



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

This edition includes correspondence from 1 April – 30 June 2019

EU ENERGY AND ENVIRONMENT SUB-COMMITTEE

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PROPOSAL FOR A COUNCIL REGULATION FIXING FOR 2019 THE FISHING
OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS,
APPLICABLE IN UNION WATERS AND, FOR UNION FISHING VESSELS, IN CERTAIN
NON-UNION WATERS (13731/18)

**Letter from the Rt Hon Robert Goodwill MP, Minister of State for Agriculture, Fisheries
and Food, Department for Environment, Food & Rural Affairs**

Thank you for your letter of 13 March following up on a letter from George Eustice about the outcome of annual negotiations for fishing opportunities. I will reply to your points in order.

Maximum sustainable yield

The UK Government remains fully committed to sustainable fisheries management and the concept of maximum sustainable yield (MSY). This commitment has been laid out in our White Paper *Sustainable fisheries for future generations* and restated in the Fisheries Bill. Equally, we remain fully committed to ending the wasteful practice of fish discarding. The deal we secured at 2018's December Council respects our sustainability objectives while also mitigating the economic impacts on the UK's fleet.

Although there is a decrease this year, we have been making substantial progress towards stocks being fished at MSY levels in recent years. In 2018, 31 stocks of interest to the UK were fished at or below their MSY, out of 45 such stocks for which MSY assessments have been completed; compared with 25 assessed stocks in 2016. It is essential that we are making further progress towards fishing at sustainable levels to ensure healthy fish stocks and the future prosperity of our hard working fleet. However, we also have to accept that progress in achieving MSY has not been as anticipated when the 2020 target was agreed during the Common Fisheries Policy reform in 2014. Whilst having set ourselves onto the right trajectory, we acknowledge that MSY is unlikely to be achievable for all stocks by 2020. This was also accepted by the EU in 2019 where they indicated they considered it challenging to meet MSY for all stocks at all times "both for biological and socioeconomic reasons."¹

Following our commitments in the Fisheries White Paper and the 25 Year Environment Plan, the Fisheries Bill presents an ambitious but realistic approach to delivering long term progress for a healthy marine environment as well as thriving fishing communities. In fact, the Bill opens with our commitment to sustainable fisheries. The first clause is to enact several sustainability objectives, one of which is to restore fish stocks to levels capable of producing MSY. The Bill further places a binding duty on the UK Government, Scottish Government, Welsh Government and the Northern Ireland Department to work in partnership and produce a Joint Fisheries Statement, which must include policies for the achievement of the sustainability objectives, including on MSY.

Effect of quota uplift

The Government remains fully committed to ending the wasteful discarding of fish, but recognises that full implementation of the landing obligation can cause choke issues in some mixed fisheries. We have been working hard to mitigate these choke risks so that fishers can be compliant through engagement with industry, environmental NGOs and other Member States. A number of measures have been put in place as a result, including fishery specific technical measures and exemptions to the landing obligation, all of which have been communicated to industry through technical guidance published by the Marine Management Organisation to ensure fishers understand what is required to be compliant.

For 2019, this has also been accompanied by industry meetings, social media and fishery specific leaflets to further publicise the requirements of the landing obligation. In addition to supporting industry to adapt to the change, we are also enhancing enforcement and surveillance in 2019 through more detailed inspection of catches at sea in high risk fisheries, ensuring accurate catch recordings, and using data sources such as market grading data to evaluate levels of compliance.

Alongside these developments, we are also exploring how the proportionate use of Remote Electronic Monitoring (REM) could be used to help end the wasteful discarding of fish in future. All of

¹ <https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-452-F1-EN-MAIN-PART-1.PDF>

this activity is working towards an enhanced understanding of the status of stocks and effective controls over levels of fishing which will allow us to fish at sustainable levels.

Discard reduction plans

You ask about mitigation of choke risks in western waters and about the process of developing discard reduction plans. At the December 2018 Council, along with other interested parties, the UK made a commitment to develop a discard reduction plan to cut fishing mortality of those stocks for which the *International Council for the Exploration of the Sea (ICES)* had recommended a zero catch for 2019. Working with the Regional Group for Western Waters, the UK (including the devolved administrations) is presently working to progress discard reduction plans for the Celtic Sea, the Irish Sea and Western Waters.

The Defra Group is leading in the development of a discard reduction plan for the Celtic Sea where we are focusing on improving selectivity for 7e-k cod, 7b-k haddock and 7hjk plaice. Scientists at the Centre for Environment, Fisheries and Aquaculture Science (CEFAS) have devised a plan that will increase selectivity through technical and spacial measure and that is also viable for our fishing industry to operate. Our preferred option is to increase the minimum mesh size for the TR (trawl) segments to 110m for Area 7fghjk and for the two ICES rectangles west of 5° east where the minimum mesh size is presently 90mm, and to increase the minimum mesh size in the remainder of Area 7e (western English Channel) to 100mm. (The reason for the need for a difference is the diversity of the fisheries in the South West – those in 7e east of 5° industry are more dependent on fisheries requiring a smaller mesh and where gadoid stocks are less prevalent). We are also considering whether selectivity improvements can be made to the BT (beam trawl) segment fishing for plaice in ICES Area 7hjk and to improve information about the level of catch, particularly for Area 7h which feed into the ICES stock assessment.

At present we are consulting industry in the South West and other stakeholders about these proposals and have circulated a paper prepared by our scientists at CEFAS about the possible measures to our main stakeholders (attached at Annex A). My officials met with the fishing industry in Newlyn on 20 March about a discard reduction plan. They raised a number of ideas that we want to consider further and we may revise the plan in light of those discussions. We plan to meet with environmental NGOs in early April.

Bycatch pool quota for swaps

During the annual negotiation for 2019 there was an underlying push during Council to find a practical solution to permit total allowable catches (TACs) for bycatch stocks to be set in line with science while preventing them from choking economically important mixed fisheries. The scientific advice for zero catches for Area 7bc, e-k cod, 7hjk plaice, 7a whiting, West of Scotland cod and West of Scotland whiting would have resulted in an immediate choke for the mixed fisheries in which these stocks are taken as a bycatch. The Commission proposed a Union Bycatch Only TAC attempting to balance the risk of choke with the state of the stock as well as provide a solution for Member States with no relative stability share. This approach was not acceptable to other Member States who viewed the proposal as undermining relative stability. As a result, a pool solution was agreed in which all Member States with an allocation contribute a fixed percentage (for example 6% for Celtic Sea cod and plaice) to a pool for quota exchanges with Member States with no share. This was combined with an increase in the overall TAC proposed by the Commission, though still within the MSY ranges, to further mitigate the high risk of choke. While this solution is not ideal for the UK, it is workable and as a result the UK has received quota for another potential choke stock (e.g. North Sea cod). In addition, the UK made a statement at Council proposing a horizontal review of the implementation of the landing obligation in 2019 in order to improve its operation in year if needed.

Irish Sea (7a) whiting

With regard to Irish Sea (7a) whiting, where we secured a statement from the Commission at the December 2018 Council to instigate a review of the scientific advice on the level of unavoidable bycatch, CION have recently sent a special request to ICES asking them for technical service advice to inform what the level of unavoidable bycatches of whiting in the Irish Sea would be in 2019, while taking into account the TACs set for other target fisheries in the area.

TACs agreed for 2019 and UK Exit from the EU

The Government's priority remains to secure a Withdrawal Agreement with the EU. However, as a responsible Government we are planning for all scenarios including a no deal exit from the EU. We have published a technical notice on arrangements for UK fisheries should we leave the EU without a Withdrawal Agreement and as the Secretary of State has indicated, we are seeking cross-Government agreement on the approach to quota allocations in this scenario. UK fisheries administrations would advise UK quota holders what their allocation will be for the remaining months of 2019 after our exit from the EU.

