



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 December 2009 to April 2010.

AGRICULTURE, FISHERIES AND ENVIRONMENT (SUB-COMMITTEE D)

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AGRICULTURE: AGRICULTURE AND FISHERIES COUNCIL 2010

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs to the Chairman

In light of the Parliamentary recess, I am writing to you in place of the usual written statement with regard to February's Agriculture and Fisheries Council. I will be representing the United Kingdom; Richard Lochhead MSP will also be attending.

Discussions will take place on three substantive items – the Commission Report on the options for animal welfare labelling and a network of reference centres for the protection and welfare of animals; a Presidency paper on CAP market management measures post 2013; and a state aid request from Italy for the purchase of agricultural land. There is also a Ministerial lunch on the meeting of agriculture ministers at the OECD.

A number of items have also been tabled under any other business.

There are no fisheries items on the agenda.

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18 February 2010

Letter from Lord Davies of Oldham to the Chairman

In light of the Dissolution of Parliament, I am writing to you in place of the usual written statement with regard to April's Agriculture and Fisheries Council. I will be representing the United Kingdom, and Richard Lochhead MSP will also attend.

There is currently only one substantive fisheries item scheduled for discussion at Council – the Commission Staff Working Paper on the synthesis of the consultation on the reform of the Common Fisheries Policy. There is also a Ministerial lunch on the 'Reform of the common market organisation (CMO) for fishery and aquaculture products'.

There are no agriculture issues or items under any other business on the agenda.

14 April 2010

**AGRICULTURE: AGRICULTURE FUND FOR RURAL DEVELOPMENT (EAFRD) AND
AGRICULTURE GUARANTEE FUND (15020/09, 15054/09)**

**Letter from the Chairman to Huw Irranca-Davies MP, Minister for Marine and Natural
Environment, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on these reports was considered by Sub-Committee D (Environment and Agriculture) at its meeting on 6 January 2010.

As you note, the reports are factual accounts of the 2008 budgets for these two funds, and we are content to release them from scrutiny.

You will know that Sub-Committee D is currently holding an inquiry into the EU policy response to the adaptation to climate change of agriculture and forestry. One of the central issues for the inquiry is how well-suited CAP instruments are to assist adaptation, and, against this background, evidence so far received has borne heavily on the current and future shape of the Rural Development Programme (RDP). In this context, the operation of the European Agricultural Fund for Rural Development takes on still greater significance.

7 January 2010

**AGRICULTURE: FOOD DISTRIBUTION TO THE MOST DEPRIVED PERSONS IN THE
COMMUNITY (13195/08)**

**Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department
for Environment, Food and Rural Affairs to the Chairman**

I am writing to update you on progress on this proposal from the Commission to amend the food for the most deprived persons scheme.

I can confirm that there have been no developments on this dossier since your letter of 29 January 2009. There remains a blocking minority against this proposal within Council as the UK, and some other Member States, continue to have policy and technical issues with it. We do not expect any progress (or further discussion) until the Belgian Presidency, which commences on 1 July.

19 March 2010

Letter from the Chairman to Jim Fitzpatrick MP

Your letter of 19 March 2010 on the above was considered by Sub-Committee D (Environment and Agriculture) at its meeting on 7 April 2010.

We note that there have been no developments on this dossier since January 2009; that there continues to be a blocking minority in Council against the proposal; and that no progress is expected before the start of the Belgian Presidency.

I would ask that you let us know if there are any developments; failing those, there is no need for a reply to this letter.

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7 April 2010

AGRICULTURE: FOOD SUPPLY CHAIN (15330/09)

Letter from the Chairman to Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum (EM) on this Communication was considered by Sub-Committee D at its meeting on 9 December 2009.

We note your comment that, while the document is non-legislative, it sets out policy proposals which are likely to affect the UK's food supply chain. We firmly endorse your view that, if any of the proposals come forward for adoption, they must first be subject to a thorough Impact Assessment, which must include rigorous consideration of their financial implications.

However, there is a prior issue which we wish to raise. In your EM, you state that the Communication is justified in accordance with the principle of subsidiarity, as set out in Article 5 of the Treaty. You comment that it aims to address issues that cut across the diverse EU food supply chain as a whole. We do not dissent from the latter statement, but we question whether some of the proposed initiatives, while generally laudable, need necessarily be driven by the EU. We have in mind, for example, the recommendation that all Member States have web-based, easily accessible food retail price comparison services, and the possible introduction of sets of standard (albeit voluntary) contracts among food supply chain stakeholders.

We would ask you to offer a more explicit assurance that you are content that all the proposals outlined in the Communication are consistent with the principles of subsidiarity and proportionality. We would add, parenthetically, that we may wish in due course to look in some detail at some of the matters touched on in the Communication, but that would be at a later date.

We shall keep the document under scrutiny until we have seen your reply.

10 December 2009

Letter from Jim Fitzpatrick MP to the Chairman

Thank you for your letter of 10 December 2009 concerning the Explanatory Memorandum on the above Communication from the Commission.

I welcome your general support for this important piece of work. The Commission proposals could, potentially, have a significant impact on the food supply chain. However, in order for any future initiatives to be effective, they must be underpinned by evidence. We will therefore continue to press the Commission to prepare rigorous Impact Assessments to better understand the impacts of proposed intervention. Further details will be brought to the attention of the House in due course.

With regards to your concern on whether the proposed initiatives need necessarily be taken forward at EU level, I have reviewed the Explanatory Memorandum and I remain satisfied that the Communication was justified in accordance with the principle of subsidiarity as set out in Article 5 of the EC Treaty (now Article 5 of the Treaty on European Union). The food supply chain operates at an international level and in order to preserve the integrity of the internal market it is entirely right that the functioning of this sector is considered strategically at EU level.

With regards to the proposal for standard contracts among supply chain operators, the increasing number of large multinational agro-food companies and retailers mean that supply contracts extend beyond national borders. An EU wide approach would help ensure consistency and a level playing field for suppliers across the EU.

However, notwithstanding these conclusions, and as highlighted in paragraph 15 of the Explanatory Memorandum, we share the concerns that the recommendation that all Member States have web-based, easily accessible food retail price comparison services is more Member State focused. We do not however feel that it is necessary to raise these concerns at this stage given that Member States still have the freedom to decide if and how to implement that recommendation.

However, as this work is taken forward we will continue to reflect upon and put across these concerns at appropriate European meetings. We will of course also keep adherence with the principles of subsidiarity and proportionality criteria under continuous review – particularly where developments may lead to legislative proposals.

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As the House will be aware the new *Protocol on the application of the principles of subsidiarity and proportionality*, as provided in Article 5 of the Treaty on European Union, gives a more precise role to national parliaments in relation to scrutiny of and challenge to EU proposals for legislative acts. So whilst the new Protocol will not apply to the recommendation highlighted by the Lords in the current communication, clearly if this should ever become a legislative proposal, fresh opportunities to assess adherence with the principle of subsidiarity, and challenge it on this basis, will present themselves not just to Defra, but also to Parliament itself.

I hope this letter addresses your concerns. I will keep you updated as we advance this dossier.

3 February 2010

Letter from the Chairman to Jim Fitzpatrick MP

Your letter of 3 February, replying to my letter of 10 December about this Communication, was considered by Sub-Committee D at its meeting on 10 February 2010.

As you note, we were concerned that you should comment more explicitly on the issue of whether all elements of the Communication were consistent with the principle of subsidiarity. Your reply suggests that you see some grounds for concern, at least as regards the proposal for retail price comparison services, but you are not minded to raise the issue at present.

On this basis, and in the expectation that you may decide to re-open the issue as the proposals are developed, we are content to release the Communication from scrutiny.

10 February 2010

AGRICULTURE: MANAGEMENT INSTRUMENTS APPLIED TO MARKET IN MILK AND MILK PRODUCTS (14759/09)

Letter from the Chairman to Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum of 18 November on this report was considered by Sub-Committee D at its meeting on 2 December 2009.

Your EM says that there are no policy implications in the report. Yet any development of policy must surely be informed by the sort of review which the European Court of Auditors (ECA) has carried out here. We trust that your comments on this report do not indicate a wider lack of interest on your part in the ECA's assessment of the efficiency and effectiveness of those EU policies with which your Department is concerned.

We are none the less content to release the report from scrutiny.

2 December 2009

AGRICULTURE: MOUNTAIN FARMING IN THE EU (5402/10)

Letter from the Chairman to Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum on the above working paper was considered by Sub-Committee D at its meeting on 3 March 2010. The report contains no legislative proposals, but its discussion of mountain farming in the EU, and particularly its comments on longer-term measures, have implications for the future of the CAP which merit careful consideration by your Department in the context of the developing debate about the CAP after 2013.

We note in particular the paper's reference to the role of agri-environment measures in remunerating the public goods offered by mountain farming, an aspect of wider relevance; and also its mention of the use of non-agricultural funds to support unproductive areas, and the need for coordination between CAP and Structural Funds in addressing such problems.

We would be interested to hear about the Government's current thinking on these issues in relation to agriculture generally, as well as specifically in relation to areas with natural handicaps.

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We would also wish to be assured by you that the absence of any UK mountainous areas from the delimitation of LFAs under Article 18 of Regulation 1257/1999 is not likely to disadvantage those areas in comparison to designated mountainous areas in other parts of the European Union

We shall keep the report under scrutiny while we await your reply, which it would be helpful to receive by 17 March.

3 March 2010

Letter from Jim Fitzpatrick MP to the Chairman

Thank you for your letter of 3 March, in response to my Explanatory Memorandum on the above Commission staff working paper. You raised a number of issues, which are dealt with in turn below.

The Government sees agri-environment measures as having a key role in remunerating the public goods provided by farmers and land managers, including in the uplands. That is why, for instance, agri-environment measures form the largest part of the Rural Development Programme for England, and why we have recently launched Uplands Entry Level Stewardship (ELS). This is our new uplands support scheme, which will reward farmers for the provision and maintenance of landscape and other environmental benefits, by encouraging farmers to carry out simple yet effective environmental management.

You also asked about the coordination between CAP and Structural Funds, including in relation to areas with natural handicaps. Structural Funds are targeted at regions which have specific economic disadvantages defined by income and GDP levels and, within the EU, are primarily targeted at the newer Member States. Within England, there is little coincidence between Structural Funds targeting and those areas designed as "Less Favoured" under the CAP. This is mainly due to the fact that Structural Funds are intended to address economic disadvantage, which in England is concentrated in our urban areas. The only area where there may be some coincidence between significant "Less Favoured Areas" and Structural Funds is in Cornwall, where Priority 4 of the Structural Funds programme provides for "the adjustment and adaptation of communities dependent on agriculture". However, the other regional English Structural Funds programmes are predominantly urban in nature.

More generally, I agree that agriculture is only one part of a much larger, diverse and more complex rural picture, and that the farming sector cannot be considered in isolation. The priority is to ensure that the right sorts of mechanisms are used to target support where it is needed most: providing broad-based economic development that will contribute to future EU competitiveness as a whole. There are a number of established national mechanisms, as well as EU mechanisms like Structural and Cohesion Funds that can deliver the EU's collective objectives for a diverse and thriving farming and wider rural sector. We need to ensure that the right mechanism, operating at the right level (EU, national, or local) is targeted effectively.

Finally, you asked as to whether the absence of any UK mountainous areas from the delimitation of Less Favoured Areas might disadvantage those areas in comparison to areas designated as mountainous by other Member States. All the UK's current Less Favoured Area is designated under Article 19 of Regulation 1257/1999 relating to "intermediate" LFA, with the exception of the Scilly Isles which are designated under Article 20. Under the EU rules, Member States have flexibility as to whether, and if so how, they implement the LFA measure within their territories. Within England, for instance, only farms within the Severely Disadvantaged Area (a smaller subset of the LFA) are eligible for the Hill Farm Allowance, which as noted above we are now replacing with Uplands ELS. We have no current plans to re-designate any of our current "intermediate" LFA as "mountainous" LFA, although we retain the flexibility to do so under EU rules, should our position change. As the Commission staff working paper itself notes, a number of other Member States have also chosen not to designate mountainous LFAs within their territory. I therefore do not believe that the absence of any UK mountainous area, under Article 18 of Regulation 1257/1999, is likely to disadvantage those areas when compared to areas designated as mountainous by other Member States in their own territories.

I trust that this reply addresses the questions you have asked, and look forward to receiving your Committee's report on this issue.

17 March 2010

Letter from the Chairman to Jim Fitzpatrick MP

Your letter of 17 March 2010 on the above document was considered by Sub-Committee D at its meeting on 7 April 2010.

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We were grateful for your comments on the issues raised in my letter of 3 March. In particular, we note your view that the lack of designation of any UK mountainous area under Article 18 of Regulation 1257/1999 is unlikely to disadvantage those areas when compared to areas designated as mountainous by other Member States in their own territories. We see this as an important issue which needs to be kept under review.

On 30 March, we published the report of our inquiry into adapting EU agriculture and forestry to climate change. One of our recommendations was that the Government should participate constructively in the debate that is now underway on the future shape of the CAP, and promote full discussion among all interested parties in the UK. Issues covered in our correspondence are relevant to that debate.

8 April 2010

AGRICULTURE: PLACING ON MARKET OF FOOD AND FEED PRODUCTS CONTAINING GENETICALLY MODIFIED MAIZE (15375/09)

Letter from the Chairman to Gillian Merron MP, Minister of State, Department of Health

Your Explanatory Memorandum of 11 November, and your letter of 19 November, on this proposal were considered by Sub-Committee D at its meeting on 2 December 2009.

As to the proposal itself, we agree with the Government that the advice from EFSA can be accepted, and we are content that the proposal should formally be released from scrutiny.

As to the handling of the proposal, you have explained that, because the timetable for Council consideration was compressed, the Government took a position on the proposal at the Agriculture Council on 20 November before parliamentary scrutiny had been completed. While we understand the circumstances, you will recognise our concern whenever a scrutiny override occurs.

2 December 2009

AID TO FARMERS IN AREAS WITH NATURAL HANDICAPS (8858/09)

Letter from Huw Irranca-Davies MP, Minister for Marine and Natural Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I write further to your last letter of 14 October 2009 to update you with further progress concerning the above Explanatory Memorandum. I wrote in November but am afraid that the letter appears to have been lost in transit. The November letter outlined that the UK's work on mapping simulations for Less Favoured Areas (LFA) – which the Commission are now referring to as Areas with Natural Handicap (ANH) – was under way and included a promise to write with more information this year.

The mapping simulations for ANH as requested by the Commission have now been completed and the UK's report was submitted to the Commission in March – I am pleased to enclose a copy. It will be subject to further discussion between Defra officials and the Commission in the near future and further work may then be undertaken ahead of publication of any legislative measure. The Government is supportive of the Commission's efforts to improve targeting of the ANH but remains concerned that the UK's maritime climate should be properly recognised within this. Below is an outline of the UK report.

The simulations were based on six biophysical criteria regarded as applicable to the UK (low temperature, soil drainage, soil texture and stoniness, rooting depth, soil moisture balance and slope). The mapping approach consisted of two stages: the first involved mapping land against the biophysical criteria at electoral ward level (a ward counts as naturally handicapped where more than 66% of the Utilised Agricultural Area (UAA) is constrained by the biophysical criteria). The second stage "fine tuned" out land which could be deemed to have overcome its natural handicap, using production-related indicators. As part of the work, we also investigated use of alternative thresholds for wards to be counted as constrained, and alternative criteria and thresholds to properly account for the UK's climate and constrained land.

The mapping exercise has shown that application of the Commission's criteria results broadly captures those areas which would be regarded as naturally handicapped. However, as expected, it

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does not capture those areas that are constrained because of the UK's maritime climate. In England this is particularly noticeable in the South West, where land currently classed as Severely Disadvantaged Area (SDA) has not come into the ANH defined by the simulation. There are also areas in the Welsh borders which are not being captured by the Commission's approach. Some extra land is also being captured particularly in the North East.

Similar issues arose in Wales and Scotland, with some land viewed as constrained not being caught in the former case, and some additional, productive, land coming in in the latter case. The results for Northern Ireland broadly reflected those areas viewed as being naturally handicapped.

The report to the Commission identified that reasons for the disparity include that the proposed biophysical criteria do not fully represent those that influence agricultural production or potential in some areas of the UK. It also identified that size, shape and location of wards which are primarily dictated by population density rather than agricultural land or potential may skew the shape of the mapped ANH.

We have therefore made a number of proposals for additional or alternative criteria (Chapter 6 of the report) which my officials look forward to discussing with the Commission shortly:

- The Commission's proposed current low temperature criteria do not adequately reflect our maritime climate and we have proposed an additional criterion of Field Capacity Days, which encompasses rainfall and soil workability. Additional simulations suggest that application of this criterion brings in a fairer distribution of land deemed to be constrained in the South West of England and Wales. Further consideration is also being given to the application of the low temperature climate criterion in Scotland, with a lower threshold proposed, as the Commission's approach results in productive land being brought into the designation.
- Mapping of the current UK LFA was done to physical boundaries: the change to mapping to administrative boundaries has an impact on the area of land classified as ANH. This may not help give a fair reflection of land that is constrained. In the report, we seek flexibility to use administrative boundaries that we think are more appropriate to the scale of the country, its landscape and how well rural land is represented (for example, parishes in Scotland and townlands in Northern Ireland rather than electoral wards). Further work is underway to investigate any potential benefits of this request in England.
- We have presented results both for the Commission's proposed threshold of 66% UAA in a ward being the threshold to bring the ward into classification, and for a threshold of 50%. This lower threshold was chosen based on calls from other Member States for its use, earlier in the process. Using the lower threshold results in a better reflection of constrained land in the Devolved Administrations but brings in a significant amount of additional land in England which is better quality.
- Finally, we are seeking flexibility in the application of fine tuning.

