes. If it remains as half the fee divided among the member states who provide their expert services through the CVMP, the anticipated rise in the number of applications going through the centralised route may mean considerably less income for the National Competent Authorities (NCAs). Informally, other member states have raised this concern.

Member states provide the expertise that supports the work of the EMA/CVMP. With such a potential shift in responsibilities, the ability of the NCAs to be able to fund/provide resources to support the work of the EU Regulatory Network could be compromised.

The second it that for the Decentralised and Mutual Recognition application procedures the draft Regulation proposes a single assessment performed by a Reference member state nominated by the applicant. The Reference member state will carry out the assessment and produce an assessment report, which is then sent to all member states, along with the Summary of Product Characteristics, labelling and package leaflet, for agreement regardless of whether the product is intended to be marketed. The draft legislation also provides for extending the marketing authorisation to other member states without further assessment at a future date.

This means that the UK will only have the opportunity to fully assess the product at the initial stage. The concern is about how we satisfy ourselves about a product that may or may not come onto the UK market in the future; and if we choose to comment/intervene at the initial stage, about the mechanism through which the assessment work would be funded.

### ANTIBIOTIC RESISTANCE

A number of new provisions are intended to help address the risk of antibiotic resistance, all of which promise to have a positive impact.

The proposal introduces restrictions on the authorisation of certain antibiotics as veterinary medicines. Although the intention to reserve certain antibiotics only for human use has been introduced, the principles of how the antibiotics will be identified will be determined with agreement and advice from CVMP.

The use of certain antibiotics will also be restricted under the veterinary prescribing cascade, which exists to allow veterinarians to exercise their professional judgement in choosing a medicine when there is no authorised product for the illness. These antibiotics will be those of choice in human medicine but have yet to be established in proposed tertiary legislation.

Lastly, the proposal requires member states to collect relevant and comparable data on the volume of sales and the use of veterinary antibiotics. It also provides for the Commission to establish detailed rules on the methods of gathering data on the use of antimicrobials and the method of transfer of these data to the EMA.

In the UK there are various sources of advice to inform farmers of best practice principles when using antibiotics to treat sick animals. This includes the VMD's "Code of Practice on the Responsible Use of Animal Medicines on the Farm". The VMD also contributes to the Responsible Use of Medicines in Agriculture (RUMA) Alliance sector-specific guidance for farmers. RUMA is to develop an education programme for use in agricultural colleges. This year the annual European Antibiotics Awareness Day will provide an opportunity to put responsible use messages in farming press.

On the impact on antibiotics on the food chain, before any veterinary medicine is authorised for use in food-producing animals, tests are carried out to set conditions on its use that ensure residues in food do not pose health risks for consumers. Statutory safety limits, the Maximum Residues Limits, are set at the European level and ensure food products from farmed animal do not compromise human health. During the assessment of new applications for antibiotic veterinary medicines careful consideration is given to the risks and benefits associated with antimicrobial resistance before the medicine is allowed on to the market.

#### TERTIARY LEGISLATION

The UK through its representation on the Committee for Mutual Recognition (CMD-V) has been actively involved in developing pictograms as a means to reduce labelling costs for manufacturers. Our view is that if a pictogram system to replace language on packaging is to be effective, then all member states have to adopt the same pictogram for the same instruction. Our view is that tertiary legislation would be most appropriate in the instance to ensure the harmonised approach to labelling. Using guidance and a voluntary approach is quite likely to be less successful.

Our discussions with colleagues at CMD-V have led us to believe that many member states share our views of the Commission's proposal and generally support it.

*2 November 2014*

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

Your letter of 2 November on the above Proposals was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 19 November 2014.

Your explanation of the concerns regarding the proposed changes to the authorisation system was very helpful and we are, in principle, supportive of your position. We would, though, welcome your assessment as to whether any further amendments to tackle the second issue that you raise could potentially breach the EU's well established mutual recognition principle. Clarity as to whether other Member States share your concern on this second issue would also be helpful.

We note your clear response to our queries on antibiotic resistance and the identification of pictograms applicable across the EU.

As expressed in our letter of 22 October, the responsible use of antibiotics is very important. We would welcome your comment on the availability of quantitative or qualitative analysis relating to the responsible use of antibiotics across the EU. The Commission's Impact Assessment, for example, states: "Farmers and companion animal holders are reported to put pressure on veterinary surgeons to prescribe antimicrobials (for example to treat animals preventive with antimicrobials instead of taking measures to prevent infection) or to prescribe certain types of antimicrobials (for example those which can deliver a higher profit to farmers by having a shorter withdrawal period or are long acting respectively)." The Impact Assessment also acknowledges the lack of data in this area. Are you of the view that additional research would be helpful in order to support the attempt to regulate the area further?

You note that the proposal introduces restrictions on the authorisation of certain antibiotics as veterinary medicines. Our understanding is that the proposal would enable the Commission to introduce such restrictions. It would be helpful if you could clarify this point.

We look forward to an update on the progress of negotiations in due course, including a response to the issue highlighted above. In the meantime, we shall retain the Proposals under scrutiny.

*19 November 2014*

## WASTE STATISTICS AND THEIR QUALITY (6806/14)

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

Your letter of 21 May 2014 on the above Report was considered by our Agriculture, Fisheries, Environment and Energy Sub-Committee at its meeting of 11 June 2014.

We are pleased to note that you are working with WRAP to collate the data on food waste, reporting of which is optional under the Regulation.

We are content to close this strand of correspondence and look forward to pursuing these issues in the context of our recent report *Counting the Cost of Food Waste: EU Food Waste Prevention*

*11 June 2014*