3 April 2019

Letter from the Chairman to Rt Hon Robert Goodwill MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter on the above Proposal, dated 3 April, and for discussing the Regulation with our Energy and Environment Sub-Committee on 5 June. The Committee considered these submissions at its meeting on 12 June. Sustainable fishing by 2020

Your statement that the Government "remains fully committed to sustainable fisheries management" does not sit comfortably with your admission that maximum sustainable yield (MSY) "is unlikely to be achievable for all stocks by 2020". We would argue that the reduction of quotas set in line with MSY from 2018 to 2019 clearly demonstrates that the EU is not, in fact, on "the right trajectory". You cite the statement in the Commission's Communication that it may not be possible to meet MSY for all stocks at all times,² but this does not obviate the legally binding requirement in Regulation 1380/2013 to do precisely that,³ or your commitment to the United Nations Sustainable Development Goal to end overfishing by 2020.⁴ You also cite the sustainability objectives in the Fisheries Bill as a demonstration of your commitment, but as Lord Cameron of Dillington pointed out when you came before the Committee, as it currently stands this legislation posits no timeframe for meeting said objectives. We are disappointed that your stated commitment to sustainable fishing has not, in this instance, translated into tangible action.

Quota uplift

We asked for your reassurance that stocks which have been granted a quota uplift will still be fished at MSY. In your letter you responded that you are enhancing enforcement and surveillance through at-sea inspections, "ensuring accurate catch recordings" and using market grading data, but on 5 June you acknowledged that discards may be continuing alongside the use of the additional quota. This is obviously disappointing, and we will be raising it as an issue in our follow-up report on the implementation and enforcement of the landing obligation.

Bycatch reduction plans

We acknowledge your work on the development of the discard reduction plan for the Celtic Sea, in particular your consultation with industry and other stakeholders. We also note Nigel Gooding's statement that the relevant regional group has submitted a bycatch plan for the North West Waters, that will be reviewed by the Commission, be examined by the Scientific, Technical and Economic Committee for Fisheries (STECF) and, if approved, apply from next year.

Bycatch pool quota

Thank you for your assessment that the pool of quota for exchanges to manage bycatch challenges is "workable" for the UK.

Irish Sea whiting

We note that the review you sought of the available scientific advice on the level of unavoidable bycatch for Irish Sea (7a) whiting has now been requested of the International Council for the Exploration of the Sea (ICES).

Post-Brexit total allowable catches

² Page 9: <https://ec.europa.eu/transparency/regdoc/rep/1/2018/EN/COM-2018-452-FI-EN-MAIN-PART-1.PDF>

³ Article 2(2): <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:354:0022:0061:EN:PDF>

⁴ https://sdgcompass.org/wp-content/uploads/2016/04/Goal_14.pdf

We note your statement that, in the event of a 'no deal' Brexit, you would advise UK quota holders of their total allowable catch allocation for the remainder of 2019.

We are now content to close this correspondence.

12 June 2019

COMMISSION DELEGATED REGULATION (EU) .../... OF 28.11.2018 AMENDING DELEGATED REGULATION (EU) NO 1062/2014 AS REGARDS CERTAIN ACTIVE SUBSTANCES/PRODUCT-TYPE COMBINATIONS FOR WHICH THE COMPETENT AUTHORITY OF THE UNITED KINGDOM HAS BEEN DESIGNATED AS THE EVALUATING COMPETENT AUTHORITY (14911/18)

Letter from the Chairman to the Rt Hon Amber Rudd MP, Secretary of State for Work and Pensions, Department for Work and Pensions

Thank you for your letter on the above Regulation, dated 12 March, which was considered by our Energy and Environment Sub-Committee at its meeting on 3 April.

Thank you for explaining that the costs associated with conducting a stand-alone UK review of active substances in biocidal products would be met by the businesses who submit substances for review.

We note that the scale of this work is yet to be determined and that you are waiting to see how many businesses will choose to submit applications to the Health and Safety Executive (HSE). We would observe that it cannot be possible to know the scale of resource the HSE will need to conduct this task until the scale of the work becomes clearer.

We note that a Statutory Instrument approved by Parliament on 21 March, that dealt with aspects of EU chemicals law becoming UK law,⁵ gives the Secretary of State the power to extend the deadline for completion of the review programme, and note your statement that the timescale will depend on the level of demand. Thank you for explaining that you expect there to be some public consultation as part of the process of developing the UK review programme.

We note that you do not yet know what the impact will be of the UK losing access to products as a result of companies choosing not to seek UK approval for substances. We note your explanation that some substances may not be needed in the UK, that "in most cases there is a range of active substances and suppliers for each product-type" and that "the loss of a product could create a commercial opportunity for other suppliers to enter the market." We also note that existing Regulations allow for the continued use of substances deemed to be 'essential', even after a decision has been made not to approve them, where there is no feasible alternative available and where "it is reasonable to assume that continued use does not have any unacceptable effect on human or animal health or on the environment."

Thank you for explaining that companies will have to apply proactively to the HSE if they want to be included in the UK review (rather than automatically transferring all those who have applied under the EU review).

Thank you for explaining that, as is the case with the EU review programme, products that use substances under review by the UK programme will continued to be able to be used and sold until a decision on the substance is made.

Thank you for explaining that these arrangements only apply in a 'no deal' scenario and that if a withdrawal agreement is concluded between the UK and the EU you would hope for "high alignment" with the EU chemicals regime as part of the future relationship, thus negating the need for a separate UK review.

We have now decided to release this Regulation from scrutiny and close correspondence on this issue.

3 April 2019

⁵ The Chemicals (Health and Safety) and Genetically Modified Organisms (Contained Use) (Amendment etc.) (EU Exit) Regulations 2019

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE
COUNCIL REPORT ON THE FUNCTIONING OF THE EUROPEAN CARBON MARKET
(15721/18)

**Letter from the Rt Hon Claire Perry MP, Minister of State for Energy and Clean Growth,
Department for Business, Energy & Industrial Strategy**

Thank you for your letter of 27 March 2019. You raised the following questions in relation to the above report and I will answer your points in turn.

As you will be aware, the Environment Agency has the primary responsibility for the enforcement of environmental law in England as part of its purpose to protect people and the environment and support sustainable growth. As they are the main regulatory body within the UK we have focused our response on the data that they hold.

The Environment Agency regulates 30 installations which caused 53 of the 79 instances. It does not hold regulatory information on the remaining installations as these are regulated by the Devolved Administration regulators and BEIS (for offshore installations). However, the Environment Agency works with all the other UK regulators of the EU ETS to promote a consistent approach to enforcement of the EU ETS in the UK therefore the Environment Agency's approach can be considered typical for the UK.

Do you intend to take any further action to ensure all operators are fully complying with their obligations under the EU Emissions Trading System?

The Environment Agency considers it has taken all appropriate actions to ensure compliance. It has worked to create a culture of openness where operators can willingly admit errors as they know they will be treated fairly by their regulator. This culture is supported by a comprehensive civil sanctions provisions with regulator powers of discretion and transparent and proportionate enforcement policies. The UK regulators also support transparency by reporting all data gaps even if only for a single tonne.

All reporting errors above were corrected promptly and allowances surrendered to cover any outstanding emissions. Enforcement action is considered for all reporting errors and in accordance with the Environment Agency's published Enforcement and Sanctions Policy. This sets out that the Environment Agency will not normally impose a penalty if the statutory maximum penalty for this breach is £1,000 or less when the operator:

- Did not deliberately under-report
- Had no serious management failure
- Put the errors right quickly
- Co-operated with us

It should be noted that the UK's emissions reporting system includes the following provisions:

- Operators must complete their reports by entering data on using the information technology provided for this purpose
- The system provides on screen messages and files to reduce errors. If reports are incomplete against the approved monitoring and reporting plan then the system will identify inconsistencies
- The system undertakes calculations of emissions from operator data thus eliminating calculation errors
- Every report is verified by a third party and independently accredited (against international standards) verifier following, with very few exceptions, a visit to every site by the verifier
- Reports once verified are reviewed by regulators.
- About 50% of reports are subject to a further desk-based review by the Environment Agency and selected on the basis of their risk to the probity of the scheme

- The Accreditation bodies undertake audits of the verification bodies to ensure they continue to meet the standards required and follows up on regulator complaints
- All compliance data are published by the EU Commission and available for public scrutiny
- When errors are discovered these are reported and addressed as soon as practicable and the regulator's response is formally considered and recorded in every case.