It is, of course, important to remember that this exercise is a simulation only and not a revised ANH/LFA. The results therefore do not have any practical impact. Additionally, in England, the domestic classification of Severely Disadvantaged Areas is used for policy purposes – such as eligibility for the newly launched Uplands Entry Level Stewardship – rather than the European LFA classification. We will be seeking to engage with the Commission both on progress with the mapping exercise and on the future of the LFA measure ahead of proposals on reform of the Common Agricultural Policy, and I would be happy to keep you in touch with further developments.

8 April 2010

[Type text]

ANIMAL PROTECTION: ANIMAL WELFARE LABELLING AND NETWORK OF REFERENCE CENTRES (15307/09)

Letter from the Chairman to Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, food and Rural Affairs, to the Chairman

Your Explanatory Memorandum (EM) on this report was considered by Sub-Committee D at its meeting on 16 December 2009.

We note that, in the first instance, the report is being discussed at the December Agriculture Council meeting and that, depending on the outcome of that discussion, the European Commission may formulate more detailed proposals.

We agree with you on the importance of the wider issue of ensuring that consumers have adequate information, and, in the context of this report, that they are able to make informed choices based on animal welfare standards. However, as the Government and the Commission both recognise, there is as yet no clear-cut case for a new EU animal welfare labelling scheme, or for a European Network of Reference Centres.

Our consideration of the report points to a number of questions that need to be answered. On the one hand, as regards the underlying principle, it must be right to ask whether a new EU scheme would add value in a situation where there are already a number of other labelling schemes (both EU-driven and privately run), and what would be the purpose and costs of any new Reference Centres. On the other, as regards the impact and effectiveness of an EU scheme, there must be questions about how judgements would be reached that the welfare standards for the scheme were demonstrably higher than the legal minimum, and also about whether participation in a scheme was voluntary or mandatory.

We would ask you to keep us informed about developments following the Council discussion, particularly with regard to the questions mentioned above. In the meantime, we shall keep the report under scrutiny.

16 December 2009

Letter from Jim Fitzpatrick MP to the Chairman

Thank you for your letter of 16 December 2009 which sets out comments arising from the Committee's consideration of the Explanatory Memorandum (EM) on the above report. I apologise for the delay in responding to you.

The Commission presented the report at December's Agriculture Council meeting but there was no substantive discussion. We believe that the report will be on the agenda for February's Council meeting for further discussion. However, it is unlikely that the Commission will formulate more detailed proposals in the area of animal welfare labelling until there has been the opportunity to discuss the report more widely with Member States and the Parliament and there is a consensus of opinion that such action is necessary.

You raise pertinent questions about the operation and effectiveness of an EU welfare labelling scheme. These are certainly issues that any in depth discussion of labelling options should consider and are reflected in the general principles which we have drawn up as a basis against which to evaluate and comment upon various labelling scenarios.

I note your request to keep the Committee informed about developments following Council discussion and that you will in the meantime keep the report under scrutiny.

1 February 2010

Letter from the Chairman to Jim Fitzpatrick MP

Your letter of 1 February, replying to my letter of 16 December about this report, was considered by Sub-Committee D at its meeting on 10 February 2010.

We take your reply to indicate that you will bear our concerns in mind in considering any detailed proposals that may flow from the report. We would ask you to do so; for the moment, therefore, we shall keep the report under scrutiny.

10 February 2010

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

Letter from Meg Hillier MP, Parliamentary Under Secretary of State, Home Office, to the Chairman

I am writing to update you on progress with the proposal for a new directive for the protection of animals used in scientific procedures published by the European Commission in November 2008.

Following recent progress in Council discussions, the Swedish Presidency may seek political agreement on an amended text at the December Agriculture Council. I am afraid I do not have a published document from the Presidency, but I attach the most recent text we have to hand.

Sub-Committee D made recommendations on a number of issues and concerns in the report of its inquiry into the proposal published on 10 November 2009. I will provide a formal response to these in due course. However, I can confirm that the majority of the issues identified by the Committee have been taken forward successfully in recent negotiations.

In negotiating the proposal we have aimed to ensure that the revised directive makes proper provision for the welfare of experimental animals and at the same time avoids imposing disproportionate or unjustified regulatory burdens that could undermine the success and sustainability of European research. We also identified the following specific areas of concern in the Commission's proposal and subsequent European Parliament and Council texts: the Committee also identified these as significant issues:

- the proposed restriction of non-human primate use to research into life-threatening or debilitating clinical conditions in human beings;
- the provisions limiting the use of non-human primates to F2 or F2+ animals, i.e. animals which are the offspring of captive-bred animals;
- the proposed framework for the re-use of animals;
- the inclusion of classes of invertebrates within the scope of the directive;
- the lack of details of the severity classification system to be applied to procedures under the directive;
- omissions and errors in the annexes on standards of care and accommodation (Annex IV) and humane methods of killing animals (Annex V) and timescales for implementation;
- proposals to allow notification or 'tacit approval' of projects;
- proposals relating to data sharing and national reference laboratories.

Substantial progress on these issues is reflected in the current text:

- Article 8 now includes a definition of 'debilitating clinical condition' which encompasses almost all current uses of non-human primates allaying most of our earlier concerns that important areas of work might be prohibited; however, discussions continue with the European Parliament in connection with its amendment 57 – for which we have previously indicated our support - which would remove the terms life-threatening and debilitating; its adoption would remove concerns that decisions based on the Presidency's definition could be open to legal challenge if there are disputes over its correct interpretation;
- Article 10 includes a requirement for a feasibility study on the required move to the use of F2 and F2+ non-human primates; the study is to be published within five years of transposition of the directive;
- the text also now requires the Commission to conduct a study to establish the feasibility of sourcing non-human primates exclusively from self-sustaining colonies: this study is to be published no later than ten years after transposition;
- details of a severity classification system are now set out in a new Annex IX based on the work of an expert working group which met in July 2009; the text also sets an upper limit to severity;
- the text now makes better provision for the responsible re-use of animals;

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- cephalopods are the only invertebrates remaining within scope, decapod crustaceans having now been dropped from the text;
- Annexes IV and V have been substantially amended (with detailed input from the UK) to correct the technical errors and omissions in the original text; and the deadline for implementation of care and accommodation standards has been set at January 2017;
- Member States agree that all projects should be subject to ethical evaluation and prior authorisation and have not supported EP Amendment 167 which would allow projects involving mild and non-recovery procedures to be notified to the competent authority;
- proposals for 'tacit approval' of projects have been dropped; instead the text would allow Member States to introduce 'simplified administrative procedures' for specified categories of projects containing procedures classified as 'non-recovery', 'mild' or 'moderate' and not using non-human primates. Member States will be required to ensure that a project evaluation is performed for projects covered by such procedures;
- the requirement for data sharing has been removed from the text, but a requirement for mutual acceptance by Member States of data generated by procedures recognised by Community legislation has been retained;
- the requirement for national reference laboratories has been dropped and instead a requirement is placed on the Commission to consult Member States in setting priorities for validation studies and the allocation of tasks to laboratories nominated by Member States;
- the text now emphasises a risk-based approach to inspections; however, it seems likely that a minimum frequency will be set for user establishments - discussions continue on this point;
- Article 53 now proposes review of the directive five years after transposition.

Trilogue discussions between the Presidency, the Commission and the European Parliament are underway and a First Reading agreement may be possible. However, should obstacles to such an agreement arise, the Swedish Presidency may seek political agreement on its amended text at the December Agriculture Council. In that case, on the basis of the progress outlined above, I intend to support the Council text we anticipate will be presented to the Council.

2 December 2009

Letter from the Chairman to Meg Hillier MP

Your letter of 2 December 2009 was considered by Sub-Committee D at its meeting on 9 December 2009.

You explain that there is a possibility that, at the December Agriculture Council, the Swedish Presidency will seek political agreement on an amended text of the proposed revision of this Directive; and you say that, if so, you intend to support what you anticipate will be the text. You say that most of the issues identified by the Committee in its report of November 2009 on the proposed revision of the Directive have been taken forward successfully in recent negotiations, and you have provided the most recent text available. It is helpful that you have set out the position at this stage.

We await your formal response to our report and, until the House debates the report, the proposed revision remains under scrutiny.

You will not be surprised if I make it clear that we have not resiled from the views expressed in our report. This is particularly relevant in relation to the appropriate restrictions for the use of non-human primates, and the need for a minimum frequency for national inspections and for the Commission to be required to monitor national arrangements. Your letter indicates that there is continuing uncertainty about the way in which these important issues will be treated in the text which may be presented to the December Council.

Against this background, and without sufficient assurance on these key concerns, we would ask you to maintain the parliamentary reserve on this proposal in any discussion at the Council.

10 December 2009

[Type text]

Letter from Lord West of Spithead, Parliamentary Under Secretary of State, Home Office, to the Chairman

In the debate on 10 February on the EU Committee's report on the revision of the EU directive on the protection of animals used in scientific procedures, I undertook to write to the Earl of Caithness about the revised provisions in the Presidency compromise text relating to national inspections. I know that this was an issue of particular concern to the Committee, and it seems appropriate therefore that I should also set out this information in a letter to you.

In 2003 the Commission convened a series of technical expert working groups to advise on the revision of Directive 86/609/EEC. Part of their advice was that establishments should be inspected at least twice per year, with at least one annual inspection being without notice. The Commission's proposal published in November 2008 reflected that advice.

In the subsequent negotiations, the UK supported this aspect of the Commission's proposal but other Member States considered it to be too resource intensive and prescriptive. As a result, the Presidency's compromise text differs in several key respects from the Commission proposal:

- the emphasis is now placed on a risk-based approach;
- the revised text requires that regular inspections are carried out and that an appropriate proportion are unannounced; and
- one third of users are to be inspected each year, but breeders, suppliers and users of non-human primates will be inspected at least once a year.

In addition, the Commission will now be required to oversee national inspection arrangements.

As I acknowledged in the debate, this outcome is less than ideal, but we are pleased that the principle of regular, risk-based inspection has been established and that the Commission is under an incentive to oversee and enforce this aspect of the directive. This latter point is particularly significant. The Committee has rightly noted that inadequate enforcement by the Commission was one factor which led to the ultimate weakness of the current directive.

However, in view of the strong views shared and expressed by other Member States, I believe we have secured the best available outcome. It will not lower standards in the UK; inspection must be based upon a risk-based approach, as currently practiced in the UK; and it provides a framework to promote harmonisation by using the Commission oversight provisions to develop best practice throughout the Community.

In conclusion, I can assure you that we do not intend to compromise the high standards we already enjoy in the UK; tolerate inadequate measures taken by other Member States; or accept any reluctance on behalf of the Commission to ensure high standards and harmonisation in this area.

I hope that, in the light of the information provided in our response of January, in the debate and in this letter, you will be able to confirm that you have released the proposal from scrutiny.

17 February 2010

Letter from the Chairman to Lord West of Spithead

Your letter of 17 February 2010 was considered by Sub-Committee D at its meeting on 3 March 2010.

It is helpful to have this explanation of the movement in the proposal, from the requirement (in the November 2008 version) that establishments should be inspected twice a year, to the provision (in the Presidency's compromise text) that inspections should be determined on a risk-based approach. You say that the outcome is less than ideal, but you stress the importance of the Commission's role in overseeing implementation.

For our part, we continue to be concerned that the compromise provisions on inspections will mean that the revised Directive may well fail to rectify the problem of inconsistent application which characterised its predecessor. We wish, therefore, to keep the proposal under scrutiny. We ask you to keep us informed of any further progress in negotiations.

3 March 2010

[Type text]

Letter from Meg Hillier MP to the Chairman

Thank you for your letter of 3 March 2010 to Lord West about the revision of the EU directive on the protection of animals used in scientific procedures.

I note the Committee's continuing concern that the provisions in the current compromise text relating to the inspection of facilities breeding, supplying and using animals in scientific procedures may mean that the revised directive will fail to rectify the problem of inconsistent implementation which characterised its predecessor. I note also that as a consequence the Committee wishes to keep the proposal under scrutiny and to be kept informed of any further progress in the negotiations.

As Lord West explained in the debate on 10 February 2010 on the Committee's report of its inquiry into the revision of the EU directive, negotiation of the revised directive is now almost complete with only the arrangements relating to delegated and implementing acts – as described in Articles 290 and 291 of the Lisbon Treaty – remaining to be finalised.

Draft provisions dealing with delegated and implementing acts have now been tabled and we expect the final text of the directive to be agreed shortly and to be presented to the Council for adoption at Agri Council between April and the end of the Spanish Presidency on 30 June 2010. We judge that there is near unanimity in Council in support of the current text. It is unlikely that there will be any further negotiation on the provisions relating to inspections and, in view of the strong views shared and expressed by other Member States, no appetite for the issue to be re-opened.

The present text is a finely-balanced compromise between the views of the majority of the Council, who wanted a less rigid inspection regime, and the European Parliament, who wanted a more prescriptive – and burdensome – approach. From a UK perspective, the current provisions for inspections represent the best available outcome. We are pleased that the principle of regular, risk-based inspection has been established and that the Commission will be under an obligation to oversee this aspect of the directive.

As with all directives, enforcement will be a matter for the Commission. We are, however, very keen to avoid the problems of inconsistent implementation which weakened the impact of Directive 86/609. We intend to work closely with the Commission and other Member States during and after transposition to ensure the full benefits of harmonisation are achieved. We will also watch closely to ensure that there is no distortion of the level-playing field, or threat to UK competitiveness, from failure to implement properly across the Community. We believe the requirements in the current text are sufficiently clear and well-defined to minimise this risk.

It is in the UK's interests to support adoption of the present text. The text delivers on each of the objectives we set at the outset of the negotiation. It contains practical, proportionate and enforceable measures that make proper provision for the welfare of experimental animals; will facilitate their responsible use; and can be adapted to further technical progress. It also avoids the imposition of disproportionate or unjustified regulatory burdens which might have threatened the success, competitiveness or sustainability of European research.

The UK has for many years been a leader in animal welfare and the protection of laboratory animals. Many of the provisions in the text reflect or adapt current UK approaches and it is right that we should support their wider application through this directive. The Government therefore proposes to vote in favour of its adoption when it comes to Council.

I hope that in the light of this update the Committee will be able to lift its scrutiny reserve on this proposal. I will of course report back to the Committee after the Council if agreement is reached.

15 March 2010

Letter from the Chairman to Meg Hillier MP

Your letter of 15 March 2010 was considered by Sub-Committee D at its meeting on 24 March 2010.

You say that the Spanish Presidency may present the final text of the directive for adoption by Agriculture Council between April and the end of June. You state that it is in the UK's interests to support adoption of the present text, and that the UK will work closely with the European Commission and other Member States to ensure that the full benefits of harmonisation are achieved, and that there is no distortion of the level playing-field.

We remain concerned about the adequacy of the provisions on national inspection arrangements and about the risk of inconsistent implementation of the revised Directive, and we are writing to Commissioner Potočník to underline this.

[Type text]

However, in order to avoid an override, we agree to release the proposal from scrutiny, albeit with reluctance, and we urge the Government to follow through its stated intention to work with others in the EU to ensure consistent implementation if the Directive is adopted.

29 March 2010

ANIMALS: AFRICAN HORSE SICKNESS

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to you in response to your letter of 23 April 2009 to my predecessor in which you asked her to keep the Committee updated on the Commission's codification proposal for the African Horse Sickness Directive.

The proposal to codify legislation for African horse sickness (AHS) remains as set out in my letter of 4 November 2009 to the Chairman of the Commons European Scrutiny Committee. I will ensure the Committee is updated should there be any further developments. In the meantime, Defra has been working with equine sector stakeholders to develop a new strategy for the control of AHS should there be an outbreak in Great Britain. We are currently considering the responses to a full public consultation on the draft strategy and proposals for a new Statutory Instrument transposing Directive 92/35/EEC.

17 March 2010

Letter from the Chairman to Jim Fitzpatrick MP

Your letter of 17 March 2010 on the above was considered by Sub-Committee D (Environment and Agriculture) at its meeting on 7 April 2010.

We note that the position remains as set out in your letter of 4 November 2009 to Michael Connarty, MP, namely that the proposal has been suspended for legal reasons. We would ask, as before, that you should let us know of any further developments; there is no need for further correspondence until then. We shall continue to keep the proposal under scrutiny.

7 April 2010

ANIMALS: HUMANE TRAPPING (12200/04)

Letter from Huw Irranca-Davies MP, Minister for Marine and Natural Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I write to update you with progress on the above Explanatory Memorandum, further to my predecessor's letter to the Chairman of the Committee on 14 April 2006.

Following the European Parliament's decision to reject the European Commission's draft Directive, the European Commission issued a tender for a two-year study to examine whether the proposed trapping standards (derived from the EU agreements with Canada, the USA and Russia) were still justified by the latest scientific evidence.

The work focused on improving the protection of the welfare of trapped animals as far as technically feasible and to further foster the development of alternative testing methods to reduce the use of live animals for the testing of trapping methods.

A report on this work has now been received by the Commission, who will now decide next steps based on the report's contents. This is likely to involve discussion with Member States.

6 May 2010

[Type text]

ANIMALS: MOVEMENT OF PET ANIMALS

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to inform you of progress on this issue. The proposal is heading for a first reading deal, with Member States having reached agreement in Council and the European Parliament voting in favour on 9 March 2010.