The above checks and balances are in line with or beyond best practice financial accounting practices. However, with around 800 operators of varying resources, some with very large sites with multiple complex operations, it is not unreasonable to expect a certain amount of human error and instrument failure. This cannot be eliminated by reviewing reports, or any other measures, and most of the errors cited above cannot be detected from report reviews.

Do these errors have an impact on the accuracy of the UK's reporting under international climate obligations?

The Environment Agency data shows that 13 of the 53 instances relate to minor errors in the UK Small Emitter and Opt-out scheme. These were reported in error as, unless expressly requested, the Commission does not require information relating to regulation of installations in the UK Small Emitter and Opt-out scheme.

Errors relating to the remaining 40 instances concern:

- Thirteen errors of between 1 to 2 tonnes of CO₂
- Six errors of between 3 and 10 tonnes CO₂
- Nine errors of between 10 and 50 tonnes CO₂
- Six reports covering multiple years and errors caused by ambiguity in EU rules with corrections required following clarification from the EU
- 1 failure was linked to a company going into administration and the Environment Agency used its powers to determine and report the emissions
- 1 significant under report of 1371 tCO₂ but the operator notified the Environmental Agency before the reporting deadline and submitted a corrected verified report 4 days after of the reporting deadline
- 4 Other significant under reports (around 300 to 400 tonnes)

To put the errors into context, the impact of errors on 2016 EU ETS emissions were around 3 tonnes carbon dioxide out of around 90 million tonnes reported for the Environment Agency regulated installations. These errors can be considered to have a negligible impact on the UK's greenhouse gas reporting obligations and all these errors were corrected within 12 months.

How many of the 79 cases resulted in civil penalties?

The Environment Agency does not normally consider it in the public interest to issue discretionary penalties of less than £1,000 as the cost to the public purse would outweigh the fine revenue (which is transferred in full, to Her Majesty's Treasury), although exceptions can be made in certain circumstance e.g. where there are repeated failures.

In considering the 40 EU ETS installations against its policy the Environment Agency has:

- Issued three civil penalties (details are published on data.gov.uk)
- A further two cases for penalties under consideration
- Issued, or intends to issue, 33 formal waivers
- Decided not to progress enforcement against two (one operator in administration and one operator that corrected the error within a week of the reporting deadline)

How does the figure of 79 compare to previous reporting years?

To compare with previous reporting of errors:

For 2014 we reported 14 installations (no multiple years reported, unlike in 2015, 2016 and 2017) across the UK, of which 13 were from the Environment Agency.

For 2015 we reported 44 instances across the UK, of which 27 (also corresponding to 27 installations) were from the Environment Agency. In 2015 the European Commission clarified that emissions from the use of urea had to be monitored and reported. This led to the identification of a number of under reports which needed to be corrected and a step change between 2014 and 2015.

For 2016 there were 68 instances of data issues across the UK, of which 46 (32 installations) were from the Environment Agency.

The EA has provided a response to the errors mentioned in the attached reply. However given the Environment Agency only regulates 30 installations which caused 53 of the 79 instances, it does not currently hold regulatory information on the remaining installations as these are regulated by the Devolved Administration Regulators and BEIS (for offshore installations). We are therefore approaching the DA's to obtain this additional data, and we will pass this on as soon as it is available.

I hope this information satisfies the questions raised.

23 April 2019

Letter from the Chairman to the Rt Hon Claire Perry MP, Minister of State for Energy and Clean Growth

Thank you for your letter on the above Report, dated 23 April, which was considered by our Energy and Environment Sub-Committee at its meeting on 15 May.

We note that the Environment Agency, which regulates the majority of installations that had data errors, believes it is taking "all appropriate actions to ensure compliance" with the EU emissions trading scheme. Thank you for providing details of the checks that take place. We note that these include operators entering their data using a software programme designed to identify inconsistencies, third party verification of reporting and audits of verification bodies. We note your comment "it is not unreasonable to expect a certain amount of human error and instrument failure" but we also note that the instances of errors appear to be increasing (you state that you reported 14 installations in 2014, 44 in 2015 and 68 in 2016). What analysis has been done of the reasons for this increase, and are you taking any steps to address this? We note that in 2015 the Commission clarified that emissions from the use of urea had to be monitored and reported; how much of the increase is due to that, and how much to other factors?

Thank you for explaining that, in relation to the installations covered in the Report, the Environment Agency has issued three civil penalties and that another two are under consideration.

Thank you for providing further detail of the scale of the errors and for explaining that they "can be considered to have a negligible impact on the UK's greenhouse gas reporting obligations."

Thank you for agreeing to provide the relevant information on the installations covered by regulators in the devolved administrations, and we look forward to receiving it.

We have decided to retain the Proposal under scrutiny. We look forward to a reply to this letter within 10 working days.

16 May 2019

Letter from Chris Skidmore MP, Interim Minister of State for Energy and Clean Growth, Department for Business, Energy & Industrial Strategy

Minster Perry wrote to you on 23rd April providing information on reporting errors relating to installations regulated by the EA, noting that you would receive further information from the devolved and offshore regulators. This information is provided below, and I have also responded to the additional questions that you included in your letter of 16 May.

Further information on Reporting Errors

Twenty-six of the UK's 79 instances of missing data reported in the European carbon market were from installations regulated by the devolved or offshore regulators, as detailed in the table below.

Regulator	Number of errors
Scottish Environment Protection Agency	15
Natural Resources Wales	1
Offshore Petroleum Regulator for Environment and Decommissioning (OPRED)	10

The 26 reporting errors cover multiple years from as far back as 2014. The table below describes in more detail the 16 individual errors from the devolved regulators. The net reporting error was approximately 10 thousand tonnes of carbon dioxide equivalent.

Year Affected	Number of Installations	Details	Total
2014	9	5 Installations <50 tCO ₂ eq under-reported 2 Installations 4822 tCO ₂ eq under-reported 1 Installation 1046 tCO ₂ eq under-reported 1 Installation 4936 tCO ₂ eq under-reported	10,854 tCO ₂ eq under-reported
2015	5	2 installations <50 tCO ₂ eq under-reported 1 Installation 1297 tCO ₂ eq under-reported 1 Installation 1731 tCO ₂ eq under-reported 1 Installation 73 tCO ₂ eq over-reported	3,128 tCO ₂ eq under-reported
2016	2	1 Installation 1711 tCO ₂ eq over-reported 1 Installation 1824 tCO ₂ eq over reported	3,535 tCO ₂ eq under-reported

The ten remaining errors were from six offshore installations managed by four operators. These covered multiple years and include under and over reported emissions.

Year Affected	Number of Installations	Details	Total
2014	5	1 Installation 164 tCO ₂ eq under-reported 1 Installation 2826 tCO ₂ eq under-reported 1 Installation 3631 tCO ₂ eq under-reported 1 Installation 2097 tCO ₂ eq over-reported 1 Installation 344 tCO ₂ eq over-reported	4,524 tCO ₂ eq under-reported
2015	4	1 installation 9794 tCO ₂ eq under-reported 1 Installation 4052 tCO ₂ eq under-reported 1 Installation 245 tCO ₂ eq under-reported 1 Installation 3361 tCO ₂ eq under-reported 1 Installation 462 tCO ₂ eq over-reported	15,525 tCO ₂ eq under-reported
2016	1	1 Installation 22995 tCO ₂ eq under-reported	22,995 tCO ₂ eq under-reported

Two of the errors were found by OPRED during planned offshore inspections by OPRED, with the remaining errors were self-reported by operators:

- Errors from two installations were related to inspection findings (a missing fuel stream).
- One installation incorrectly accounted for water vapour in a flare.
- Two installations found metering errors.
- One installation found errors in the way gas oil (diesel) was being bunkered and recorded from invoiced data.

How many of the 26 cases resulted in civil penalties?

Several of these errors relate to the UK Small Emitter and Opt-out scheme. These were reported in error as, unless expressly requested, the Commission does not require information relating to regulation of installations in the UK Small Emitter and Opt-out scheme as part of the data collection exercise. The remaining reporting errors were corrected promptly and allowances surrendered to cover any outstanding emissions.

Enforcement action was considered for all reporting errors and in accordance with the Regulators network and the UK Enforcement and Sanctions Policy. Of the 26 cases:

- 10 civil penalties have been, or will be, issued;
- 3 warning letters have been issued;
- 12 were self-reported and/or remedied swiftly by operators resulting in no further action;
- 1 case was not progressed as the operator had gone into administration.

I also noted your follow up letter dated 16th May asking the following questions which I have addressed below:

Further questions in your letter of 16 May relating to increasing numbers of errors

We believe the increase in numbers of errors reported, particularly between 2014 and 2015, is principally due to the introduction of the new spreadsheet-based tool used by regulators in 2015. This tool helps identify anomalies in reporting; for example, to identify incorrect units, check against the correct national emission factors, etc. The tool was developed following a review of previous Phase 3 reporting errors and in discussion with verifiers to identify common sources of error. The idea for the tool was adopted following collaboration, through the EU Compliance Forum, with other EU regulators.

In addition, we believe that installations reporting the use of urea incorrectly in 2016 and 2017 accounted for a significant proportion of the increased number of errors reported compared with 2015. This increase follows clarification from the Commission on how emissions from the use of Urea should be reported.

Regulators have agreed to continue their work to reduce the number of errors in emissions reporting, while also noting that errors in recent years have only affected a tiny percentage of total UK emissions.

I hope this information satisfies the questions raised.

3 June 2019

Letter from the Chairman to Chris Skidmore MP, Interim Minister of State for Energy and Clean Growth

Thank you for your letter on the above Report, dated 3 June, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 June.

Thank you for providing the data we had requested on reporting errors from installations regulated by the devolved and offshore regulators. We note that the scale of the reporting errors appears to be relatively large (in a previous letter from Rt Hon Claire Perry MP, dated 23 April, an under report of 1371 tCO₂ was described as “significant”, and most from England seemed to be under 50 tonnes; most of the cases you cite are well in excess of this). This would appear to be further evidence of the need to change how reporting is verified across the UK.

We note that you believe the reason for the increase in errors across the UK is “principally due to the introduction of a new spreadsheet-based tool used by regulators”, which is enabling more anomalies to be identified. Thank you for explaining that the clarification from the Commission on how emissions from the use of urea should be reported is likely to account for a significant proportion of the increased errors in 2016 and 2017.

We are now content to release this Report from scrutiny and close correspondence on this matter.

12 June 2019

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL ON THE CLONING OF ANIMALS OF THE BOVINE, PORCINE, OVINE,
CAPRINE AND EQUINE SPECIES KEPT AND REPRODUCED FOR FARMING PURPOSES
(18152/13)

PROPOSAL FOR A COUNCIL DIRECTIVE ON THE PLACING ON THE MARKET OF
FOOD FROM ANIMAL CLONES (18153/13)

**Letter from the Chairman to the Rt Hon Robert Goodwill MP, Minister of State for
Agriculture, Fisheries and Food, Department for Environment, Food & Rural Affairs**

Thank you for your letter of 19 March 2019, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 3 April 2019.

We note that there has been no substantive discussion of these Proposals since your last update, and that you do not currently expect further progress.

We shall retain both Proposals under scrutiny, and look forward to an update in due course.

3 April 2019

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL,
THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF
THE REGIONS ENERGY PRICES AND COSTS IN EUROPE (5163/19)

**Letter from the Chairman to the Rt Hon Claire Perry MP, Minister of State for Energy
and Clean Growth, Department for Business, Energy & Industrial Strategy**

Thank you for your Explanatory Memorandum (EM) on the above Report which was considered by our Energy and Environment Sub-Committee on 3 April 2019.

We note that the UK disagrees with the Report's findings that the UK has the highest level of fossil fuel subsidies in the EU and disagrees with the OECD's definition of a subsidy. How does the UK define a subsidy and why does this differ from the OECD? Why does the UK have such comparatively high expenditure in this area?

We also note that the Competitions and Market Authority (CMA) are currently considering measures to improve competition in the energy market. When do you expect these measures to be implemented?

We note that the CMA and Ofgem have introduced price regulation for low income households. Has the CMA or Ofgem considered requiring energy suppliers to offer dynamic price contracts as an alternative to the price cap?

We note that the Report suggests future investment in renewable technologies will be driven by market prices. Does the Government agree with this finding? If so, what technologies will and will not need future support from the Government? What is the timescale for these developments?

We have decided to retain this Report under scrutiny and look forward to a reply within 10 days.

3 April 2019

Letter from the Rt Hon Claire Perry MP, Minister of State for Energy and Clean Growth

Thank you for your letter dated 3 April 2019.

You asked a number of questions relating to the above Report. I will answer your questions in turn.

1. We note that the UK disagrees with the Report's findings that the UK has the highest level of fossil fuel subsidies in the EU and disagrees with the OECD's definition of a subsidy. How does the UK define a subsidy and why does this differ from the OECD? Why does the UK have such comparatively high expenditure in this area?

The UK uses a definition of fossil fuel subsidies based on IEA methodology developed with the Commission and other G20 EU Member States to make annual responses to the G20 commitment to phase such subsidies out. The definition is “A fossil fuel subsidy is any government measure or programme with the objective or direct consequence of reducing below world market prices, including all costs of transport, refining and distribution, the effective cost for fossil fuels paid by final consumers, or of reducing the costs or increasing the revenues of fossil-fuel producing companies.” Using this definition, the Government does not believe the UK has any such subsidies.

Meanwhile the definition of subsidy used in the Commission report is based on OECD methodology which takes into account “any measure that reduces costs for consumers or producers”. Under this approach, countries that have high levels of fossil fuel taxation, with specific exemptions, can appear to have higher levels of subsidies than countries with lower levels of fossil fuel taxation. This approach is set out in the penultimate paragraph on page 212 of the associated Commission Staff Working document at: <https://ec.europa.eu/energy/en/data-analysis/energy-prices-and-costs>

2. We also note that the Competitions and Market Authority (CMA) are currently considering measures to improve competition in the energy market. When do you expect these measures to be implemented?

The CMA undertook an extensive study of the retail energy market between June 2014 and June 2016. Their conclusion was that the market was not operating as it should, and that in total domestic customers of the Big 6 energy companies were paying an average of £1.4bn a year more than they would in a truly competitive market.

In their final report the CMA made a number of recommendations to improve the retail energy market. The Government agreed with the majority of these recommendations and, along with Ofgem, is implementing multiple remedies proposed by the CMA. This includes work in areas spanning across the market from supplier conduct, supply-side competition to consumer engagement. For example, Ofgem in mid-2017 strengthened its Standards of Conduct requiring suppliers to treat customers fairly, with new rules going live in October 2017. Ofgem also took steps to introduce the CMA’s remedy of a Pre-Payment Meter cap, which came into effect in April 2017. The Government and Ofgem have also been working on removing actual and perceived barriers to switching, for example by opening up industry data to price comparison websites, and helping customers engage in the market. This includes work on programmes such as the Midata project, which will help consumers find the best deal for them by facilitating the use of their personal data (with their consent). Ofgem’s programme to deliver faster and more reliable switching will also help to improve competition in the retail energy market, with the programme intended to be implemented by summer 2021.

3. We note that the CMA and Ofgem have introduced price regulation for low income households. Has the CMA or Ofgem considered requiring energy suppliers to offer dynamic price contracts as an alternative to the price cap?