The only amendments to the proposal have been very minor administrative points, with the most significant changes being those to reflect modified 'Comitology' (delegated power) procedures following the ratification of the Lisbon Treaty. I am pleased to inform you that the UK achieved its primary objectives, which were:

- to secure an 18-month extension to the derogation which allows us to impose stricter controls than those in place under the harmonised EU rules set out in Regulation 998/2003;
- for the proposal to include provisions whereby additional controls can be put in place for 'other (i.e. non-rabies) diseases' through the delegated powers mechanism.

In negotiating this good outcome, we have been mindful of the points raised by both Scrutiny Committees. We have been working to develop the evidence-base on rabies, tapeworm and tick-borne diseases which will allow us to demonstrate that future changes to our pet movement controls, including at the end of the derogated period, will be justified by disease risk.

19 March 2010

Letter from the Chairman to Jim Fitzpatrick MP

Your letter of 19 March 2010 on the above was considered by Sub-Committee D (Environment and Agriculture) at its meeting on 7 April 2010.

We note your statement that, as this proposal has progressed to agreement in Council, the UK's primary objectives were achieved (18-month extension to derogation allowing stricter national controls, provision for additional controls in relation to non-rabies diseases). This is an outcome which we welcome.

I do not require a response to this letter.

7 April 2010

BIOCIDAL PRODUCTS: PLACING ON THE MARKET AND USE OF (11063/09)

Letter from Lord McKenzie of Luton, Parliamentary Under Secretary of State, Department for Work and Pensions to the Chairman

I am writing in response to your letter of 8 December 2009 to update you on progress with the full UK Impact Assessment (IA) for the above proposal, and to provide you with a report on the negotiations in Europe since my last letter of 13 November 2009.

The Health and Safety Executive (HSE), in its capacity as the UK Competent Authority for biocides, carried out a consultation in Summer 2009 on the European Commission's proposal. This unfortunately elicited little in the way of useful hard data to develop further the UK IA, and so HSE engaged the services of a consultancy called Entec UK Limited to put together a full final IA. Their remit was to focus primarily on evaluating the impact of the proposal as it stands for the UK, but also to include additional estimates of costs where opportunities for further streamlining and simplification have been identified. The draft Entec report has now been received, but requires further drafting changes before it can be finalised. I will write again with the final UK IA.

Meanwhile, I thought it would be helpful if I brought you up-to-date on progress with the negotiations on the Regulation in Europe since the Environment Council meeting on 22 December 2009. At that meeting there was a first policy debate on the proposal, focussing on three questions suggested by the Swedish Presidency – Union (formerly Community) authorisation, exclusion criteria, and treated articles.

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On Union authorisation all Member States supported the option, but there were different views on the scope of biocidal products for which this option would be available. We and Germany favour a wide scope, but others presently wish to limit the scope in different ways.

On exclusion criteria, there was consensus to broaden the criteria to include persistent, bio-accumulative and toxic (PBT), and very persistent and very bio-accumulative (vPvB) active substances, together with those that are persistent organic pollutants (POPs). However, the UK noted that decisions will need to be made case-by-case where, for example, the use of biocides with inherently hazardous properties is needed to address serious dangers to public health.

On treated articles, there was general agreement to include these within the scope of the proposal, but that further work was needed on how best to do so.

The Spanish Presidency has maintained the momentum of the negotiations. At meetings on 13 and 27 January 2010, the focus was on proposals for mutual recognition of biocidal product authorisations, and on data sharing. Most Member States, including the UK, were broadly content with the general approach to mutual recognition, although important points of detail remain to be resolved. Some Member States want greater flexibility to reject or adapt authorisations in their territories. The vast majority of Member States broadly supported the proposals on data sharing.

A series of meetings has been scheduled for an Article-by-Article read-through of the Regulation. The first of these took place on 25 February, continuing on 17 and 30 March. The UK has been very active in these, and has put forward numerous drafting suggestions.

In the European Parliament (EP) the Environment, Public Health and Food Safety Committee is leading on the proposal. I understand that some 476 amendments have been tabled. The Internal Market and Consumer Protection and Industry, Research and Energy (ITRE) Committees are also involved, and the ITRE Committee has joint competence in a limited number of Articles. We understand a vote in a plenary session of the EP will now take place in July. Therefore, negotiations are likely to extend into, and perhaps through, the Belgian Presidency into the second half of 2010, and there is likely to be a second reading between the Council and EP.

I will write to you again with further updates on the negotiations and with the full UK IA as I promised earlier in my letter.

30 March 2010

BIODIVERSITY TARGETS BEYOND 2010 (5614/10)

Letter from the Chairman to Huw Irranca-Davies MP, Minister for Marine and Natural Environment, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum (EM) on the above Communication was considered by Sub-Committee D at its meeting of 24 February 2010.

The goal of halting biodiversity loss is clearly an important one, and it is also evident that the EU needs to have its own strategy if it is to work effectively at the international level on the issue. We therefore concur with your view that the Communication is welcome, but we would be interested to know whether you have a preference for one of the four levels of ambition outlined by the Commission.

The issue is, however, extremely complex given its breadth. In particular, biodiversity policy in the EU is strongly affected by the Common Agricultural and Fisheries Policies, changes to which the Communication alludes. It is nevertheless unclear what role the post-2010 EU vision and target are likely to play in discussions on the future of the CAP and CFP and thus, logically, in the review of the EU budget. We would welcome your comments on this.

Another aspect of interest to the Committee is the link between this Communication and its current inquiry into the Adaptation of Agriculture and Forestry to Climate Change – the EU Policy Response. We draw this to your attention.

We are content to release the Communication from scrutiny and look forward to your view on the key issue raised above.

24 February 2010

[Type text]

Letter from Huw Irranca-Davies MP to the Chairman

Thank you for your response to the Explanatory Memorandum regarding the above Communication.

Taking your queries in turn, we support the most ambitious of the options presented in the Commission Communication. The options for a new headline EU target proposed by the Commission have been discussed in various working group meetings under the Spanish Presidency over the last few weeks, with Member States signalling a clear preference for the fourth option which has been reflected in the Council Conclusions for March Environment Council as follows: "AGREES...on a headline target of halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as feasible, while stepping up the European Union contribution to averting global biodiversity loss".

The new target, which was agreed by all Member States at the Council meeting on 15 March builds on the existing target, retaining similar language, but is expanded to include the important role of ecosystem services provided by biodiversity which directly benefit human well-being, prosperity and help poverty reduction. In addition, the proposed target recognises the EU's important role in the wider global picture.

The target represents the most ambitious of the four options proposed by the Commission. This signifies the EU's strong commitment to tackling biodiversity loss. It should be noted that this target is a high-level target aimed at driving action on biodiversity within the EU and that it is accepted that it may not be feasible to halt the loss of each and every element of biodiversity - particularly in the face of unavoidable impacts such as those caused by climate change. The Commission's Communication states that "'halting the loss' of biodiversity is not to be interpreted in absolute terms but means keeping key attributes above the baseline". Similar language qualifying this aspect is contained in the Conclusions. We recently sought agreement on the proposed EU target from the Devolved Administrations and the NSID (EU) Committee and this position has now been cleared.

In terms of the role the new EU target will play in discussion on the future of CAP and CFP, and related to this, the EU budget, this will be considered during discussions on the development of the new EU biodiversity strategy which will be developed during 2010. The EU Biodiversity Strategy will need to address the challenges of integrating biodiversity concerns into other sectors and policies and be aligned with the Sustainable Development Strategy and the forthcoming Europe 2020 Strategy.

Farmers have an important role in safeguarding the environment for the future. We believe that the EU needs to focus on pillar 2 of the CAP and the delivery of public goods that the market will not deliver, in particular environmental goods. Agri-environment schemes, both now and in the future, will have a key role in tackling biodiversity loss and addressing domestic and EU level targets in this area.

It is also essential that marine policies and their implementation are integrated to maximise the benefits and reduce conflicts between users of the marine environment. This needs to be turned into reality through explicit mechanisms within the CFP to help deliver the aims of the Marine Strategy Framework Directive. In that context, CFP reform should provide a framework by which fisheries are able to optimise their economic performance consistent with the overarching objective of maximising the wealth and other benefits generated by the whole range of marine ecosystem services, including non-fish flora and fauna, habitats and features.

Finally, on the question of the links between this Communication, and the issue of adaptation to Climate Change, particularly related to the current inquiry on the EU policy response to the Adaptation of Agriculture and Forestry to Climate Change, we are grateful to the Committee for highlighting the important links between efforts to preserve EU biodiversity and the importance of adaptation for agriculture and forestry. The attached letter of 2 March from Dan Norris to Lord Carter following his appearance to give evidence related to that inquiry, highlighted the efforts by Defra and the Forestry Commission on these matters.

19 March 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 19 March about this Communication was considered by Sub-Committee D (Environment and Agriculture) at its meeting of 7 April 2010.

We were grateful for your observations on the issues raised in my letter of 24 February. You enclosed a copy of the letter of 2 March from your colleague, Dan Norris, MP, to Lord Carter, as Chairman of EU Sub-Committee D, in relation to the inquiry into adapting EU agriculture and forestry to climate change. Mr Norris' evidence was taken into account in the report on this inquiry, which

[Type text]

was published on 30 March. A key recommendation in the report was the need for the Government to participate constructively in the debate now underway on the future of the CAP.

We welcome the fact that both your letter and the one from Mr Norris acknowledge the importance of this debate. As regards this Communication, however, which we have already released from scrutiny, we do not require a response to this letter.

8 April 2010

COMMUNICATION: INTERNATIONAL CLIMATE POLICY POST-COPENHAGEN (7438/10)

Letter from the Chairman to Joan Ruddock MP, Minister of State, Department of Energy and Climate Change

Your Explanatory Memorandum (EM) on the above Communication was considered by Sub-Committee D at its meeting of 7 April.

We note that, since the publication of the Communication, the Environment Council and European Council have both adopted conclusions on the subject. Both sets of conclusions maintain the view that any move to a 30% emissions reduction should be linked to the efforts made by others. This is an approach that we share.

The Environment Council conclusions explore in some detail the issue of carbon leakage and conclude that “appropriate measures should be taken in compliance with international trade rules”. We are aware of some discussion recently that “carbon tariffs” might be applied to imports from energy-intensive sectors in order to counteract the added costs faced by EU operators in meeting their emission reduction obligations. It seems to us that the Environment Council may have been alluding to a range of solutions including carbon tariffs and we would therefore welcome clarification of the Government’s position in that respect.

In your EM, you contested the Commission’s suggestion that its role should be boosted in negotiations and you favoured a “Team EU” approach. Some have attributed the EU’s marginalisation in Copenhagen to a lack of clear leadership. It may therefore be that the “Team EU” approach which failed in Copenhagen may require an alternative approach before Cancún. We would welcome your view.

We concluded in our 2008 report on the Emissions Trading System that the deficiencies of Kyoto’s monitoring, reporting and verification (MRV) mechanisms must be addressed if international efforts to address climate change are to produce the desired result. Progress on these must be a high priority for the EU as negotiations move forward, and we were glad to read that the Government, Commission and Council appear to share this view.

We are content to release the Communication from scrutiny and we look forward to your responses to the issues raised above. I would be grateful to receive a reply to this letter within the standard deadline of ten working days.

7 April 2010

DECC: SPANISH PRESIDENCY PRIORITIES

Letter from the Rt Hon Ed Miliband MP, Secretary of State, Department of Energy and Climate Change, to the Chairman

I am writing to inform you of the energy and climate change issues we expect to be dealt with in the Council of Ministers under the Spanish Presidency. The Spanish have timetabled two Energy (12 March and 31 May) and Environment Councils (15 March and 21 June). Informal Energy and Environment Councils have already taken place (15-17 January) and Lord Hunt and I have already written to you outlining the discussion at both Councils.

As outlined in Lord Hunt’s letter, the discussions at the Informal Energy Council on 15 January focused on Europe’s priorities for energy policy over the next five years and beyond in the context of a new ‘Energy Action Plan 2010-2014’. Ministers identified a number of issues that they felt should be included in an Action Plan as a priority – for example, how to make EU energy markets work better; investment in low carbon technologies, and further diversification of energy supplies and sources.

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Once the new European Commission has taken up office, we expect one of its first actions to be the publication of an 'Energy Action Plan 2010-2014', drawing on these discussions. Currently, the Presidency is hoping that the Commission will be able to present its Action Plan at the Energy Council on 12 March. Council conclusions could then be adopted at the Energy Council on 31 May. Due to uncertainties around the timing of the new Commission, however, this timetable may slip.

The Spanish Presidency will also consider the Gas Security of Supply Regulation and is aiming for political agreement between the European Parliament and the Council in May. My officials will keep you informed of the progress of negotiations on this Regulation.

Other issues that may be taken forward in the Energy Council are:

- the Commission Communication 'Investing in Low Carbon Technologies' (published in October 2009), where the Presidency is aiming for adoption of Council conclusions in March;
- the Regulation concerning the notification to the Commission of investment projects in energy infrastructure within the European Community, where the Presidency is aiming for political agreement on the proposal in March;
- a proposal for a new Directive on Radioactive Waste and Spent Fuel Management.

The Spanish have indicated that energy will also be an important issue in their external relations policy. The Mediterranean Solar Plan will be a political priority and a conference will take place to discuss it in Valencia on 11-12 May. In addition, the Presidency is keen to work with Russia on energy security issues and to do further work on the EU-US Energy Council. There will be a report on a number of external energy dialogues at the May Council.

In relation to environment priorities for the Spanish Presidency, we expect these to include working towards the adoption of a globally binding international agreement on Climate Change and promoting the implementation of agreements reached in Copenhagen.

Initial discussions on next steps following Copenhagen and the Copenhagen Accord began at the Informal Environment Council on 16-17 January. The Presidency and the Commission have now submitted a target of '20/30%' (move to 30% is conditional: "as part of a global and comprehensive agreement for the period beyond 2012 ... provided that other developed countries commit themselves to comparable emission reductions and that developing countries contribute adequately according to their responsibilities and respective capabilities.") on behalf of the EU and its Member States to the Copenhagen Accord Annex.

The Spanish Presidency has set up a Road Map, detailing the plan for their Presidency, in conjunction with the European Commission, with the objective of upholding European leadership on climate change. In addition, the Commission is due to present a Communication on implementing the different elements of the Copenhagen Accord ahead of the March Environment Council.

The Presidency will focus on regional cooperation on climate issues to strengthen the leadership role of the EU, in particular on financial flows and environmental technologies. The Presidency is aiming for adoption of Council conclusions at either the March or June Environment Council.

Separately, the Commission is expected to give a presentation on a Communication on the EU 2020 strategy (the successor to the Lisbon Strategy for economic reform) at the March Environment Council, where there will be opportunities to promote a low carbon and sustainable economy.

4 February 2010

DEFRA'S PARLIAMENTARY SCRUTINY

Letter from the Rt Hon Hilary Benn MP, Secretary of State, Department for Environment, Food and Rural Affairs, to the Chairman

Your letter of 2 December to Huw Irranca-Davies about a particular Explanatory Memorandum (EM) on a draft Council Decision on Illegal, Unreported and Unregulated Fishing (14729/09) referred to Defra's review of our handling of the Parliamentary scrutiny process. I am writing to inform you and your Committee of the practical steps we will be taking to improve our performance.

[Type text]

As you are aware, the particular need for improvement relates to our systems for recording, handling, processing and assuring the quality of correspondence. One of the Department's Directors has looked into these and other aspects of the scrutiny process, and has consulted the Committee clerks in both Houses. As a result, we have decided to transfer our scrutiny operation to Defra's Customer Contact Unit (CCU) by mid-January 2010.

The CCU has a good track record of improving the quality of Defra's service delivery in relation to Parliamentary questions and Ministerial correspondence. There is also a close fit between the unit's established expertise and the areas where we need to do better on scrutiny. The benefits of transfer will include improved systems of process management for Explanatory Memoranda and correspondence, better management information and reporting, more flexible staff resourcing, and the ability to devote more attention to relationship management on service delivery issues. No doubt you will let me know how the new system works.

Helen Ghosh will be writing to Sub-Committee B with further details shortly, as she promised last July.

22 December 2009

EU STRATEGY FOR BETTER SHIP DISMANTLING (16220/08)

Letter from Dan Norris MP, Minister for Rural Affairs and Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing in response to Lord Roper's letter of 11 February 2009 regarding the above EM, sent to my predecessor. I apologise for the delay in responding to you.

You asked me to comment on issues of enforceability and possibilities for an international funding system for ship owners around dismantling and recycling. Regarding enforceability, the audit and certification scheme proposed by the Commission is a third party audit scheme. This would be a business to business audit, using the ISO 30000 series as a bench mark for auditing. Experience has shown that such schemes are not always successful, with unsatisfactory facilities managing nevertheless to gain some sort of accreditation. The Hong Kong Convention (adopted in May 2009 as the Hong Kong International Convention for the Safe and Environmentally Sound Recycling of Ships) includes a voluntary audit scheme that recycling States can use to verify that their facilities comply with the Convention. Furthermore, once it is in force, the Convention will be covered by the International Maritime Organisation's audit scheme for Member States, which allows the IMO to audit Member States and verify their implementation of IMO Conventions. It is envisaged that this scheme will become mandatory in the future. We consider this scheme should help with the enforcement of the Convention's requirements for ship recycling facilities.

You also asked for my views on an international funding system. A recycling fund was suggested by the European Commission with a view to creating a level playing field by covering the difference in costs between sending a ship for recycling in a facility that did not manage the waste in an environmentally sound manner (and where costs would be lower) and sending the ship to an environmentally sound facility. However, the establishment and management of the fund would be likely to be very complex and there would be a risk that it might discourage short intra-European sea voyages, pushing more traffic back onto the roads, and so potentially detract from European measures to reduce road traffic. Additionally, a fund could be considered to be a restrictive trade practice as it would, in effect, impose a charge on ship owners so that more expensive (e.g. EU) yards were able to scrap vessels. Countries in which there are lower cost facilities which nonetheless achieve reasonable standards, might well object to such a measure and argue that it constituted a subsidy to EU yards.

23 April 2010

FAUNA AND FLORA: TRADE IN ENDANGERED SPECIES

Letter from Huw Irranca-Davies MP, Minister for Marine and Natural Environment, Department for Environment, Food and Rural Affairs, to the Chairman

The Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) aims to protect species in danger of over-exploitation as a result of

[Type text]

international trade. It works by subjecting international trade in selected species to certain controls through a licensing system. The UK is a signatory to CITES and is fully supportive of this objective.

One of the main tasks of the Conference of Parties is to decide whether to add or remove species (or certain populations of species) to either Appendix I or II of CITES or to uplist/downlist between the Appendices.

The proposed amendments to the CITES Appendices will affect the EU legislation implementing CITES. In these circumstances Member States cannot assume obligations outside the framework of the Union that might affect or alter the scope of this legislation. For these reasons Member States must act jointly in the EU interest to decide on the issues debated at the Conference of Parties in accordance with the position decided by the European Council. A common EU position on the proposals is currently being prepared and it is hoped that a Council Decision will be agreed in March prior to the Conference.

However, as a result of internal European Commission delays in preparing a draft Council Decision, I am not in a position to lay an Explanatory Memorandum before Parliament for scrutiny at this time. As things stand, I do not know whether a text will be received in sufficient time for Parliament to fully consider it, so I am writing to alert you of the issues that will be considered by the Conference of Parties. Details are annexed to this letter. If we do receive a Council Decision prior to the Conference I will submit this to Parliament at the earliest opportunity.

As a member of the European Union we are working closely with the European Commission and other Member States to assess whether the listing proposals are justified, before make a collective decision on whether or not to support them. Underpinning those decisions will be the principle of sound science and the need to ensure that whatever decisions are taken they should maintain and, where possible, improve the conservation of species in the wild in the face of threats posed by international trade.

The views of key stakeholders have been sought in respect of all proposals. Representatives from the relevant conservation groups, animal welfare and trade organisations have met with officials regularly since June 2009 to discuss the issues and proposals for consideration by the Conference of Parties. In addition, certain conservation and animal welfare groups have had other meetings with Ministers and officials on specific issues. Other organisations have also commented on the CITES listing proposals, including the CITES Secretariat and a wide range of Non-Governmental Organisations. EU Member States have been reviewing all comments to inform our decision-making process.

CITES is not a devolved matter and responsibility lies solely with the Secretary of State for Environment, Food and Rural Affairs. There will be no direct impact on UK legislation, as CITES is implemented at the EU level by EU CITES Regulations which are directly applicable in the UK. Any changes agreed at the Conference of Parties may necessitate some minor amendments to these EU Regulations. However, it is thought unlikely that these changes will have a significant impact on businesses within the UK and an Impact Assessment is not considered necessary.

22 February 2010

PART I: LISTING PROPOSALS

Higher taxa	Species covered by the proposal	Proposal number and proponent	Proposal
F A U N A			
CHORDATA			
MAMMALIA			
Carnivora			
Canidae	Canis lupus (Grey wolf)	CoP15 Prop. 1 Switzerland	Addition of an annotation to the species Canis lupus listed in Appendices I and II reading: "Excludes the domesticated form and the dingo which are referenced as Canis lupus familiaris and Canis lupus dingo"
Felidae	Lynx rufus (Bobcat)	CoP15 Prop. 2 USA	Deletion from Appendix II
Ursidae	Ursus maritimus (Polar bear)	CoP15 Prop. 3 USA	Transfer from Appendix II to Appendix I
PROBOSCIDEA			
Elephantidae	Loxodonta Africana (African elephant)	CoP15 Prop. 4 (Rev. 1) United Republic of Tanzania	Transfer the population of the United Republic of Tanzania from Appendix I to Appendix II with an annotation to allow trade in hunting trophies; hides; live animals, and, a one-off sale of legally stockpiled ivory.
	Loxodonta Africana (African elephant)	CoP15 Prop. 5 Zambia	Transfer of the population of Zambia from Appendix I to Appendix II for the exclusive purposes of allowing trade in hunting trophies; hides; live animals, and, a one-off sale of legally stockpiled ivory.
	Loxodonta Africana (African elephant)	CoP15 Prop. 6 Congo, Ghana, Kenya, Liberia, Mali, Rwanda and Sierra Leone	Amend the text in the annotation regarding the populations of Loxodonta uspidat of Botswana, Namibia, South Africa and Zimbabwe to replace the provisions that restrict no further sales from those populations for 9 years with text prohibiting any further downlistings or sales by ANY country to be considered for 20 years; and the removal of an annotation that allows Namibia and Zimbabwe to sell small carvings (ekipas) for non-commercial purposes.
<u>AVES</u>			
ANSERIFORMES			
Anatidae	Anas oustaleti (Mariana Islands Duck)	CoP15 Prop. 7 Switzerland	Deletion from Appendix I
<u>REPTILIA</u>			
CROCODYLIA			
Crocodylidae	Crocodylus moreletii (Belize crocodile)	CoP15 Prop. 8 Mexico	Transfer from Appendix I to Appendix II with a zero quota for wild specimens

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	Crocodylus niloticus (Nile crocodile)	CoP15 Prop. 9 Egypt	Transfer of the Egyptian population from Appendix I to Appendix II
SAURIA			
Agamidae	Uromastyx ornate (Ornate spiny tailed lizard)	CoP15 Prop. 10 Israel	Transfer from Appendix II to Appendix I
Iguanidae	Ctenosaura bakeri, C. oedirhina and C. Melanosterna (Spiny tailed iguanas)	CoP15 Prop. 11 Honduras	Inclusion in Appendix II
	Ctenosaura palearis (Spiny tailed iguana)	CoP15 Prop. 12 Guatemala	Inclusion in Appendix II
AMPHIBIA ANURA			
Hylidae	Agalychnis spp. (Golden eyed leaf frog)	CoP15 Prop. 13 Honduras and Mexico	Inclusion in Appendix II
CAUDATA			
Salamandridae	Neurergus kaiseri (Kaiser's spotted newt)	CoP15 Prop. 14 Iran	Inclusion in Appendix I
ELASMOBRANCHII			
CARCHARHINIFORMES			
Sphyrnidae/ Carcharhinidae	Sphyrna lewini, S. mokarran, S. zygaena, Carcharhinus plumbeus, C. Obscures (Hammerhead sharks)	CoP15 Prop. 15 Palau and USA	Inclusion in Appendix II with an 18 month delay to allow Parties to resolve the related technical and administrative issues
Carcharhinidae	Carcharhinus longimanus (White-tipped shark)	CoP15 Prop. 16 Palau and United States of America	Inclusion in Appendix II with an 18 month delay to allow Parties to resolve the related technical and administrative issues
LAMNIFORMES			
Lamnidae	Lamna nasus (Porbeagle)	CoP15 Prop. 17 Palau and Sweden*	Inclusion in Appendix II with an 18 month delay to allow Parties to resolve the related technical and administrative issues
SQUALIFORMES			
Squalidae	Squalus acanthias (Spiny dogfish)	CoP15 Prop. 18 Palau and Sweden*	Inclusion in Appendix II with an 18 month delay to allow Parties to resolve the related technical and administrative issues
ACTINOPTERYGII			

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PERCIFORMES			
Scombridae	Thunnus thynnus (Bluefin tuna)	CoP15 Prop. 19 Monaco	Inclusion in Appendix I
ARTHROPODA			
INSECTA			
COLEOPTERA			
Scarabaeidae	Dynastes satanas (Satanas beetle)	CoP15 Prop. 20 Bolivia	Inclusion in Appendix II
CNIDARIA			
ANTHOZOA			
GORGONACEAE			
Coralliidae	Coralliidae spp. (<i>Corallium</i> spp. <i>Paracorallium</i> spp.) (Pink and red corals)	CoP15 Prop. 21 Sweden* and USA	Inclusion of all species in the family in Appendix II with an 18 month delay to allow Parties to resolve the related technical and administrative issues
F L O R A			
ANACARDIACEAE	Operculicarya decaryi (Jabily tree)	CoP15 Prop. 22 Madagascar	Inclusion in Appendix II
	Operculicarya hyphaenoides (a bonsai tree)	CoP15 Prop. 23 Madagascar	Inclusion in Appendix II
	Operculicarya pachypus (a bonsai tree)	CoP15 Prop. 24 Madagascar	Inclusion in Appendix II
CACTACEAE and all taxa with annotation #1	CACTACEAE spp. And all taxa with annotation #1 (Cacti)	CoP15 Prop. 25 Mexico and USA, on behalf of the Plants Committee	Technical amendments to annotations
CUCURBITACEAE	Zygosicyos pubescens (a lump plant)	CoP15 Prop. 26 Madagascar	Inclusion in Appendix II
	Zygosicyos tripartitus (a lump plant0)	CoP15 Prop. 27 Madagascar	Inclusion in Appendix II
EUPHORBIACEAE	Euphorbia misera (Cliff spurge)	CoP15 Prop. 28 Mexico and USA	Deletion from Appendix II
LAURACEAE	Aniba rosaeodora (Brazilian rosewood)	CoP15 Prop. 29 Brazil	Inclusion in Appendix II for logs, sawn wood, veneer sheets, plywood and essential oils.

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FABACEAE	Senna meridionalis (a bonsai tree)	CoP15 Prop. 30 Madagascar	Inclusion in Appendix II
ORCHIDACEAE	ORCHIDACEAE spp. Included in Appendix I (Orchids)	CoP15 Prop. 31 USA	Amend the annotation to the listing of Orchidaceae included in Appendix I, to clarify how artificially propagated orchids are excluded.
PALMAE (Arecaceae)	Beccariophoenix madagascariensis (Giant windowpane palm)	CoP15 Prop. 32 Madagascar	Inclusion of the seeds of the species in Appendix II
	Dypsis decaryi] (Triangle palm)	CoP15 Prop. 33 Madagascar	Inclusion of the seeds of the species in Appendix II
PASSIFLORACEAE	Adenia firingalavensis (a succulent plant)	CoP15 Prop. 34 Madagascar	Inclusion in Appendix II
	Adenia olaboensis (a succulent plant)	CoP15 Prop. 35 Madagascar	Inclusion in Appendix II
	Adenia subsessifolia (a succulent plant)	CoP15 Prop. 36 Madagascar	Inclusion in Appendix II
PROTEACEAE	Orothamnus zeyheri (Marsh rose)	CoP15 Prop. 37 South Africa	Deletion from Appendix II
	Protea odorata (Swartland sugarbush)	CoP15 Prop. 38 South Africa	Deletion from Appendix II
VITACEAE	Cyphostemma elephantopus (Elephant foot grape tree)	CoP15 Prop. 39 Madagascar	Inclusion in Appendix II
	Cyphostemma laza (Laza tree)	CoP15 Prop. 40 Madagascar	Inclusion in Appendix II
	Cyphostemma montagnacii (Mountain tree)	CoP15 Prop. 41 Madagascar	Inclusion in Appendix II
ZYGOPHYLLACEAE	Bulnesia sarmientoi (Holy wood)	CoP15 Prop. 42 Argentina	Inclusion in Appendix II for logs, sawn wood, veneer sheets, plywood, powder and extracts.

PART II : ADMINISTRATIVE MATTERS

AGENDA ITEM	SUBJECT	PROPOSAL
I.	Adoption of agenda	

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2.	Adoption of the working programme	
3.	Rules of Procedure	To adopt the rules of procedure.
4.	Credential Committee	
5.	Admission of observers	
6.	Financing and budgeting of the Secretariat and of meetings of the Conference of the Parties	0%, 5% , 10% or 16% budget increases proposed.
7.	Committee elections	To be decided
8.	Implementation of the Strategic Vision: 2008-2013	Reporting on indicators
9.	Review of the scientific committees	Work reviewed and recommendations re Chairpersons
10.	Cooperation with other organizations	Suggested cooperation with FAO, CCAMLR, CBD.
11.	Cooperation with international financial institutions	Increased cooperation
12.	Harmonization of nomenclature and taxonomy with other Multilateral Environmental Agreements	Aligning of 5 taxa nomenclature between CITES, CMS and IWC
13.	Cooperation between Parties and promotion of multilateral measures	Technical clarifications
14.	CITES and livelihoods	Continued development of a toolkit to minimise impacts on the poor
15.	National wildlife trade policy reviews	Proposals to improve coordination
16.	Capacity Building	Encouraging the use of training opportunities
17.	Incentives for the implementation of the Convention	Improved permitting regime proposed along with consideration of payments for ecosystem services
<i>Review of Resolutions and Decisions</i>		
18.	Review of Resolutions	Technical amendments to CITES Resolutions
	<i>Annex 1: Conf. 5.10 – Definition of ‘primarily commercial purposes’</i>	
	<i>Annex 2: Conf. 7.12 (Rev.) – Marking requirements for trade in specimens of taxa with populations in both Appendix I and Appendix II</i>	
	<i>Annex 3: Conf. 9.5 (Rev. CoP14) – Trade with States not party to the Convention</i>	
	<i>Annex 4: Conf. 9.7 (Rev. CoP13) – Transit and transshipment</i>	
	<i>Annex 5: Conf. 9.10 (Rev. CoP14) – Disposal of illegally traded, confiscated and accumulated specimens</i>	
	<i>Annex 6: Conf. 9.19 (Rev.CoP13) – Guidelines for the registration of nurseries exporting artificially propagated specimens of Appendix-I species</i>	
	<i>Annex 7: Conf. 10.10 (Rev. CoP14) – Trade in elephant specimens</i>	
	<i>Annex 8: Conf. 11.11 (Rev. CoP14) – Regulation of trade in plants</i>	
	<i>Annex 9: Conf. 11.21 (Rev. CoP14) – Use of annotations in Appendices I and II</i>	
	<i>Annex 10: Conf. 12.2 – Procedure for approval of externally funded projects</i>	
	<i>Annex 11: Conf. 12.3 (Rev. CoP14) – Permits and</i>	

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	<i>certificates</i>	
	Annex 12: Conf. 12.10 (Rev. CoP14) – <i>Guidelines for a procedure to register and monitor operations that breed Appendix-I animal species for commercial purposes</i>	
	Annex 13: Conf. 14.7 – <i>Management of nationally established export quotas</i>	
19.	Review of Decisions	Regular update of Decisions
<i>Compliance and enforcement</i>		
20.	National laws for implementation of the Convention	Proposals for compliance measures against Parties that have not put in place necessary legislation.
21.	National reports	Updated requirements and format
22.	Reporting on trade in artificially propagated plants	Revised, simpler requirements
23.	Standard units of reporting trade in agarwood-producing taxa	Clarification of reporting units
24.	Enforcement matters	Review of enforcement issues in Egypt, Nigeria, together with review of recent meetings, and designation of enforcement and scientific authorities
25.	Proposed revision of Resolution Conf. 11.3 (Rev. CoP14) on <i>Compliance and enforcement</i> (Sweden*)	Inclusion of suggestion on use of detector dogs
26.	Review of Significant Trade in specimens of Appendix-II plant species	Encouraging engagement of range States in review process.
<i>Trade control and marking</i>		
27.	Introduction from the sea	Proposals regarding the principle of designating exporting and importing states
28.	Ranching and trade in ranched specimens	Alignment of rules
29.	Production systems for specimens of CITES-listed species	Clarification of rules concerning ranched specimens
30.	Electronic permitting	Proposals to allow Parties to use electronic permitting as an alternative to paper permits
31.	Purpose codes on CITES permits and certificates	Clarification of codes
32.	E-commerce of specimens of CITES-listed species	Proposals for countries to adopt to monitor and address trade via the internet
33.	Transport of live specimens	Recommendations from a working group, with revised guidelines
34.	Review of the universal tagging system and trade in small crocodylian leather goods	Clarification of procedures
35.	Standard nomenclature	Revision of out of date names
36.	Identification of CITES-listed corals in trade (United States of America)	Updating references
37.	Identification of worked specimens of black coral (<i>Antipatharia</i>) and parts thereof in trade (Sweden*)	Simplification of categorisation of permitting rules for black corals
38.	Identification Manual	Proposed WIKI based manual
39.	Using the taxonomic serial number (TSN) in international wildlife trade data: a role for CITES (Canada)	Proposals for review
<i>Exemptions and special trade provisions</i>		

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40.	Personal and household effects	Report of working group with hunting trophies considered to be potential personal and household effects
41.	Applications to register operations that breed Appendix-I animal species in captivity for commercial purposes	Applications to register bird breeding operations.
<i>Species trade and conservation</i>		
42.	Great apes	Review and proposal for technical missions
43.	Asian big cats	Review and proposals to strengthen enforcement, and compliance and reduction of animals in “farms”
44.	Elephants	Review, including provisional results from MIKE and ETIS monitoring of ivory sale, with proposed improvements
45.	Rhinoceroses	Revision of Resolution on control of rhino parts
46.	Tibetan antelope	Review
47.	Saiga antelope	Review
48.	Snake trade and conservation management (China and United States of America)	Review
49.	Tortoises and freshwater turtles	Review
50.	Hawksbill turtle	Review
51.	Humphead wrasse: additional management measures needed to combat IUU fishing (Indonesia)	Review and proposals
52.	Atlantic bluefin tuna (Monaco)	Proposals for greater dialogue with ICCAT
53.	Conservation and management of sharks and stingrays	Recommendations from working group to improve existing recommendations and guidance
54.	Conservation of and trade in Coralliidae species (United States of America)	Supporting measures for proposed listings
55.	Trade in epiphytic cacti (Cactaceae spp.) (Switzerland)	Technical revisions
56.	<i>Euphorbia</i> spp.	Recommendation that existing working group continues
57.	<i>Cedrela odorata</i> , <i>Dalbergia retusa</i> , <i>Dalbergia granadillo</i> and <i>Dalbergia stevensonii</i>	Widening of Bigleaf mahogany working group to include these species, plus recommended links with ITTO
58.	Bigleaf mahogany	An update on actions being undertaken by Peru with suggested Action Plan
59.	<i>Taxus uspidate</i>	Revised definitions
60.	Agarwood-producing taxa	Revised definitions
61.	Report of the Central Africa Bushmeat Working Group	No report presented
<i>Amendment of the Appendices</i>		
62.	Periodic Review of the Appendices	Review of process and suggested improvements
63.	Criteria for the inclusion of species in Appendices I and II	Suggested revisions. Especially focussed on commercially exploited aquatic species
64.	Cactaceae and Orchidaceae: review of annotations	Review and revision of annotations
65.	Orchids: annotations for species included in Appendix II	Review and support for collation of identification material
66.	Annotations for tree species included in Appendices II and III	Proposed continuation of review

[Type text]

67.	Inconsistent implementation of Appendix-III timber listings annotated to include only the national populations of the listing countries (United States of America)	Improved and clearer listing
68.	Proposals to amend Appendices I and II	See 'Part I: Listing proposals' above.
69.	Time and venue of next meeting	
70.	Closing remarks	

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Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 22 February about this conference was considered by Sub-Committee D at its meeting on 10 March 2010.