The Government believes that competition is the best way to drive value and service for customers. The CMA noted in their report the retail energy market is not working for all consumers and there is, in effect, a two-tier market in operation whereby active customers save money by switching suppliers, but those who can’t or don’t switch remain on poor value standard variable tariffs. The Government have therefore introduced the energy price cap as a temporary measure to protect consumers on such tariffs. Continuation of the price cap will be informed by a review conducted by Ofgem, the regulator, into whether the conditions are in place for effective competition. The review must, among other things, consider the extent to which progress has been made in installing smart meters, which are important for supporting time of use tariffs, also known as dynamic price tariffs.

Suppliers are free to offer dynamic price tariffs, the Government and Ofgem have taken a number of steps to remove barriers to smart tariffs, including the roll-out of smart meters, removal of the four-tariff cap and delivery of cost-effective elective half-hourly settlement.

Some suppliers are already offering such tariffs, and a forthcoming EU Directive will require suppliers over a certain size to offer a dynamic price tariff.

4. We note that the Report suggests future investment in renewable technologies will be driven by market prices. Does the Government agree with this finding? If so, what technologies will and will not need future support from the Government? What is the timescale for these developments?

As the Secretary of State said in his November 2018 address on the future of the power sector, by the mid-2020s, it is very likely that green power will be the cheapest power. He set out a market principle –that we must wherever possible use market mechanisms that take full advantage of innovation and competition. The Energy White Paper due to be published in the summer will address this issue in more detail.

To support the transition to a cleaner, smarter and more flexible energy system, the department has also consulted on a Smart Export Guarantee (SEG) to ensure small-scale generators are compensated by the market for the value of their exported electricity; and to establish a framework for the sector, which still provides room for the market to develop, promoting innovation and competition.

The SEG would be supplier-led and market driven in line with our view that small-scale lowcarbon electricity generation should compete independent of direct subsidy on a level playing field with other electricity generation technologies through competitive, market-based solutions. We are already starting to see the market offer export tariffs for small-scale generators who wish to export their renewable electricity. We are aware of four export tariffs either being trialled or on offer on the market already. The department's SEG consultation closed on 5th March and we are currently carefully considering the responses and evidence submitted and will respond in due course.

10 May 2019

**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL,
THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF
THE REGIONS ENERGY PRICES AND COSTS IN EUROPE (5163/19)**

**Letter from the Chairman to Chris Skidmore MP, Interim Minister of State for Energy
and Clean Growth, Department for Business, Energy & Industrial Strategy**

Thank you for your colleague's letter of 10 May on the above Report, which was considered by our Energy and Environment Sub-Committee on 22 May 2019.

Thank you for explaining that you base your definition of a fossil fuel subsidy on International Energy Agency (IEA) methodology, and that other G20 EU Member States do the same, whereas the Commission's report refers to the Organisation for Economic Co-operation and Development's (OECD's) definition. We have three questions arising from this, as follows:

- 1) Is there an agreed definition of 'fossil fuel subsidies' used to measure progress encoded in EU legislation or guidance; and if so, what is it?
- 2) In your Explanatory Memorandum (EM), you indicated that the treatment of tax reductions (such as the reduced excise duties for red diesel and the Climate Change Levy exemptions) is the key difference between the OECD and IEA definitions of subsidy, and the reason that the Commission's Report presents the UK as the largest subsidiser of fossil fuels. But it seems that these would also be included in the IEA definition, on the grounds that they are government measures with the direct consequence of reducing the effective cost for fossil fuels paid by final consumers and fossil-fuel producing companies. Which aspect of the IEA definition do you believe excludes UK measures that are otherwise included by the OECD definition?
- 3) What consideration have you given to the approach taken by other EU countries of providing less tax relief for fossil fuel consumers?

Thank you for explaining that some of the Competition and Markets Authority (CMA) recommendations for improving competition in the energy markets have already been implemented, and that others are still in progress, with Ofgem's switching programme due to be implemented by summer 2021.

We understand from your letter that the dynamic price contracts suggested in the report as an alternative to price regulation require consumers to have a smart meter, and thus they are not a workable alternative in the UK, where the smart meter rollout is not yet complete.

We note that your forthcoming Energy White Paper will address the issue of the future development of renewable technologies, and that you are currently considering the responses to your consultation on a Smart Export Guarantee to support small-scale generators who export their renewable energy to the grid.

We have decided to retain this Report under scrutiny and look forward to a reply within 10 days.

22 May 2019

Letter from Chris Skidmore MP, Interim Minister of State for Energy and Clean Growth

Thank you for your letter dated 22 May 2019 concerning the different definitions of fossil fuel subsidies. I will answer your questions in turn.

1. Is there an agreed definition of 'fossil fuel subsidies' used to measure progress encoded in EU legislation or guidance; and if so, what is it?

There is not an agreed definition of 'fossil fuel subsidies' used to measure progress encoded in EU legislation or guidance.

2. In your Explanatory Memorandum (EM), you indicated that the treatment of tax reductions (such as the reduced excise duties for red diesel and the Climate Change Levy exemptions) is the key difference between the OECD and IEA definitions of subsidy, and the reason that the Commission's Report presents the UK as the largest subsidiser of fossil fuels. But it seems that these would also be included in the IEA definition, on the grounds that they are government measures with the direct consequence of reducing the effective cost for fossil fuels paid by final consumers and fossil-fuel producing companies. Which aspect of the IEA definition do you believe excludes UK measures that are otherwise included by the OECD definition?

The IEA definition of fossil fuel subsidies refers to a government measure or programme with the objective or direct consequence of reducing *below world market prices* the effective costs for fossil fuels paid by final consumers, not just the effective costs.

Unlike the IEA definition, the OECD definition looks at individual tax reliefs devoid of their context within our overall tax regime. In the case of the red diesel excise duty reduction, for example, under the IEA definition, this is not a fossil fuel subsidy as tax on red diesel still raises its price above market level. However, under the OECD definition, this would be considered a subsidy. This is also the case for the reduced rate of VAT on household heating fuels and hydrocarbon oils duty. Exemptions under the Climate Change Levy reduce tax costs for some consumers, but do not provide for the consumption of fossil fuels below market prices.

In the case of red diesel, the UK unlike the rest of the EU taxes petrol and diesel at the same rate, whereas many other states tax diesel at a lower rate than petrol. The consequence for the UK is that the differential between road fuel and non-road fuel is higher so the red diesel rate appears to be more of a subsidy. If we were to reduce our main diesel rate, we would, under the OECD definition, be offering less of a subsidy, but this would provide a disincentive to convert to cleaner fuels.

The Winter Fuel Payment is an annual payment, designed to ensure that households where pensioners are living can be heated and kept warm during winter months. Winter Fuel Payments are not a fossil fuel subsidy as customers are free to spend the money on the most suitable form of fuel that meets their particular circumstances. This could include renewable energy sources.

3. What consideration have you given to the approach taken by other EU countries of providing less tax relief for fossil fuel consumers?

As set out previously, the UK uses a definition of fossil fuel subsidies based on IEA methodology. Using this definition, the Government does not believe the UK has any such subsidies.

Red diesel can be used for machinery used away from the public road, such as railway locomotives and farm machinery. The government feels that it is appropriate to have a reduced tax rate for these purposes. Like all taxes, this is kept under review.

Fuel duty rates for alternative fuels (e.g. LPG, CNG etc.) are set by reference to a “differential” compared to the main duty rate. These rates are set to reflect the fact that these fuels are not as damaging to the environment and petrol and diesel.

With respect to the VAT reduced rates for domestic fuel and power, this is not directed at fossil fuels but is a reduction in VAT on household purchases of all supplies of fuel and power, including electricity which is generated from renewable sources. In addition, the installation of certain energy saving materials, including solar panels, may also be subject to the reduced rate of VAT.

The Government has considered other EU countries’ approach to tax relief for gas and electricity consumption. The Climate Change Levy complies with the European Council Directive 2003/96/EC of 27 October 2003 (the ‘Energy Tax Directive’), which provides for the total or partial exemption or reduction in the level of taxation for energy products used in and for a range of processes.

As explained above, the Winter Fuel Payment is an annual payment designed to ensure that households where pensioners are living can be heated and kept warm during winter months. It is administered by the Department of Work and Pensions, and is not a form of tax relief.

4 June 2019

Letter from the Chairman to Chris Skidmore MP, Interim Minister of State for Energy and Clean Growth

Thank you for your letter of 4 June on the above Report, which was considered by our Energy and Environment Sub-Committee on 12 June 2019.

Thank you for clarifying that there is not an agreed definition of ‘fossil fuel subsidies’ in use at EU level. We note your explanation of the rationale behind some of the tax reliefs / measures in question, such as the Winter Fuel Payment and the red diesel excise duty reduction.

We also note your explanation that the International Energy Agency (IEA) definition of a fossil fuel subsidy requires that the measure reduce costs “below world market prices”, which is not a condition of the Organisation for Economic Co-operation and Development’s (OECD’s) definition, and it is this distinction that excludes the UK’s measures. While this may be technically correct, we would contend that applying the OECD definition would reflect a higher level of climate ambition, better befitting a country that seeks to demonstrate international leadership in this area.

However, we are now content to release this Report from scrutiny and close correspondence on this matter.

12 June 2019

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE QUALITY OF WATER INTENDED FOR HUMAN CONSUMPTION (RECAST) (5846/18)

Letter from Dr Thérèse Coffey MP Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs

Thank you for your letter of 27 February 2019 and the granting of a waiver in advance of the expected general approach discussion at the Environment Council.

Update from Environment Council

At the Environment Council on 5 March the Presidency invited Member States to agree the proposed General Approach, stressing debate should focus on Article 10a and 10b, (materials and substances in contact with drinking water) and Article 13 (access to water), the most contentious articles.

The UK was one of a group of 4 Member States along with France, Germany and the Netherlands (known as the 4MS Initiative) that originally proposed the inclusion of Article 10a and 10b (materials and substances in contact with drinking water). The purpose of these Articles is to set standardised minimum testing criteria for materials and substances in contact with drinking water. There is an existing requirement in Article 10 (which the Commission proposed to delete) that obliges Member

States to take all measures necessary to ensure that substances and materials in contact with drinking water do not introduce any parameter or condition that cause a risk to health. Some Member States, including the UK, have their own national regimes to fulfil this requirement. A standardised approach would protect public health and have consistent standards across Europe. At Environment Council, 13 Member States fully supported the inclusion of the articles and 9 Member States expressed some concerns but accepted the proposed text. These 9 Member States requested further work to clarify the text and help them understand the impacts of the proposal. Latvia and Estonia tabled amendments to Article 10a, but these received insufficient support to be adopted. Latvia, Estonia and Austria were unable to accept the General Approach due to Article 10a.

On Article 13 (access to water) Member States all recognised that the text was delicately balanced between those who wanted it strengthened and those who wanted it weakened. I highlighted concerns regarding subsidiarity, and the reasoned opinion issued by UK Parliament's House of Commons but said that the UK could accept the compromise.

On the other issues where the UK had concerns with the proposal, for example regarding the parameters and parametric levels set in the annexes, following changes that the Presidency made, for example to the lead parameter and PFAS, the Government judged that the compromise was acceptable to the UK and that the UK could support the general approach.

The Presidency concluded that the General Approach had been agreed since only Latvia, Estonia and Austria indicated they could not support it.

Following Environment Council, the Commission issued a statement setting out that whilst they support the intention of Articles 10a and b, they have concerns with the current drafting principally around the legality and impact. The Commission intends to further analyse and assess these concerns in time for the next steps of the negotiations. Since then, the Commission has sought input from the 4MS Initiative (which now includes Denmark) and the UK will be assisting fully with this process.

European Parliament

The European Parliament debated the file on 27 March 2019. They agreed to close the first reading. The file will next be considered for second reading after the European Parliament elections.

We are expecting trilogue meetings between the Presidency, the Commission and European Parliament to commence during the Finnish Presidency, following the European Parliament elections and the appointment of the new Commission. Our initial assessment is that there are some differences between the Council text and the European Parliament which we expect will be debated. For example, Article 13 (access to water) where the European Parliament text proposes prescriptive measures for Member States to take, and similarly Article 10 (domestic distribution risk assessment) is more prescriptive in the definition of priority premises than the Council agreed.

Levels of Lead in Drinking Water

You asked about the extent to which levels of lead exceed 5 µg/l currently and what plans the Government has to reduce lead levels. The data below is from the Drinking Water Inspectorate's test results in 2018 in England and shows that 276 out of 11,555 tests exceeded the 5µg/l level and 78 tests showed levels of lead above 10µg/l, which is the current limit required by the Directive. The Directive requires that these tests are taken at the tap, to represent the exposure for consumers, so it does not differentiate between the contribution of water company owned pipes, or the pipes owned by property owners.

Year	No. of Tests for Lead	>10 µ g/L	>5 µ g/L
2018	11,555	78	276

If tests show elevated levels of lead then currently water companies investigate the issues further to identify whether there is lead pipework on the part of the service pipe they own, in which case they will replace it. They also check to make sure that any plumbolvency control dosing at the treatment works is operating at an optimum level. The consumer is notified if there is evidence of lead pipework within their ownership and advised to replace it to minimise their exposure. However, this is not mandatory and many consumers do not choose to do so. There is already a requirement to deal with

water quality contamination due to the presence of lead pipes in premises classed as public buildings under Section 75 of the Water Industry Act 1991.

The Drinking Water Inspectorate has a research programme underway to gather evidence on strategies to ensure lead pipe and other sources of lead are removed from the system in the most effective and efficient manner. This will inform any policy to further reduce lead levels.

Information Provided to the Public

As you noted in your previous letter, during Working Parties the UK sought the removal of certain requirements in this Article. Specifically we felt that the requirement to provide information on the energy usage of very large water suppliers fell outside the scope of this directive, which is focussed on the quality of the drinking water. However, the UK compromised on this text, keeping this requirement in as this is not envisaged to be a significant burden on the very large water suppliers.

23 May 2019

Letter from the Chairman to Dr Thérèse Coffey MP Parliamentary Under Secretary of State

Thank you for your letter on the above Proposal, dated 23 May, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 June.

We note that changes made by the Presidency over the parametric levels set out in the Proposal resulted in compromise text that you are content to support, including a compromise on the limit for lead (about which you had previously expressed concerns).

Thank you for explaining that the Drinking Water Inspectorate's test results in England in 2018 found that 276 out of 11,555 tests (about 2.4%) exceeded 5µg/l. We note that if these levels result from water company infrastructure they are obliged to replace it, and that if it stems from piping owned by the consumer they are notified.

We note that the suggestion put forward by the UK, France, Germany and the Netherlands on standardised minimum testing criteria for materials and substances in contact with drinking water received significant support, although Latvia, Estonia and Austria were unable to support it. We also note that the Commission has subsequently raised concerns about this aspect of the Proposal. Please include in your next letter an update on how this issue has progressed.

We note that you were unsuccessful in obtaining changes to the requirement in the Proposal for large suppliers to provide details of energy consumption but that, as it is not envisaged to be a significant burden on the industry, you agreed to support the text unamended.

Thank you for explaining that the Proposal was agreed at General Approach and that it is expected to be considered again by the European Parliament when it reconvenes after the elections. We note that you expect trilogues to commence during the Finnish Presidency and that some disagreements remain on aspects of the Proposal.

You will recall that, in our previous correspondence, we requested that you provide us with an assessment of the potential impact of the Directive once it has been finalised, and we look forward to receiving that in due course.

We have decided to retain this Proposal under scrutiny. Please write to us again once negotiations have progressed to provide us with an update on any changes made and any concerns that arise.