Given the internal European Commission delays to which you refer, it is helpful that your letter gives notice of the issues related to CITES which will be considered at the conference in advance of the preparation of an Explanatory Memorandum.

However, it would be of greater assistance to receive from you a rather fuller explanation of any particularly important issues. We note, for example, that the listing proposals in the annex to your letter contain bluefin tuna; we would ask you to say more about the likely EU position on conservation of this species.

In your letter, you say that the views of key stakeholders have been sought in relation to all proposals, but you offer no assessment of the views expressed. Here, too, we would like to hear more from you.

It may be that an Explanatory Memorandum will come forward shortly, which will cover these points. If not, it would be helpful to receive a reply from you by the end of this month.

10 March 2010

FEED: PLACING ON THE MARKET AND USE (7296/08)

Letter from Gillian Merron MP, Minister of State, Department of Health, to the Chairman

In your letter of 10 December 2008 to Dawn Primarolo, you confirmed that the Committee was content to lift its scrutiny reservation on the above proposal but had a number of points of clarification and wished to be kept up to date on the negotiations.

This letter sets out the results of the negotiations in the Council of Ministers and with the European Parliament and also refers to a number of issues which are under discussion in Commission Working Groups.

As Dawn Primarolo indicated in her letter of 12 January 2009, the UK intended to support the Common Position in Council and only a few minor technical issues remained to be resolved in trialogue discussions with the European Parliament's rapporteur. The European Parliament adopted the proposal at its First Reading in February 2009. It was adopted by the Council of Agriculture Ministers on 22 June 2009 and was published in the Official Journal of the European Union on 13 July as EC Regulation 767/2009 on the placing on the market and use of feed. The Regulation will come into effect on 1 September 2010.

The adopted Regulation addresses the principal concerns of the UK, as set out in the Supplementary Explanatory Memorandum of 20 November 2008. This includes the repeal of the existing mandatory declaration of the ingredients of compound feed for farmed livestock, which has been a burden on UK manufacturers because it divulges commercially sensitive formulations and intellectual property.

The UK was also concerned that there should be a legal framework for the use of boluses (slow release capsules), pastes and drenches, which typically have high levels of additives and have a valuable application in remote and upland areas where vegetation may be deficient in essential nutrients. The Regulation now contains a procedure for the assessment and authorisation of these products via the framework for the authorisation of feeds for particular purposes.

I can confirm that the Regulation contains other provisions that are expected to assist manufacturers, suppliers or purchasers of feeds and which were highlighted by the Committee. This includes the introduction of a voluntary Community Catalogue of feed materials setting out the names and descriptions of materials which may be used in manufactured feeds or fed singly to animals; and the compilation of a Code of good practice for feed labelling which will provide supplementary information to those who market feeds in order to facilitate clear and unambiguous labelling declarations. A formal procedure for the authorisation of dietetic feeds will also be introduced; and the provisions on the claims that can be made for feeds will be strengthened with the introduction of a right for enforcement authorities to request from feed businesses evidence to back any claims made.

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Previous legislation contained a derogation whereby suppliers of feeds with a moisture content of greater than 50% did not have to provide an analytical declaration for them (protein, fibre, etc.). This has created a concern for suppliers as it is difficult to measure certain analytical constituents in moist feeds. Although the continuation of this derogation was supported by the UK and a number of other Member States, it has not been included in its entirety in the adopted Regulation. However, there is a provision which permits the moisture content of feed not to be declared when the purchaser has stated that it is not required. In addition, the Commission has said that it intends to review the limits of variation for analyses of moist feeds. The UK is participating in discussions on this issue at Commission Working Group level to help ensure that the revision of moist feed tolerances addresses the industry's concerns.

As indicated above, the Regulation will apply directly in all Member States from 1 September 2010. Food Standards Agency officials have already begun work on a Statutory Instrument which will repeal existing legislation and contain enforcement provisions.

7 January 2010

FISHERIES: COMPLIANCE WITH THE COMMON FISHERIES POLICY (15694/08)

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to update you on the outcome of the October Council on the above proposal. I had been hoping to have further news of the detailed implementing rules for this Council Regulation but unfortunately these have not yet been received from the Commission.

The proposed Regulation received political agreement at the October Council meeting and the final text was published on 20 November 2009 (Council Regulation 1224/2009). A copy is enclosed for information.

There were still some important issues outstanding on the text before the Council meeting but I am pleased to report that they were resolved prior to the final vote on the proposal. Those issues were:

- Article 14 - Margin of tolerance on logbooks: The Commission was proposing to maintain a dual system of margins of tolerance. This was amended to a single figure of 10%.
- Articles 10 and 11 - Automatic Information Systems (AIS) and Vessel Detection Systems: The proposal was for compulsory use of both these tools but this was changed to an optional use for enforcement.
- Article 55 - Recreational fishing: The pre-Council Proposal included a requirement for Member States to count catches of recovery stocks against quota where additional management measures were introduced. This requirement was removed from the final text.
- Article 90 - Harmonised sanctions: The final text on harmonised sanctions more closely reflected the text agreed for the Council Regulation on Illegal, Unreported and Unregulated fishing (IUU) (Article 44 of Council Regulation 1005/2008).
- Article 24 – Electronic landing declarations: The time limit for submitting landing declarations is now 24 hours.
- Article 33(6) – Recording of catches and fishing effort – Scientific research: From January 2011, where catches taken during a scientific research voyage are marketed and sold, they must be counted against quota if they exceed 2% of the quota allocation.
- Article 50 – Control of fishing restricted areas: The Council will now decide on a date from which vessels fishing in restricted areas must be fitted with alarms.
- Articles 62 and 63 – Completion and submission of sales notes: The deadline for submission of sales notes remains at 48 hours, but is reduced to 24 hours for electronic sales notes. The threshold for submitting electronic sales notes reduces to 200,000€.

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- Articles 66 and 67 – Takeover declaration: The time for submission of takeover declarations remains at 48 hours for paper records and 24 hours for electronic declarations.

Your letter of 14 October reinforced your support for the principles of the Regulation, in particular the articles which allow the Commission to take action against non-compliant Member States. I am pleased to confirm that the provisions of Article 95 in the proposal have remained in the published Regulation at Article 103.

22 March 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 22 March 2010 replying to mine of 14 October 2009 was considered by Sub-Committee D (Environment and Agriculture) at its meeting of 7 April 2010.

We are grateful for the information that you have provided on the outcome of the Council, and we particularly welcome the maintenance of clauses allowing the Commission to take action against non-compliant Member States.

I do not require a response to this letter.

7 April 2010

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

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I wrote to you on 22 April 2009 with an Explanatory Memorandum (Document 8977/09), at the time of the publication of the Green paper.

Please see attached the UK's response to the European Commission's Green Paper on Common Fisheries Policy (CFP) Reform, along with a baseline Impact Assessment on the current state of the fish stocks and fishing industry.

NSID (EU) cleared the UK response on 21st December. The UK response was submitted to the European Commission via UKREP on the 23rd December. In summary, the UK is looking for the CFP to deliver ecological sustainability through a mixture of decentralised decision-making, the integration of the CFP with EU and international commitments to marine conservation, more flexible fishing rights and long-term management plans based on scientific data that takes into account the full range of factors impacting on stocks.

Our response was based on extensive consultation with stakeholders and partners. Hilary chaired a stakeholder event in September to launch Defra's Discussion Paper on CFP Reform. That event brought together interests from several sectors including the fishing industry, the major supermarkets, consumer groups, scientists and environmental NGOs. This was followed up by meetings around the coast to gather views and ideas. We invited a range of stakeholders drawn from local communities. People from the fishing industry, retail, local authorities, marine conservation and environmental NGOs fully contributed to a wide-ranging discussion. DAs managed consultations in their respective administrative areas and Defra officials attended when possible

The view that is emerging from other Member States from discussions in 2009 (so far there have been eleven MS responses to the Green Paper placed on the Commission website, though some have not yet been translated) is that the majority favour the Green Paper's call for fundamental reform and are looking for significant changes to the CFP. There are indications of a growing consensus around some of the issues, for example that industry and regional interests should be given more responsibility for making decisions about how to manage the fishery and to be able to do on a long-term basis; that conservation of the marine environment needs to be better integrated with the CFP and the waste of discards and bycatch must be reduced to a minimum. It is also clear from our engagement with other Member States that agreeing a successful economic framework for creating the incentives to invest in the long term stability of the stocks will, in particular, require sustained engagement.

The European Commission have committed to produce a summary of responses in the 1st half of 2010 and submit a draft legislative proposal to the European Parliament early 2011. The Spanish

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Presidency have scheduled the presentation of an EC working paper at Junes Council of Fisheries Ministers. I will ensure that you are kept up to date with progress.

26 January 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 26 January 2010 and response to the Green Paper were considered by Sub-Committee D (Environment and Agriculture) at its meeting of 24 March 2010.

We were interested to read your comments on relative stability and on the transferability of quotas. While the principle of relative stability remains important, it is clear that reliance on a history of fishing dating back over 30 years is imperfect. It is unclear to us how you intend to lead the debate actively on this matter.

We were pleased to read that you have been developing a possible model of regional management. It seems to us that the Commission maintains a strong role in your model, a position which might hamper the delivery of genuinely devolved management. In addition, and as you point out, the role of the RACs will need to be considered. It was not clear whether you would consider a "fishery" to be geographical, species-based or a mixture of the two. Finally, we would welcome some clarity on how such a model might interact with the new structures put in place under the Marine and Coastal Access Act 2009.

We have consistently expressed concern about the issue of discards. While we have greater sympathy than you with the concept of a discard ban, we nevertheless agree that an approach which empowers the industry to find their own local solutions to discards and bycatch problems is the most sensible, possibly against the background of a ban.

In paragraph 32, you refer to the extended use of new technologies in order to improve data collection further. The use of new technologies is an issue that we have raised consistently over the last few years and we would wish to see more detail from the Government on how to achieve change in this respect.

24 March 2010

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

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

Thank you for your letter of 21 October on the above Proposal, following consideration of the impact assessment by Sub-Committee D.

As you have noted, the 5% rate of annual TAC reductions is the preferred policy option identified in the impact assessment. This is the rate of adjustments considered most suited to the UK's interests for the purposes of the long term plan. This is forecast to achieve the maximum sustainable yield (MSY) within a reasonable time frame, with minimum impact on the fisheries exploiting the stock.

You refer to the Commission's TAC proposal for 2010, which is for a 10% reduction. The Commission have based this proposal not on the ICES advice, which is provided against the current recovery plan target of fishing at the precautionary level of $F=0.25^1$, but against the long-term plan as currently drafted, which aims to manage the stock towards the recommended MSY rate of $F=0.17$. The Commission's proposal for 2010 does not reflect our preferred position for the long-term management plan which, whilst supporting the move to the lower exploitation rate to support MSY, suggests making the change in 5% steps in order to do so. We have therefore requested that the Commission sets the TAC according to our preferred option.

You asked about the progress of negotiations on this proposal. I can confirm the dossier is not scheduled for agreement at Council this year, which means that once ready, its adoption will take place subject to full co-decision under the Lisbon Treaty arrangements.

7 December 2009

¹ Which would actually mean a 7.2% increase on the 2009 TAC.

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Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 7 December, replying to mine of 21 October 2009, was considered by Sub-Committee D at its meeting of 16 December 2009.

You have explained that the basis for the UK's preferred policy option for a TAC reduction of 5% is that this is forecast to achieve maximum sustainable yield with a reasonable time frame, with minimum impact on the fisheries exploiting the stock.

You have also said that the proposal is not scheduled for agreement at Council this year and that, following the entry into force of the Lisbon Treaty, the dossier will now be subject to the co-decision procedure. Until it becomes clear how negotiations with other Member States, and the European Parliament, will develop, we will keep the proposal under scrutiny.

16 December 2009

Letter from Huw Irranca-Davies MP to the Chairman

Thank you for your letter of 16 December 2009, following consideration of my letter of 7 December by Sub-Committee D. I am writing to update you on the progress with negotiations on this dossier.

The proposal was last discussed at Fisheries Working Group on 12 February 2010. The latest changes to the proposal text were considered – mainly consequential amendments to reflect the new Treaty coming into force, and other EU legislative developments, such as the recent Control Regulation. The Presidency was keen to progress the proposal as far as possible, pending expected scientific advice. The Fisheries Working Group will consider the proposal again in the light of that advice. At that stage the aim will be to move the dossier towards obtaining a first reading with the European Parliament.

18 March 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 18 March 2010, replying to mine of 16 December 2009, was considered by Sub-Committee D at its meeting of 7 April 2010.

Following the entry into force of the Lisbon Treaty, and the consequent application of the ordinary legislative procedure to the dossier, we understand that negotiations between the European Parliament and Council have been largely technical thus far and that agreement is not imminent.

We will continue to hold the proposal under scrutiny, awaiting information from you on the likely shape and timing of any agreement.

7 April 2010

FISHERIES: FISHING OPPORTUNITIES FOR 2010 (9838/09, 14738/09)

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

Thank you for your email of 25 November in reply to my Explanatory Memorandum of 4 November on the above subject.

Alongside this letter you will have also received an Impact Assessment outlining the likely costs and benefits of the Commission's proposals and details of the UK negotiating priorities at Council. These priorities have been agreed with Ministers in Devolved Administrations and also endorsed by stakeholders at a meeting in London on 1 December.

You also asked about progress on Irish Sea Nephrops. ICES has now considered the summer research survey information from the Western Irish sea and has adjusted its advice accordingly². Although the advice coming from this survey is more positive than previously, ICES continue to advise that a 44% decrease in Area VII TAC is required to fish the stock at the maximum sustainable yield level.

² <http://www.ices.dk/committe/acom/comwork/report/2009/2009/Nep-VII.pdf>

[Type text]

We will continue to argue that this cut is inappropriate on the basis that; firstly, the survey data demonstrates that the Irish Sea West Nephrops population is stable, and; secondly, that the Commission's own Scientific, Technical and Economic Committee for Fisheries (STECF) concluded that the proposal to reduce the TAC for *Nephrops* in subarea VII in 2010 by 30% is not in line with the proposed TAC-setting rules in COM(2009) 224 and that according to those rules the TAC should not be changed by more than 15%³.

You also requested comments on effort restrictions, for which there were no proposals when my original EM was sent. We have now received indication of the likely effort cuts relating to the operation of the cod recovery plan and effort reductions proposed for the western channel sole fishery. These are detailed in my Supplementary Explanatory Memorandum (SEM). The UK fishing industry has shown throughout 2009 its commitment to cod recovery through cod avoidance measures including Real Time Closures across UK waters and technical adaptations to fishing gear. We believe that its important there is appropriate recognition and reward for these efforts, especially where vessels which have minimal impact on cod.

In this regard it is welcome that the Commission's proposal includes exemption for 76 Nephrop vessels fishing in the West of Scotland for catching less than 1.5% cod. However, equal consideration should be given to other UK vessels which meet this criteria including Nephrops vessels in the Irish Sea and Beam trawl vessels in the English channel. We will continue to press the Commission on this point, to ensure that effort measures are proportionate and that due consideration is given to the contributions UK fishers are making to cod recovery.

You also ask about the so called 'use it or lose it' stocks and the ICES examination of alternative rules for setting TACs where data is poor or uncertain. Unfortunately it transpired that ICES was unable to analyse the alternative proposal for dealing with stocks under uncertainty due to a lack of time, and consequently they could not advise against these rules as they considered that without this evaluation they did not have a scientific basis.