12 June 2019

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE IMPLEMENTATION OF THE WATER FRAMEWORK DIRECTIVE (2000/60/EC) AND THE FLOODS DIRECTIVE (2007/60/EC) SECOND RIVER BASIN MANAGEMENT PLANS FIRST FLOOD RISK MANAGEMENT PLANS (6926/19)

Letter from the Chairman to Dr Thérèse Coffey MP Parliamentary Under Secretary of State Department for Environment, Food and Rural Affairs

Thank you for your Explanatory Memorandum (EM) on the above Report, which was considered by our Energy and Environment Sub-Committee at its meeting on 24 April.

We note that the Commission makes eight recommendations to the UK in its Annex to the Report and that you will take these into consideration in the next cycle of development of River Basin and Flood Risk Management Plans.

We note that the Commission Staff Working Document assessing the UK's Flood Risk Management Plan finds "some" or "strong" evidence for all the criteria being met.

We were very concerned, however, to read the long list of weaknesses identified by the Commission in its Staff Working Document on the UK's River Basin Management Plan. In your EM, you state that you do not believe that their assessment is robust and that it contains a number of factual inaccuracies and subjective conclusions. Please provide details of the aspects of the Document that you disagree with. What steps are you taking to address these disagreements with the Commission?

We note that the Document identifies a wide range of areas in which it believes the UK needs to improve. Monitoring features heavily, with concerns ranging from the required biological quality elements not being monitored in any water body, to not all River Basin Specific Pollutants or Priority Substances being monitored with the required frequency, to a large proportion of groundwater bodies not being subject to monitoring. Are you confident that you are meeting the monitoring requirements of the Water Framework Directive? What plans do you have to improve the monitoring regime?

The Document also notes the "significant number of exemptions" that the UK has applied and that "those related to Article 4(5) have increased." It states that there is "a lack of detail for the justifications and applied criteria" and that "those related to Article 4(5) need to be reconsidered." Why have the number of exemptions increased? Do you intend to provide further justification for your exemptions, or reconsider your approach, as the Commission recommends? Given the number of exemptions, is the UK on course to meet 'good' status for all water bodies by 2027?

We were concerned to note that five river basin districts "have reported high values of Water Exploitation Index +, and one of them likely beyond sustainability." What are the reasons for this, and what action are you taking to address this?

We have decided to retain this Report under scrutiny and look forward to your response within 10 working days.

25 April 2019

Letter from Dr Thérèse Coffey MP Parliamentary Under Secretary of State

Thank you for your letter of 25 April 2019. Whilst the EU produces a single UK report, water policy is a devolved matter. I have focused on the work of the Environment Agency on river basin management plans in England.

Conclusions in the report

The original draft EU Commission report released in late 2018 contained conclusions based on several factual inaccuracies, including failure to take account of data that was uploaded to the EU's WISE database. Defra officials wrote to the EU Commission explaining this, as did other EU Member States who identified similar inaccuracies in their country reports. The EU Commission made several corrections to the final draft in this respect. In some cases, however, they acknowledged our comments in footnotes without making changes to their original conclusions.

For example, in Section 2.1.6, P.35 the conclusion in relation to setting 'reference conditions' for ecological potential is unjustified. We are using an alternative method for determining ecological potential by selection of mitigation measures rather than biological elements. The Environment Agency (EA) has developed this approach which is consistent with the EU's Common Implementation Strategy (CIS) Guidance. The EU Commission recognise this in footnotes without making a change to the conclusion.

Monitoring

The EA adopts a strategic and risk based approach to monitoring. This approach is compliant with the requirements of WFD and is acknowledged in the final EU report. To focus only on the number of monitoring sites does not give the full picture. The effectiveness of monitoring is a combination of the location of sites, elements monitored based on risk assessment, and the frequency of element monitoring.

For example, the report states that 73% of groundwater bodies are not monitored. This refers only to monitoring for quantitative status, not chemical status, and it does not account for the risk based approach to monitoring. By modelling groundwater bodies under the same pressures, the EA has developed a conceptual understanding of each groundwater body to identify the most appropriate locations to monitor to assess if environmental objectives have been met.

The EA through its WFD UK Technical Advisory Group is continually developing the effectiveness of its strategic monitoring network as scientific knowledge and techniques develop.

Exemptions

The use of exemptions by the EA is justified under the provisions of WFD. Part 2 of the river basin management plans in England include the detailed criteria and justification for the use of exemptions under WFD Articles 4.4 and 4.5.

The EA set only a small number of less stringent objectives (WFD Article 4.5) for water bodies based on technical infeasibility in the 1st River Basin Management Plans. Most of the alternative objectives set were extended deadlines (under WFD Article 4.4), based on a lack of evidence on the reasons why elements were at less than good status. This was in line with the approaches permitted by the WFD.

For the 2nd cycle 2015 plans, the EA had a much improved evidence base and a greater level of confidence about the status of water bodies. It also carried out 300 catchment economic appraisals, to ensure the wider benefits and the value of the water environment were taken into account in deciding what objectives to set. This new evidence allowed the EA to set a greater proportion of Article 4.5 exemptions, in the 2nd cycle plans, using the criteria of technical infeasibility or disproportionate cost as allowed in the provisions of WFD. This explains the increase in Article 4.5 exemptions in the 2nd cycle.

It has become clear over the course of implementation of the WFD that it will be very challenging for most Member States to achieve good status for all water bodies. This is due to the sheer pressure from human populations, industry and agriculture. When the WFD was introduced, it was accepted that some water bodies used for industrial or social purposes would never reach good status and mechanisms were built into the WFD to take a proportionate and flexible approach. The UK has applied the flexibilities as WFD was designed to be used.

Even with these mechanisms, we know that most EU Member States, including the UK, will realistically find it a challenge to meet the ambition of the WFD by 2027.

Nevertheless, we continue to work towards a cleaner and healthier water environment with initiatives such as our new farming rules for water launched in April 2018 and an extra £5 billion of investment by water companies to benefit the natural environment.

Water Sustainability

The EA has questioned the high Water Exploitation Index value mentioned in the report which is not supported by their own data for those River Basin Districts. Water sustainability in England is being addressed. The Government's abstraction plan includes reform of the abstraction licensing regime and development of local, catchment-based solutions to abstraction management to move to around 90% of surface water bodies and 77% of groundwater bodies meeting the required standards by 2021. In

addition, the Government has recently consulted on a draft national policy statement for water resources, addressing the national infrastructure needed to provide a plentiful supply of water for future generations and to support and protect the environment.

6 May 2019

Letter from the Chairman to Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter on the above Report, dated 6 May, which was considered by our Energy and Environment Sub-Committee at its meeting on 22 May.

As we noted in our letter to you on 25 April, the Commission Staff Working Document on the UK's Second River Basin Management Plans identifies a great many areas in which it believes the UK needs to improve and includes three pages of recommendations. Because your Explanatory Memorandum stated that you did not believe the Commission's assessment was robust and that you considered the report to contain "factual inaccuracies and subjective conclusions" we asked you to provide details of the aspects that you disagree with. Your response provides one example; what we would like to know is how many of the recommendations you accept. Please provide details. In our letter of 25 April, we also asked what steps you are taking to resolve your disagreements with the Commission; please provide a response.

We note your explanation that the Environment Agency adopts a 'risk based' approach to monitoring water quality, and that this is compliant with the Water Framework Directive. We also note, however, that the Commission Staff Working Document raised a number of concerns related to monitoring, and makes a number of related recommendations, including that "the United Kingdom should strengthen monitoring of surface water" and that "the monitoring of groundwater networks should also be significantly improved". Do you disagree with these recommendations? Regardless of whether it is compliant with the Directive, the Commission does not seem to have full confidence in the UK's monitoring regime. Are you confident that it is robust, and does not need improvement?