Consequently the Commission have continued to pursue the policy of reducing TACs to recent average landings and it has resulted in a number of important UK stocks receiving proposals for a 15% cut in TAC (details are contained in Annex C to the Impact Assessment). We will continue to resist this policy. In the medium term we will encourage the Commission to pursue alternative policies in order that a more appropriate mechanism for dealing with uncertainty is in place for future years. This necessarily must include scientific analysis of such options.

3 December 2009

Letter from the Chairman to Huw Irranca-Davies MP

Your Supplementary Explanatory Memorandum (SEM) on the above Proposal, Impact Assessment and letter of 3 December were considered by Sub-Committee D at its meeting of 9 December 2009.

We are grateful for your response to the queries raised in my letter of 25 November and, in the Impact Assessment, for your helpful explanation of the UK's negotiating position.

It strikes us that the proposed further restrictions on effort under the cod recovery plan may prove particularly contentious both within the negotiations and in your discussions with industry. We therefore look forward to information from you on the outcome of those discussions and on how you intend to implement the outcome in practical terms. You noted in the Impact Assessment that a trade in effort is evolving. We would be interested to learn from you how this is monitored.

Notwithstanding the above issue, we are content to release the proposal from scrutiny ahead of the Council meeting on 14-16 December.

10 December 09

Letter from Huw Irranca-Davies MP to the Chairman

Thank you for your letter of 10 December 2009 on the above subject and my apologies for the delay in responding. I am writing both to answer your additional questions relating to effort restrictions and to provide an update summarising the outcome of autumn fisheries negotiations (including the agreement with Norway).

This year's TAC and Quota negotiations were exceptional in that no agreement was reached with Norway on shared stocks prior to Ministers meeting at December Council. This made Council an

³ 32nd Plenary meeting report of the Scientific, Technical and Economic Committee for Fisheries (PLEN-09-03)

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unusual affair as it was required to set provisional quotas for shared stocks, pending resolution of those negotiations. Consequently these were set at 65% of 2009 levels. Quotas for other stocks were negotiated and set as normal. Final agreement on the level of all fishing opportunities, however, was reached only recently with Norway (and only recently within the EU) and legislative adoption of the full quota levels is currently being undertaken through written procedure.

As in previous years the negotiations at Council took place against a challenging background of a generally poor outlook for most stocks, and a desire to move to lower fishing mortality levels. Our guiding principle for the negotiations was to seek a balance between the need to conserve fish stocks for the long term with the need to safeguard the livelihoods of fishing fleets and their local communities. The Government also sought to ensure a package of measures that reflected the interests of different parts of the UK.

I believe we secured a deal which delivered a number of the Government's objectives as outlined in my previous correspondence, while achieving a balanced outcome for all constituent parts of the UK. The highlights of the agreement reached, and full details of quota changes are at Annex A and B.

In particular we were able to make gains in a number of important areas for the UK including action to protect stocks and cut waste through a commitment by the Commission to 'catch quota' trials, and quota increases for North Sea and Eastern Channel cod, West Coast megrim and Area VII anglerfish. At the same time we minimised cuts for Irish Sea nephrops and Western Channel sole and provided greater protection for vulnerable sharks, porbeagle and spurdog.

In addition, the UK exercised its Hague Preference. This included counter-invoking to reduce the quota lost to the Republic of Ireland in the Irish Sea and Area VII, and unilaterally invoking for North Sea haddock and whiting. This gained an additional 1,769 tonnes of haddock and 1,565 tonnes of whiting. Hague Preference is always a question of balance, as in exercising our right, I was conscious of the impact reduced quota has on other Member States. However, I believe the socio-economic importance of both stocks justified this action which ensured that UK vessels suffered no greater cut in their quota for 2010 than did other Member States.

You raised some specific questions about effort restrictions under the cod recovery plan. As you highlight, restrictions on days at sea are a contentious issue. However, further cuts in effort were applied this year as a consequence of commitments to reduce fishing mortality on the various cod stocks under an agreed long-term management plan. Therefore they were applied as an automatic process rather than through negotiation. It was quite clear that the Commission was not going to move away from a management plan agreed only the previous year and we did not seek to change its mind.

As you point out reductions in days at sea are challenging in terms of implementation and we have been working with industry and Devolved Administrations since Council to ensure we can maximise the opportunities for fishermen while remaining within the UK effort limits. In order to do so we have recently set up an advisory group with stakeholder involvement to consider issues relating to days at sea throughout the year, and to take action should projections suggest effort limits are going to be breached. In this way we intend to work with industry to ensure that effort is managed in such a way that it provides for a full 12-month fishing period.

You also note the development of a trade in effort. This has been an element of days at sea restrictions since their inception, as vessels have been free to transfer unused days to vessels that require more. In this respect it is inevitable in allocating a flat-rate of days to all vessels that some will need more and some less. While Fisheries Administrations monitor the volume of trade, and approve transfers before they take place, we do not record or request financial information relating to transfers. Information on the price of a KW-day has been collected in the past by the Seafish Industry Authority through surveys with skippers.

As with any supply and demand market you would expect that as the effort limitations get tighter demand will increase and prices will rise. In order to minimise the need for trade (and thus cost to skippers) this year we introduced restrictions on the number of days that could be transferred out, so that we could allocate a higher initial allocation to those that needed them to fish. We will be monitoring the volume of trade through the advisory group meetings and considering whether improvements to the way transfers of days at sea operate can be made.

20 March 2010

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Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 20 March 2010 replying to mine of 10 December 2009 was considered by Sub-Committee D (Environment and Agriculture) at its meeting of 7 April 2010.

We are grateful for the information you have provided and we are content with the outcome of the negotiation.

Your comments on effort management are particularly interesting. I do not require a response to this letter, but we nevertheless look forward to exploring effort management issues further with the Government in the future, particularly in the context of Common Fisheries Policy reform.

7 April 2010

**FISHERIES: FIXING OF 2010 GUIDE PRICES FOR CERTAIN FISHERY PRODUCTS
(15086/09)**

Letter from the Chairman to Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs

Your letter of 26 November 2009 and the Explanatory Memorandum of the same date which it enclosed were considered by Sub-Committee D at its meeting on 9 December 2009.

You explained that the proposal would be put to the General Affairs and External Relations Council on 30 November, and that the UK would vote in favour. You acknowledged the unacceptability of voting on such issues without scrutiny clearance.

We have no comment to make on the substantive content of the proposal. However, we are concerned that here again insufficient time has been allowed for the Parliamentary scrutiny process to run its course. We would remind you that, under Article 3 of the Protocol on the role of national parliaments in the European Union (as applicable on 30 November), a six week period should have elapsed between publication of the proposal in all official languages and the date when it was placed on a Council agenda for decision. Under the Lisbon Treaty, that period has been extended to eight weeks. We would emphasise the importance that we place on respect of these deadlines and we shall consider how we can best reinforce our concerns over this issue.

10 December 2009

FISHERIES: MANAGEMENT OF SHARKS (6158/09)

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

I write to update you with progress regarding the above Explanatory Memorandum, further to your correspondence of 18 March 2009 regarding EM 6158/09.

You raised the issue of how best to strengthen Council Regulation 1185/2003. On a domestic level, since Council's conclusions on the action plan were agreed we have increased the protection offered to sharks through banning the removal of shark fins at sea by UK registered fishing vessels. This has been implemented by ceasing to issue special fishing permits under this Regulation that allow the separate processing and removal of fins at sea. Any sharks caught by UK vessels must now be landed with their fins attached to their bodies. Landing sharks in this way not only carries the advantage of eliminating the possibility of the wasteful practice of Shark finning, but will also aid the enforcement of catches, producing increased scientific information on the sharks that are being caught, which will further the conservation of these species.

You mention the geographically diverse use of carcasses and fins. We believe that this problem can be overcome through a range of measures, such as partial fin cutting. This technique means that the fin can be removed relatively easily from the carcass at port and transported elsewhere if required. We will seek to work with the fishing industry on this if problems are encountered.

The next step is to incorporate these changes into the regulation itself, so that this measure can be applied to all European Vessels. To this end I have already written to the European Commission to

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press for a full review of Council Regulation 1185/2003 to ensure all sharks caught in European waters are landed with their fins attached, and I am pleased to note in the Fisheries Commissioner's reply that it is planned for this calendar year.

You also mentioned other member states positions on this regulation. There is strong support from Member States such as Germany (who have also prohibited the removal of fins at sea), Belgium, Sweden and the Netherlands. Some of the major shark fishing nations such as France and Spain have also started to adopt a more conservation focused policy on these issues, and are likely to consider alternative approaches when the review of the Regulation takes place.

It is not clear yet what additional proposals will be brought forward as a result of the Plan of Action and as you acknowledge until such time it will not be possible to make an assessment of their impact. However, the Plan of Action has certainly been useful as it has served as a template for EU common positions in European and International fisheries management and conservation fora. I attach as an annex Council Conclusions that were adopted in 17 March 2009. The UK played an instrumental role in ensuring that these were robust and as such these adequately represent the UK's agreed position.

23 March 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 23 March 2010 responding to mine of 18 March 2009 was considered by Sub-Committee D (Environment and Agriculture) at its meeting of 7 April 2010.

We regret the delay in your response to my letter but we are nevertheless pleased to observe the success that you appear to be having in pressing the Commission to review existing shark finning legislation. We will monitor the Commission's actions with interest.

I do not require a response to this letter.

7 April 2010

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

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to advise you that this proposal may go to Council at some point during the election period. For this reason it will not be possible for the Committees to see this proposal before it is agreed.

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

6 May 2010

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

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to advise you that this proposal may go to Council at some point during the election period. For this reason it will not be possible for the Committees to see this proposal before it is agreed.

The purpose of the proposal is to formally open negotiations with Micronesia for agreeing a fisheries partnership agreement. It is important that negotiations commence to allow uninterrupted fishing operations for Community vessels. The UK does not have fishing opportunities under this agreement,

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but we did not wish to inconvenience other vessel owners with an interest in the fishery and thus voted in favour of the proposal.

6 May 2010

FISHERIES: PARTNERSHIP AGREEMENT WITH THE REPUBLIC OF GUINEA (16810/09)

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to advise you that this proposal is due to go to council on the 22nd December as an A Point. An EM will accompany this letter, unfortunately due to the tight timescale it has not been possible to have the EM considered by the committees before this point.

The purpose of the proposal is to terminate the fisheries partnership agreement with the republic of Guinea in reaction to serious political and civil unrest.

It is essential that the proposal is agreed at council as soon as possible, if agreement is not reached before January 1st the agreement will continue for another year. The Council on the 22nd December is the last chance to get this proposal through.

17 December 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 17 December, with an accompanying Explanatory Memorandum of the same date, was received in this office on 19 January, and considered by Sub-Committee D at its meeting on 27 January.

You have explained that the proposal, to terminate the fisheries partnership agreement with the republic of Guinea (in view of the serious political and civil unrest in that country), was to be agreed on 22 December. We are content formally to release the proposal from scrutiny.

We regret that this is a further instance of a scrutiny override on a dossier overseen by your Department. Timing was clearly tight on this occasion, but we note that the proposal was published on 27 November: a scrutiny override was not therefore unavoidable. We have been kept informed of the steps taken by your Department to improve handling of parliamentary scrutiny. We trust that these steps will prevent a recurrence of the delay exemplified in this case.

29 January 2010

FISHERIES: PORT STATE MEASURES TO PREVENT, DETER AND ELIMINATE ILLEGAL, UNREPORTED AND UNREGULATED FISHING (IUU) (14729/09)

Letter from the Chairman to Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum (EM) on the above document was considered by Sub-Committee D at its meeting of 2 December 2009.

We note that the proposal has been adopted by written procedure and that scrutiny has therefore been over-ridden. Like you, we are supportive of the Decision and, for the record, we will now release it from scrutiny.

On a number of occasions recently, we have remarked that the scrutiny process has not worked well: we consider that this is a further example. As the Commission published its proposal on 16 October, it seems to us that it would have been possible for you to produce an EM more promptly, and it is regrettable that your letter of 11 November warning of an override only reached us on 23 November. Could you let us know why there was this delay?

Notwithstanding those comments, we have been pleased to hear that one of your Department's Directors is actively considering steps to improve Defra's handling of the scrutiny process, and we

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look forward to hearing more about the practical outcome of this review before the Christmas recess.

2 December 2009

Letter from Huw Irranca-Davies MP to the Chairman

Thank you for your letter of 2 December 2009. I deeply regret that it was necessary to override the scrutiny process on this occasion and fully recognise that doing so is not usually acceptable. The delay in submitting the Explanatory Memorandum arose because of an administrative oversight which meant that Defra did not receive the proposal through the usual channels.

Unfortunately when the original documents were sent to the House, my letter to you of 11 November was not attached. This was rectified as soon as we were made aware of the error. Please accept my sincere apologies for this omission.

24 March 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 24 March 2010 responding to mine of 2 December 2009 was considered by Sub-Committee D (Environment and Agriculture) at its meeting of 7 April 2010.

We are grateful for your response and for your acknowledgement that the administrative mistakes arising with this document were regrettable.

Nevertheless, we know that, since December, Defra has improved its arrangements for supporting parliamentary scrutiny, and we are pleased to observe that the results so far have been positive. We trust that this improvement will be sustained.

I do not require a response to this letter.

8 April 2010

FISHERIES: SUSTAINABLE BALANCE BETWEEN FISHING CAPACITY AND OPPORTUNITIES (5382/09)

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to update you with developments concerning the above Explanatory Memorandum, following your last letter on 11 March 2009.

You expressed regret at the UK's late reporting to the Commission. A combined report covering 2007 and 2008 information was submitted on 26 June 2009 and accepted by the Commission. While this report was late, the content of the report represented a significant level of work.

The reasons for the UK not meeting the reporting deadline are several. The Unit that produces the report plays a key role in the provision of analysis to support both the development and delivery of fisheries policy. In response to the problems experienced in earlier years, measures were put in place to increase the availability of analysts in the UK to produce the report to the required deadline. These new staff were introduced during 2008 and the early months of 2009. Unfortunately their relative lack of knowledge of the subject area affected their ability to contribute to the report, as did the introduction of a further set of revisions to the Commission guidelines for the content of the report, including the requirements for new indicators. However, the UK report on the situation in 2008 (including information related to 2007) did contain a significantly greater level of technical analysis than in earlier years. A copy of the 2008 report and technical annexes is included as requested.

You also asked what steps the UK has taken to work with the Commission to improve the guidance issued to Member States in order that a proper assessment of their efforts to achieve a sustainable balance between fishing capacity and fishing opportunities can be undertaken. The UK has commented to the Commission several times that the report and its associated guidelines do not bring out the difficulties of what is being asked from Member States, even in their most recent forms. Simply to equate the level of fishing capacity in use with the biological sustainability of the resource is not an

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appropriate measure of whether the balance required is being achieved. The Commission and the STECF made several comments on the UK report: we will look to incorporate these into the UK report for 2009 – preparation of which has begun – and will engage with Commission officials on the above points as well.

20 March 2010

FISHERIES: TARIFF QUOTAS FOR CERTAIN FISHERY PRODUCTS 2010-12 (13266/09)

Letter from the Chairman to Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs

Your letter of 25 November 2009, replying to mine of 29 October, was considered by Sub-Committee D at its meeting on 2 December 2009.

You provided further information on the negotiations now taking place at the World Trade Organisation. We conclude, from your account of the WTO negotiations, that you are looking to this process to secure the ending of Autonomous Tariff Quotas. If this is not the case, we trust that you will let us know.

2 December 2009

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

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

Thank you for your letter of 21 October on the above Proposal. I note that you had not had a reply to your letter of 4 June on this topic, for which I sincerely apologise.

Turning to your point on discards in the context of the above proposal, I fully share your sense of encouragement that these will receive due attention within the relevant TAC calculation. The principle of including estimates of discards in such calculations is an established one – but the key aim will be to continue to improve the data picture, so that the overall mortality figure arrived at is as reliable as possible. Continuing improvements in this area – through the recently agreed Control Regulation, and the Data Collection Framework – will serve to enhance the accuracy of discard estimates.

As the Commission's impact assessment for this proposal has made clear, scientists have also highlighted the importance of capturing an accurate picture of the overall annual mortality impact on fish stocks. This will be key to the success not only of this proposal, but for all such multi-annual plans, to ensure the effective application of long term management principles, and helping to ensure the sustainability of relevant fisheries.

My position is to be fully supportive of the above process, and crucially to fully support discard reduction initiatives. This issue, as you are aware, is a priority highlighted by the Commission, and certainly this is the case here in the UK, both through our own related discard reduction projects and in collaboration with other Member States.

You asked about the progress of negotiations on this proposal. I can confirm the dossier is not scheduled for agreement at Council this year, which means that once ready, its adoption will take place subject to full co-decision under the Lisbon Treaty arrangements.

7 December 2009

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 7 December, replying to mine of 21 October 2009, was considered by Sub-Committee D at its meeting of 16 December 2009.

We note your re-statement of UK support for discard reduction initiatives. However, given that, as you say, the proposal is not scheduled for agreement at Council this year and will now be subject to

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the co-decision procedure, we shall keep it under scrutiny until more is known about how negotiations with other Member States, and the European Parliament, develop.

16 December 2009

Letter from Huw Irranca-Davies MP to the Chairman

Thank you for your letter of 16 December 2009, following consideration of my letter of 7 December by Sub-Committee D. I am writing to update you on the progress with negotiations on this dossier.

The proposal was last discussed at Fisheries Working Group on 4 February 2010, where a compromise text was agreed, reflecting proposed adjustments to text amendments suggested by the European Parliament. The Presidency anticipated this dossier would then be the subject of an informal trilogue with the European Parliament, where the compromise text would be considered. The dossier proceeds under the co-decision process.

18 March 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 18 March 2010, replying to mine of 16 December 2009, was considered by Sub-Committee D (Environment and Agriculture) at its meeting of 7 April 2010.

Following the entry into force of the Lisbon Treaty, and the consequent application of the ordinary legislative procedure to the dossier, we understand that negotiations between the European Parliament and Council have been largely technical thus far and that agreement is not imminent.

We will continue to hold the proposal under scrutiny, awaiting information from you on the likely shape and timing of any agreement.

7 April 2010

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

Letter from the Chairman to Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum (EM) on the above report and your letter of 20 March on last year's report were considered by Sub-Committee D (Environment and Agriculture) at its meeting of 7 April 2010.

We note that, while the UK managed to report to the Commission, the report was nevertheless submitted nearly two months late. Your letter attributes much of the delay to personnel problems. We consider it unacceptable that your Department failed to act sooner and more effectively in rectifying these problems, and we are also disappointed that the Government still appear to be experiencing problems in working with the Commission in order to establish effective indicators that will allow a meaningful analysis to be undertaken.

For that reason, we look forward to the results of your work on efforts during 2009, the deadline for which is 1 May 2010. We would be grateful for a copy of the report once it has been submitted to the Commission. If your Department fails to meet the deadline of 1 May, we shall look for a full explanation of any such failure.

More generally, the conclusions reached by the Commission are extremely disappointing. Our report assessing the Progress of the Common Fisheries Policy suggested that the root cause of poor performance has been Member States' reluctance to bring the size of their fishing fleets into line with the available fishing opportunities. The Commission used similar language, arguing that the imbalance between fleet capacity and available resources is at the root of many problems related to economic performance, weak enforcement and overexploited resources.

We see nothing to suggest that anything has changed. In the meantime, stocks continue to dwindle alarmingly without any apparent concern by Member States. The capacity reductions observed continue on a downward trend of 2-3%, which in itself is insufficient and will most likely be neutralised by technological progress. For this reason, we would urge you to request a debate in Council on this

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report and to alert the Commission and the other Member States of the urgency of progress on this matter. While the continued problems demonstrate the urgency of CFP reform, progress should not await completion of the reform process.

We are content to release the report from scrutiny but look forward to your response on the points raised above. I would be grateful to receive a reply to this letter by the end of this month.

8 April 2010

FISHING: RESTRUCTURE OF THE EU FISHING FLEETS AFFECTED BY THE ECONOMIC CRISIS (11369/08, 11370/08)

Letter from Huw Irranca-Davies MP, Minister for the Natural and Marine Environment, Wildlife and Rural Affairs, Department for Environment, Food and Rural Affairs, to the Chairman

I write in response to your predecessor's letter of 10 October 2008, asking which elements of Council Regulation (EC) 744/2008 Defra and the Devolved Administrations intended to avail themselves of. I apologise for the delay in replying: while a reply was drafted in November 2008, it has come to my attention that this was lost in transit.

After working closely with the Commission and the fishing industry, the following measures were introduced in January 2009 to support industry adaptation, and are available for funding until 31st December 2010:

- investments on board fishing vessels to improve energy efficiency and measures to combat climate change;
- collective actions including energy audits and developing restructuring and modernisation plans; and
- pilot projects to test technical improvements aimed at reducing energy consumption for vessels, engines, equipment or gear.

As previously indicated, the allocation of funds was also revisited and a greater proportion assigned to Axis 1 in order to support the restructuring of the fleet.

The mid-term evaluation of the European Fisheries Fund will be conducted in late 2010/early 2011, at which time we will be reviewing the effectiveness of the UK Programme and our priorities for the remainder of the programming period.

8 April 2010

FOOD: FOOD PRICES IN EUROPE (17380/08)

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing in response to Lord Roper's letter of 11 March 2009 to my predecessor concerning the Explanatory Memorandum on the above Communication from the Commission. I apologise for the delayed response, it appears my predecessor's response to your correspondence was lost in transit.

Since that correspondence, the European Commission has progressed this work and on 28 October 2009 published a Communication entitled 'A better functioning food supply chain in Europe' (reference 15330/09) as a follow-up to this report on food prices. A further Explanatory Memorandum was submitted to Parliament on 24 November 2009. While the latter Communication takes forward some of the issues identified in your letter of 11 March 2009, my response to the points you raised is set out below.

Firstly, I welcome your support in adopting a cautious approach to hasty intervention in the food supply market and on any future measures to address excessive volatility in agricultural commodity markets for the very reasons you set out. We will be keeping a close eye on this as the European Commission and European Parliament's thinking develops.

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In order for future initiatives to improve the functioning of the food supply chain to be effective they must be underpinned by evidence, and we will therefore continue to press the Commission to prepare rigorous impact assessments to better understand the impacts of proposed intervention. In some cases further economic modelling may be required to better understand the issues affecting the market.

We also need to consider in more detail the potential impact that any firm Commission proposals to address excessive volatility in commodity derivatives markets might have on the food supply chain. The October 09 Communication provides some insight on the areas where the Commission may look to intervene, for example, the possibility of enabling regulators to set position limits. However the impact of this should be explored in EU Impact Assessments accompanying specific proposals. Further details will be brought to the attention of the House in due course.

With regard to the EU's proposed monitoring of food prices and the supply chain, the Commission used a pilot project run by Eurostat and the National Statistics Offices to collect comparable price data on around 50 specifically identified food products sold across Europe from April to June 2009. The aim of the pilot was to produce average prices in order to compare absolute prices between European Countries. The results of the pilot were published alongside the latter Communication in October 2009 in the form of the new 'European Food Price Monitoring tool'.

Within the UK the pilot was run as part of the regular 3-year Purchasing Price Parity (PPP) survey on food and the Office for National Statistics was able to use the existing data collection processes to meet the requirements of the project.

The Commission has since committed to developing the European Food Price Monitoring tool to cover a greater number of food products and chains. However until they put forward firm proposals on how this might be implemented we can only speculate on any associated cost implications. In any event we would be keen to utilise existing survey activity wherever possible to mitigate additional costs, and we will continue to press the Commission for cost/benefit analysis of various strategies for producing detailed average prices. It is also encouraging that the Commission has suggested the need to consider existing public and private price monitoring resources.

Once again we will be keeping a watchful eye as this proposal develops and will keep the Committee informed of any further developments on this issue going forward.

14 April 2010

GMES: EUROPEAN EARTH OBSERVATION PROGRAMME (10285/09)

Letter from Dan Norris MP, Minister for Rural Affairs and Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to provide an update on the progress of the above regulation, which is being held under scrutiny.

For the European Parliament, responsibility lies with the ITRE Committee, which has nominated Mr. Norbert GLANTE (S&D-DE) as rapporteur. The budget environment and Civil Liberties committees will provide opinions. Within the Council, the draft Regulation is negotiated within the Research Working Party.

Draft opinions and proposed amendments have been produced by the ITRE, budget and environment committees and the Government has provided briefings to UK members of these committees to express its views. The main thrust of the amendments proposed by these committees relate to the budget, which is considered inadequate to cover the actions proposed in the regulation; data policy, where there is a strong push to state explicitly that all GMES service will be free at the point of use; and governance where there is a desire to ensure streamlined management of the programme between the EU, member states and other institutions, including the European Space Agency.

The Council Research Working Party began discussions under the Swedish Presidency which have now continued under the Spanish Presidency. The Government has participated actively in these discussion to present our views where we continue to emphasise the need for equal treatment of the marine and atmosphere services; agree with the principal of open data access, so long as security and pre-existing license restrictions are respected; and stress that any increases in the budget should be met by re-allocation of existing funds.

The Spanish Presidency presented a first compromise text on January 15 2010 and this is now the subject of further comments from Member States.

[Type text]

There is support within the Parliament, Council and Commission for exploring the opportunity for a first-reading agreement with the aim of securing an agreed final text by the end of June 2010.

16 March 2010

Letter from the Chairman to Dan Norris MP

Your letter, dated March 2010, on this proposal was considered by Sub-Committee D at its meeting of 24 March 2010.

You offer an update on progress with the proposal and say that there is support for securing an agreed final text by the end of June. You also say that the UK has continued to emphasise its concerns in relation to the proposal.

Given that discussion of the proposal continues, we will keep it under scrutiny, and ask that you should provide more detailed information about its likely final shape in good time before agreement is sought later this year.

25 March 2010

GOTHENBURG PROTOCOL

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs, to the Chairman

In December 2007, the Executive Body to the Convention agreed to begin revision of the Gothenburg Protocol, which sets national emission ceilings for the four air pollutants (sulphur dioxide, nitrogen oxides, volatile organic compounds and ammonia) that contribute to acidification, eutrophication and ground level ozone. The ceilings must be met by 2010 and the Protocol specifies the emission standards and abatement technologies that should be applied to achieve those ceilings.

The revision process is expected to set new emissions ceilings for 2020 and updated technological requirements that go beyond existing EU legislation, but not beyond new EU legislation currently under negotiation. The Protocol requirements largely reflect existing EU provisions set out in the National Emission Ceilings Directive (2001/81/EC) and the Integrated Pollution Prevention and Control Directive (96/61/EC) and it was on this basis that the European Commission proposed a mandate in late 2009 to negotiate on behalf of the EU, citing Community competence in the policy areas covered by the Protocol and the need to ensure consistency with EU legislation. The mandate documents are classified as 'restreint' and 'limite', and therefore not deposited for scrutiny.

The UK accepts that the European Union has competence in the policy areas covered by the Gothenburg Protocol and does not dispute the need to give the Commission a mandate. However, negotiations remain at an early stage with firm EU positions on which to grant a specific mandate not yet agreed. A limited mandate has therefore been agreed which ties the Commission to negotiating in accordance with existing legislation and with agreed EU positions. The mandate has been granted for the duration of 2010 and 2011 and the Council may review the content of the negotiating directives at any point during that period and in any case after the 28th session of the Executive Body to the Convention in December 2010. It is expected that, as negotiations on revision of the Gothenburg Protocol progress and EU positions evolve, it may be necessary to amend the mandate.

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

30 March 2010

GREEN PAPER: FOREST PROTECTION AND INFORMATION IN THE EU (7060/10)

Letter from the Chairman to Huw Irranca-Davies MP, Minister for Marine and Natural Environment, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum of 15 March 2010 on the above document was considered by Sub-Committee D (Environment and Agriculture) at its meeting on 7 April 2010.

We have now completed an inquiry into adapting EU agriculture and forestry to climate change, which took as its basis the Commission White Paper of April 2009 and the accompanying paper dealing with agriculture and rural areas. Those publications said relatively little about forestry, but it

[Type text]

was indicated to us that the Forestry Green Paper (to which your EM relates) would make good those omissions.

Our assessment is that the Green Paper does not rise to those expectations. In particular, it makes no real contribution to a consideration of the links between agriculture and forestry in adapting to climate change, although we are clear that there are issues here which need to be explored. We look to the Government to address these issues in the response which will be offered to our inquiry report later in the year.

We note your comment that competence issues would arise if the EU took on an increased role on forest policy. As we make clear in our report, we see a role for the EU to work with Member States generally to improve knowledge about climate change impacts; and, in the context of forestry, we agree that the EU's collaborative and co-ordinating role could assist in sharing knowledge about forest conditions, notably pests and diseases.

The Green Paper invites responses to five questions, highlighted in it. We would be interested to see the responses which the Government intend to offer to these questions. While the Commission has set a deadline of the end of July, we would like to hear more about the Government's thinking on these issues in June of this year, even if definitive responses have not been formally settled by then.

We will retain the Green Paper under scrutiny while we await this information from you. I would be grateful to receive a reply to this letter in June.

8 April 2010

GREEN PAPER: MANAGEMENT OF BIO-WASTE IN THE EUROPEAN UNION (17559/08)

Letter from Dan Norris MP, Minister for Rural Affairs and Environment, Department for Environment, Food and Rural Affairs

Thank you for your letter of 11 March 2009. I am writing to update you on the issues you raised, and I am sorry for the delay in doing so.

Your letter asked for clarity on:

- (a) the Government's stance on bio-waste when negotiating the revision to the Waste Framework Directive (WFD), including what types of measures we had in mind when agreeing Member States should introduce bio-waste management measures; and
- (b) information on the Government's bio-waste reduction strategy, in particular whether waste reduction would be included in our response to the Commission's Green Paper.

In response to point (a), the Government's stance should be understood in the wider context of discussions on bio-waste. During the negotiations on the revision to the WFD several Member States were concerned that the Commission had dropped an earlier proposal to introduce a self-standing Bio-waste Directive. This led the Presidency to propose a requirement in the revision of the WFD for Member States to take measures to encourage the separate collection of bio-waste; the treatment of bio-waste in a way that fulfils a high level of environmental protection; and the use of high quality products produced from bio-waste. It also proposed a requirement for the Commission to carry out an assessment on the management of bio-waste, with a view to the preparation of a Directive and the submission, as soon as possible, of an appropriate Proposal. During these discussions the UK took the stance of resisting an explicit commitment for the Commission to prepare a Directive on bio-waste.

The UK did not have any specific measures in mind at the time of negotiation. We felt we should consult on whether the UK would need to adopt any further measures beyond what we were already doing in order to comply with the requirements of the Article as part of the transposition of the Directive. We have undertaken that consultation and the full Government position was outlined in paragraphs 2.125 to 2.132 of the Consultation document. The Consultation document and a summary of responses received are available on the Defra website at <http://defraweb/corporate/consult/waste-framework/index.htm>.

In relation to point (b), the Government responded to the Commission's Consultation on the Green Paper in March of last year. The response addressed the issue of bio-waste reduction in the section headed "Better Prevention of Bio-waste". I have attached a copy of the reply as an annex to this letter. We are expecting the Commission to publish a report in April following the consultation with recommendations for next steps.

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Waste prevention is at the forefront of the Government's strategy for managing bio-waste and formed part of the Government's Waste Strategy 2007. In general waste prevention is far more effective in resource and energy-saving terms than management or treatment of waste once it has arisen: for example the embedded energy saved by not wasting food is more than five times that recoverable from food once it becomes waste. This is in line with Article 4 of the revised Waste Framework Directive, which has prevention at the top of the 'waste hierarchy', and requires Member States to promote it ahead of re-use, recycling, recovery or disposal.

The Government has already established a number of programmes to aid the prevention of bio-waste. The 'Love Food Hate Waste' awareness campaign aims to encourage behavioural change by working with the UK grocery sector, food industry and Government to help consumers get the most from the food they buy, and to waste less of it. The campaign has a target to reduce food waste by 250,000 tonnes by the summer of next year. We have just launched Phase II of the 'Courtauld Commitment'. This is an important voluntary agreement between Government and major retailers and manufacturers, which aims to reduce household packaging and food waste. The signatories to Phase I accounted for 92% of the grocery sector, and agreed to work on a newly quantified food waste reduction target to reduce the amount of food households throw away by 155,000 tonnes by 2010, compared with 2008 figures. The Government is also working closely with the Waste and Resources Action Programme (WRAP) and the Food Standards Agency (FSA) on a project which will help prevent consumer food waste through the application and increased understanding of date labelling (use by, best before, sell by, display until etc), and food storage and use guidance. A number of charitable organisations also play a valuable role in minimising food waste by providing the food industry, including supermarkets and restaurants, with an outlet for good quality surplus food by redistributing it to vulnerable people in the community. This is a role we very much encourage.

So while we are already doing much to prevent bio-waste, we want to continue working closely with retailers, suppliers, consumers and others to do more. For example, we are exploring the possibilities for working with partners in a number of specific sectors, such as the hospitality sector and schools, to reduce the amount of food waste they produce. This all forms part of the Government's strategy to provide increasing focus on the prevention of bio-waste.

7 April 2010

IMPLEMENTING ENVIRONMENTAL LAW (16222/08)

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I am writing to update you on the progress of the above Explanatory Memorandum, further to your letter of 29 January 2009 to Lord Hunt.

You asked for my views on whether the significant problems faced in implementing Community environmental law would suggest that it is appropriate to ensure high compliance with the environmental acquis before it is expanded further.

The key building blocks of EU environmental legislation are already in place, and I agree that improving environmental standards is best achieved by proper implementation of the acquis. For example, the work done by Defra and the Welsh Assembly Government on streamlining environmental permitting is designed both to improve implementation and enforcement and to reduce administrative burdens.

Improving the implementation of existing legislation does not necessarily mean there should be no new environmental legislation; for example, it may be appropriate to legislate to rationalise existing measures. However, any new or revised legislation should be evidence- and science-based; should be designed to ensure the minimum necessary regulatory and administrative burdens; should have compliance costs weighed against the benefits; and should have sufficient flexibility to take account of the ability of national regimes to deliver the desired outcome. In this vein, Defra will contribute to putting into practice the cross-government commitment, made in the 2010 budget document, to press for the European Commission to consult on individual impact assessments before making policy decisions, and to assess the overall costs and benefits of new measures in the pipeline.

31 March 2010

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INTEGRATED PRODUCT POLICY (17812/09)

Letter from the Chairman to Dan Norris MP, Minister for Rural Affairs and Environment, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum (EM) on this report was considered by Sub-Committee D at its meeting on 10 February 2010.

We note that the report offers information on progress in bringing the Integrated Product Policy (IPP) approach to policy-making and to business practice in the period since a 2003 Communication from the Commission. Your EM suggests that the principles underlying IPP are being absorbed into the wider Sustainable Consumption and Production approach to production, so that IPP as such is likely to be given less explicit emphasis in future. This sounds to be a welcome development. We are content to release the report from scrutiny.

10 February 2010

POLLUTION: INDUSTRIAL EMISSIONS (5088/08)

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs, to the Chairman

I was grateful to have last July your Committee's scrutiny clearance of the proposed industrial emissions (integrated pollution prevention and control) Directive. I am now writing to update you on progress.

As I reported in my 14 July 2009 letter to you, the UK fully supported the political agreement. Although the Jurist/Linguist stage following the political agreement in June 2009 was completed by the end of September, the further stage of formal adoption of the Council position had not been completed when the Treaty of Lisbon entered force on 1 December. Since the Treaty on the Functioning of the European Union (TFEU) introduced by Lisbon contains changed comitology provisions, it was necessary for the Council to reconsider the six instances of comitology provisions which were in the politically-agreed text. Upon completion of that task, the Council formally adopted its position on 15 February 2010.

The Commission's views on the Council position are set out in its 24 February 2010 Communication (COM(2010) 67 final - 2007/0286 (COD)). Its conclusion is that

'the changes [to the Commission's original proposal in December 2007] introduced by the Council are acceptable, since they are consistent and build upon the Commission's proposal, except certain assessments made by the Council regarding the conferral of powers on the Commission, as provided by Articles 290 and 291 (TFEU).'

The exception here relates to the post-Lisbon changes. Whereas Member States were virtually unanimous in favouring the use of TFEU Article 291 (providing for the adoption of implementing acts), the Commission favours the use of TFEU Article 290 (providing for delegated acts).

The Council's reasons for its position are set out in a statement of reasons dated 15 February 2010 (11962/3/09 REV 3 ADD 1). The statement concludes that 'the Council believes that its position at first reading represents a balanced package. It looks forward to constructive discussions with the European Parliament with a view to the early adoption of the Directive.'

The Council position was sent to the European Parliament at the beginning of March to initiate the 2nd Reading process which is currently scheduled to culminate in a Plenary vote in the period 5-8 July 2010. A draft recommendation from the Environment committee rapporteur on the Council position became available at the same time.

17 March 2010

Letter from the Chairman to Jim Fitzpatrick MP

Your letter of 17 March 2010 on the above document was considered by Sub-Committee D at its meeting on 7 April 2010.

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We are grateful for the update which you have provided. You explain that the Second Reading process in the European Parliament is expected to culminate by 8 July of this year. I would ask that you send a further update at that point.

7 April 2010

SALMONELLA: CONTROL OF FOOD-BORNE SALMONELLA (10769/09)

Letter from Jim Fitzpatrick MP, Minister for Farming and the Environment, Department for Environment, Food and Rural Affairs, to the Chairman

Thank you for your letter of 21 October 2009 in which you asked for an assessment of the level of animal health risk posed by contaminated vegetable feed.

The EC Regulations for *Salmonella* control in broilers concern *Salmonella* Enteritidis and *Salmonella* Typhimurium and these serovars are very rarely found in animal feed and ingredients. Other 'exotic' *Salmonella* serovars are found at a low prevalence in animal feed, particularly imported soya bean and rape seed meal, and can occasionally lead to infection – manifested as intestinal carriage of *Salmonella* without any clinical disease – in broilers.

These types of *Salmonella* can occasionally be found on broiler carcasses and meat and in a very small proportion of human *Salmonella* cases, but a definitive link between these human cases and broiler infection of feed origin has not been demonstrated in the UK. In most cases contamination of feed ingredients is eliminated by heat treatment and pelleting of the broiler feed during manufacture, but recontamination may occur occasionally.

The feed industry operates to codes of practice that aim to minimise the occurrence of *Salmonella* at all stages of feed ingredient storage and transport and finished feed production. Concentrating resources on timely and effective implementation of controls for *Salmonella* serovars in broilers that represent a significant human health risk will provide the maximum benefit in terms of public and animal health, rather than diverting resources into additional control of potential sources of less significant types of *Salmonella*.

11 December 2009

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

Letter from Huw Irranca-Davies MP, Minister for Marine and Natural Environment, Department for Environment, Food and Rural Affairs to the Chairman

I wrote to you in May 2009 to update you on the progress of negotiations, and on my own stance towards the above proposal, ahead of the June Environment Council. At that time, I had serious outstanding concerns remaining, despite positive progress that had been made under the Czech Presidency. My letter to you outlined my intention to vote against the proposals should the Czech Presidency pursue political agreement at Environment Council in June 2009.

In the event, the Czech Republic did not pursue political agreement, and instead tabled a progress report only. The subsequent Swedish Presidency did not prioritise the dossier. It was handed over to the Spanish Presidency, which resumed negotiations in January this year. Spain initially restarted discussion on the basis of the text which was rejected when the UK formed a blocking minority with Germany, France, Austria and the Netherlands at Environment Council in December 2007. It has since presented two compromise texts of its own, but has failed to address my fundamental concerns, and those of the rest of the blocking minority.

Following COREPER discussions on the dossier it was clear that there was no prospect of a qualified majority in favour of agreement. The Spanish therefore abandoned the hope of reaching political agreement at Environment Council on 15 March, when they presented a progress report. It is not yet clear how discussions will be further progressed, as Spain could choose to continue negotiations during the rest of its Presidency, or may hand over the dossier to the following Belgian Presidency.

In the meantime, my own position remains unchanged, and my continuing concerns are as I outlined to you in May last year.

After three and a half years of discussions on the dossier, the blocking minority, though still fragile, remains in place and there appears to be little prospect of agreement under the Spanish Presidency.

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Furthermore there are indications that my concerns are increasingly shared with a widening range of Member States. To make progress I continue to believe that there is a need to look afresh at the issues that the Directive is designed to address and where EU action can best add value.

I will continue to keep the Committee updated on developments in negotiations and progress towards the UK's negotiating objectives.

14 March 2010

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 14 March 2010 on the above documents was considered by Sub-Committee D (Environment and Agriculture) at its meeting of 24 March 2010.

We note that the draft Directive remains blocked in Council by a minority of Member States, including the UK.

Soil management has emerged as a key issue in the context of the Committee's recent inquiry into the adaptation of EU agriculture and forestry to climate change, and may well merit closer consideration in the future. It has become clear to us that soil protection has an important role to play in both adapting to, and mitigating, climate change. On that basis, it may be that legislation of this nature is appropriate at the EU level as long as it is, as you describe, focused on the appropriate issues.

You describe the blocking minority as "fragile", and it is therefore important that the UK engages constructively in debate on the dossier. We would be grateful for an explanation of how you are doing so and, in particular, how you are leading the debate to which you allude on looking at the issues that the Directive is designed to address and where EU action can best add value.

We will retain both documents under scrutiny and we look forward to information as requested above and as negotiations progress.

25 March 2010

Letter from Huw Irranca-Davies MP to the Chairman

I am writing regarding Lord Roper's letter of 25 March 2010 on the Soil Framework Directive negotiations.

I fully agree with you about the fundamental importance of soil protection, and that soils have a critically important role in terms of both mitigation of, and adaptation to climate change. Indeed, Defra's Climate Change Plan 2010 (published on 1 April) recognises this, and summarises the work we already have in progress to strengthen the evidence on the impacts of climate change on soils and the protection and enhancement of soil carbon stores. Similarly, the Soil Strategy for England (published in September 2009) sets out our policy priorities and specific commitments on mitigation, adaptation and soils.

Degraded and damaged soils are a very real issue in some parts of the European Union, and the UK has always agreed that EU action could help to ensure the protection of our soils. However, I do not believe that the Directive as currently drafted will deliver added value at the EU level, but instead could impose unnecessary burdens on farmers, businesses and the Government. The UK is very keen to look afresh to find an approach which is proportionate to the risks involved, respects the principle of subsidiarity and the domestic action that is already being taken domestically and at EU level, and will not divert resources from other environmental priorities.

You requested more information on how we are engaging constructively in debates on the dossier, noting the fragility of the current blocking minority. The department is involved in an extensive programme of discussions on the issues covered by this dossier, and the alternative approaches which may exist, at both official and Ministerial level. Ministers regularly discuss the dossier in bilaterals with EU counterparts and the Secretary of State prompted a detailed discussion on where discussions should go from here at the recent March Environment Council. Our activity is also supported by the involvement of British Embassies throughout Europe, making the case for UK objectives in capitals, as well as through key stakeholders (such as the NFU and CBI) who share the Government's views. The Secretary of State has also recently met with the new Environment Commissioner to discuss our concerns and a further meeting to discuss these issues in more detail is expected in due course. At the time of writing, we await further news of plans for this dossier under the current Spanish Presidency, but I can assure you that we will continue to play an active role in any discussions which take place under either the current or forthcoming Belgian Presidency.

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13 April 2010

**TIMBER: AGREEMENT BETWEEN THE EU AND THE DEMOCRATIC REPUBLIC OF
CONGO ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (FLEGT)
(5406/10)**

**Letter from the Chairman to Huw Irranca-Davies MP, Minister for Marine and Natural
Environment, Department for Environment, Food and Rural Affairs**

Your Explanatory Memorandum (EM) on the above proposal was considered by Sub-Committee D at its meeting of 24 February 2010.

In terms of the policy aspects of this proposal, we welcome its objective and we consider it extremely positive that the FLEGT policy has developed to the extent that two Voluntary Partnership Agreements have been negotiated. We would note that enforcement of the VPA will be crucial and we would appreciate your view on whether the appropriate systems are in place to monitor enforcement.

Procedurally, we note that your EM was substantially identical to the EM relating to the VPA with Ghana. In the meantime, the Lisbon Treaty came into force but paragraph 6(i) of your EM relating to the legal base for the proposal does not reflect the change. We would remind you that the provision of accurate EMs to Parliament is crucial for the scrutiny process.

We are content to release the proposal from scrutiny and look forward to your view on the issue raised above.

24 February 2010

Letter from Huw Irranca-Davies MP to the Chairman

Thank you for your letter of 24 February 2010 regarding the proposed signing of the FLEGT Voluntary Partnership Agreement between the EU and the Republic of Congo.

You highlighted the importance of enforcement for the FLEGT scheme. I agree that for the FLEGT scheme to deliver its objectives it will not only be essential for FLEGT partner countries to enforce their own governance arrangements, but also for the UK system for receiving FLEGT shipments to be effectively implemented.

All countries currently in negotiation with the EU on Voluntary Partnership Agreements plan to apply FLEGT legality assurance systems to all their exports, and VPAs will preclude the licensing of timber where there is evidence that it might have come from illegal harvests. We continue to work with VPA countries to develop robust approaches to enforcement. For all of the VPAs under negotiation, independent monitoring of their legality assurance systems as well as stakeholder scrutiny will provide timely warnings if particular enforcement issues arise. Before licensing commences, there will be an assessment of each country's system to ensure that it precludes the possibility of licensing illegal timber.

The UK, through our Department for International Development (DfID), is providing support to Ghana, Indonesia, Liberia and Cameroon to develop their control systems, including legality assurance and independent monitoring.

We have also recently completed a consultation on the proposed arrangements for implementing the UK FLEGT scheme (<http://www.defra.gov.uk/corporate/consult/flegt/index.htm>). The UK is aiming for inspections and enforcement to be conducted in a risk and intelligence-led manner, based upon established intelligence models, and in line with government policy on minimising the burden of inspections on UK business. We will be building on the systems already in place as part of the CITES Management regime to ensure realise synergies and savings, as well as learning from the best practice already present in this system.

Your response also noted the changes to the EU Treaties following the entry into force of the Lisbon Treaty. Unfortunately, as you noted, our reference to the appropriate legal base in Para 6(i) was incorrect and should have referred to Article 207, in conjunction with Article 218(5), of the TFEU. We can only apologise for this oversight.

20 March 2010

[Type text]

Letter from the Chairman to Huw Irranca-Davies MP

Your letter of 20 March about this proposal was considered by Sub-Committee D at its meeting of 7 April 2010.

We were grateful for the information which you provided in your letter. We have already released the proposal from scrutiny, and we do not require a further response to this letter.

8 April 2010

WASTE: IMPLEMENTATION OF COMMUNITY WASTE LEGISLATION 2004-06 (16750/09)

Letter from the Chairman to Dan Norris MP, Minister for Rural Affairs and Environment, Department for Environment, Food and Rural Affairs

Your Explanatory Memorandum on the above Report was considered by Sub-Committee D at its meeting on 10 March 2010.

It is clear from the Commission analysis that compliance with some waste legislation, notably the landfill Directive, remains a substantial problem. We note from the Commission's document that the proportion of waste disposed of in landfill in the UK is above the average for the EU-27 (at just below 60%, compared to an average of 55%). Despite the obvious improvements made in recent years, we would be grateful for information on your strategy to tackle this matter.

The Commission proposes the establishment of a European body for monitoring and supporting the implementation of waste legislation. We would welcome your view on this suggestion.

We are content to release the Report from scrutiny and look forward to your comments on the issues raised above. It would be helpful to receive a reply by the end of this month.

10 March 2010

Letter from Dan Norris MP to the Chairman

Thank you for your letter of 10 March. You asked me for information on Government strategy to tackle the proportion of waste disposed of in landfill in the UK, and for my views on Commission proposals for the establishment of a European body for monitoring and supporting the implementation of waste legislation. Please accept my apologies that I was unable to reply by the end of last month as you requested.

You state that UK compliance with some waste legislation, including the landfill Directive, 'remains a substantial problem', which you base on the Commission analysis to responses made by Member States to a 2004-2006 survey. However, I draw your attention to the fact that this Explanatory Memorandum shows that the UK has fully implemented the Landfill Directive. I draw your attention in particular to the following paragraphs:

- The UK has fully implemented the Landfill Directive and the Council Decision introducing waste acceptance criteria at landfill sites. (paragraph 11)
- The Commission wrote to all Member States in July 2009 (the deadline) to remind them of their obligation, and gather data on compliance. The UK replied to that letter in November 2009. The UK reported that all landfill sites were now either compliant with the Directive's requirements or had ceased to operate and were subject to only final restoration in accordance with agreed closure plans. As a result the number of operational landfill sites in the UK has fallen considerably while the number of closed but regulated sites has increased. (paragraph 13)
- The UK anticipates being able to meet the target to reduce the amount of biodegradable municipal waste being sent to landfill to 75% of the total amount in 1995 by 2010. (The UK has a four year derogation so our target year is 2010). (paragraph 19)

Furthermore, the Government has put in place a range of measures to improve further in this area. Waste Strategy 2007 sets out the Government's strategy for reducing waste being sent to landfill. The

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aim is to move waste away from landfill and up the waste hierarchy so that it is prevented in the first place. If the waste cannot be prevented it should be reused, recycled or recovered.

On 18 March Defra published two consultations which set out the way forward on this issue:

- The Introduction of Restrictions on the Landfilling of Certain Wastes
- Changing the UK's Approach to Meeting the Landfill Directive Targets

The consultation on 'the Introduction of Restrictions on the Landfilling of Certain Wastes' examines the opportunities for restricting wastes such as food, wood, green waste, paper/card, metals, glass, plastics and textiles from being sent to landfill. It asks for views on the introduction of a number of options including landfill bans with or without the addition of a requirement to sort wastes, a tougher sorting or pre-treatment requirement and producer responsibility systems.

The consultation also invites comments on the appropriate lead-in times for the different options proposed. Introducing any of the options is likely to require a lead-in period to enable local authorities and businesses to make the necessary adjustments to their waste collection arrangements and for alternative infrastructure to develop. The Government's aim in providing lead-in times for landfill restrictions would be to strike the right balance between providing certainty of the change to come on one hand, with the need to allow sufficient time for the development of alternative infrastructure and procedures on the other.

The Government, through the consultation on 'Changing the UK's Approach to Meeting the Landfill Directive Targets', is reviewing the Landfill Allowance Trading Scheme (LATS). The consultation asks whether LATS, in relation to other policies such as landfill tax, is still an effective policy to assist England in meeting its share of the Landfill Directive targets.

The consultation seeks views and evidence on this issue and the range of policies Defra should be pursuing to ensure that England meets its targets. This will shape further work Defra intends to conduct, which assesses the impact of existing policies to divert biodegradable waste from landfill ahead of a planned second consultation.

You also asked for my views on the establishment of a European body for monitoring and supporting the implementation of waste legislation. The European Commission has not yet published a proposal for the establishment of such a body. However, it did invite Member States, industry stakeholders and non-governmental organisations to attend informal workshops on the possibility of establishing a Waste Implementation Agency on 2 April and 14 September 2009. The Commission, via consultants, also invited Member States to respond to an informal questionnaire on the feasibility of establishing such an Agency. The UK responded in April 2009 and confirmed that we are fully committed to the full and effective implementation and enforcement of EU waste legislation. However, the UK expressed the view that, were the need to strengthen the implementation of EU waste legislation confirmed, the first subsequent step should be to consider whether that need could be fulfilled by existing EU organisations. The UK also made the point that Member States are responsible for transposing Directives into national law and designating competent authorities to be responsible for the implementation of EU waste legislation. Therefore, the establishment of an EU Waste Implementation Agency could give rise to a potential conflict in terms of enforcement action taken by Member States' competent authorities under national transposing legislation, and with judgments which are properly made by those competent authorities.

11 April 2010