Thank you for explaining that the reason for the increase in exemptions relates to the improved evidence base, which allowed the Environment Agency to apply exemptions under Article 4(5) of the Directive (i.e. the UK can aim to achieve less stringent environmental objectives, if achieving 'good' status "would be infeasible or disproportionately expensive"). We note that you believe the Environment Agency's use of exemptions is justified under the Water Framework Directive. As noted in our previous letter, however, the Commission's Staff Working Document states: "Efforts should continue to further improve justifications for the application of exemptions in relation to Article 4(4) and 4(5) and to make them more transparent in all RBMPs [River Basin Management Plans]. Particularly the criteria used for the justification of Article 4(5) exemptions need to be reconsidered." Do you accept these recommendations? If not, what discussions have you had with the Commission regarding this issue?

We note that you expect it to be a "challenge" for the UK to have all water bodies achieve 'good' status by 2027. This is particularly disappointing given that the original legislation, that the UK signed up to, specified 2015 as the date by which this should be achieved. What percentage of the UK's water bodies do you expect to have achieved 'good' status by 2027?

We note that you have questioned the Commission's finding that five river basin districts have reported high values on the Water Exploitation Index (including one "beyond sustainability"). What response have you received? What are the figures that you hold for the river basins in question (Thames, Northumbria, Humber, Anglian and South-East and Dee)?

Finally, we note that your response is focused on the English Environment Agency. As the Commission's Report covered the whole UK, please provide the equivalent detail for Northern Ireland, Scotland and Wales.

We have decided to retain this Report under scrutiny and look forward to your response within 10 working days.

22 May 2019

Letter from Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter of 22 May. I am responding in relation to England's water and Defra Officials have obtained comments from the Devolved Administrations on their territories, reported below under separate headings.

Report Recommendations

There are 23 largely technical recommendations in the UK report. I explained in my previous letter that the Environment Agency (EA) and Devolved Administration (DA) agencies queried a number of the report's conclusions on which the recommendations were based. Further dialogue is needed with the EU Commission on a number of the recommendations before we can come to a view on what action may be needed.

An annex is attached providing more detailed comments from Defra and the EA on each recommendation, indicating key areas we would wish to seek clarification and dialogue on with the EU Commission.

The EA and DA agencies provided comments to the EU Commission on the draft report explaining how we have met or are meeting these recommendations in the 2nd Cycle plans and their implementation. We will seek clarification whether the EU Commission accepted our explanations and if not, why a number of them have been included in the final report in footnotes. If any gaps in our implementation remain we will consider those in the next cycle of planning which is already underway with the EA and DA agencies.

In addition, it is often unclear from the report the geographical extent of the issues raised. Some of the recommendations will apply largely or wholly to one country of the UK or even just one river basin district in the UK.

We generally agree with those recommendations around improving our understanding of the pressures on water bodies and how programmes of measures should address these. The EA and DA agencies have already made good progress in this area which the 3rd Cycle plans will build on.

You asked me what steps we are taking to resolve these issues in the report with the EU Commission. At the EU Commission's Strategic Co-ordination Group for WFD in May, Member States were informed that the Commission would write to them about any outstanding specific issues raised in their respective reports. The UK will take that opportunity to further discuss the conclusions and recommendations in the report. Other Member States are seeking similar clarifications about their country reports.

Monitoring

I explained that the EA established a strategic and risk-based monitoring network in England for the 2nd cycle RBMPs, both for surface water and ground water, which was robust and compliant with WFD and CIS Guidance. We accept that technical improvements based on our growing understanding of the water environment is an on-going process and the UK Agencies via the UK Technical Advisory Group (UKTAG) are constantly improving monitoring techniques. We do not, however, believe that there is a problem with the strategic approach itself, which the UK and other Member States have adopted. The consultants drafting the report included these explanations on strategic monitoring in footnotes. In addition, last minute changes by the EU Commission to the EU WISE database uploading tool led to the exclusion of data on monitoring of physico-chemical substances and chemical groundwater substances. Defra officials wrote to the EU Commission about this as it would affect the figures on monitoring site reduction. The footnote on page 10 of the report expresses this caveat to the conclusions on monitoring.

Wales

The Welsh Government confirms that Natural Resources Wales (NRW) also employs a risk-based, strategic approach to monitoring. It will be reviewing its risk assessments for the next planning cycle.

Scotland

The Scottish Government state that Scotland has moved to a more risk-based approach to sampling. As knowledge grows, this allows shifting effort to target those aspects of the environment which are

less understood. The EU Report shows a reduction in a small number of monitoring sites in the Scotland RBD (UK_01) between the first and second RBMPs.

The EU report notes that loch fish are not monitored under WFD in any country except Northern Ireland. Scotland has developed a loch fish monitoring tool, which they intend to implement in 2020.

The report also claims that river continuity is not assessed in the UK. Since 2007, Scotland has assessed river continuity for fish passage; a significant driver of downgrades in status, and Scottish Ministers are funding an ambitious programme to remove fish barriers across Scotland.

Northern Ireland

Similar to the EA in England, the Northern Ireland Environment Agency (NIEA) follows a risk based approach to monitoring. This approach is compliant with the requirements of WFD and set out in the UKTAG guidance on location of sites, elements monitored based on risk assessment, and the frequency of element monitoring. Nutrients (nitrate and phosphorus) cause most of the failures in Northern Ireland groundwater and are monitored at a higher frequency therefore fulfilling the requirement of the operational monitoring.

Assessment of the groundwater monitoring network in Northern Ireland must consider local factors. Over half of aquifers in Northern Ireland consist of poorly productive rocks dominated by fracture flow. Additionally, the NIEA need to rely on third party bore holes for monitoring. These issues were raised by NIEA experts commenting on the draft Report.

WFD Article 4

Defra officials raised with the EU Commission why the report recommended the need for greater justification and transparency in relation to WFD Article 4(4) and 4(5) exemptions as it was not clear from the evidence in the report. In particular, Defra asked the EU Commission what the report comment on Article 4(5) was based on. We have yet to receive a response and will take the opportunity to discuss this area again with the Commission. The EA are confident that the process of objective setting for the 2nd Cycle RBMPs was robust, compliant and transparent, involving a full economic appraisal. The approach was discussed fully and transparently with stakeholders in advance and detailed results were shared with them on request. Results at local, sub-catchment level were publicly available and the results were summarised in the RBMPs. The process for objective setting will be refined and further improved in the next cycle of RBMPs, work on which, including the public consultations, is already underway.

Wales

The Welsh Government stated that NRW has used Article 4(5) in very few situations (less than 3% of all water bodies wholly in Wales) and where it did so, it was justified in the RBMP.

Scotland

The Scottish Government stated that Scotland has applied exemptions under Article 4, in line with the requirements of WFD. They can provide detailed documentation for these exemptions, setting-out their use. The change in the number of exemptions between cycles reflects their increased understanding of the environment, and improved knowledge of what is feasible.

Northern Ireland

In Northern Ireland, the only reported exemptions under Article 4(4) were for natural conditions and technical feasibility. Northern Ireland did not report any less stringent objectives under 4(5). The reasons for establishing an alternative objective follow the guidance produced by the UKTAG. This was in line with the approaches permitted by the WFD.

State of the Water Environment

I mentioned that most EU Member States, including the UK, will realistically find it a challenge to meet the ambition of the WFD by 2027. The complexity of the water environment and its required recovery time is now much better understood than when WFD was adopted in 2000. The current picture in England is detailed in the EA's [state of the water environment report](#). It is not possible for the EA to forecast the picture in 2027 until the 3rd Cycle plans are in place and objectives set at the water body level. These plans will be published at the end of the current cycle in 2021.

Wales

For 2021, the Welsh Government forecast a 6% improvement on the current classification results - 37% in 2015 for all water bodies and 40% for surface water bodies only in 2018. NRW have not yet undertaken the objective setting exercise for the third cycle RBMPs so cannot yet accurately forecast for 2027.

Scotland

The Scottish Environmental Protection (SEPA) Agency provide data on [SEPA's environment hub](#). SEPA have already set objectives into the third cycle and forecasts that 89% of water bodies in Scotland will be at good or high status by 2027. The remaining 11% will be in different status classes, either due to an Article 4 exemption, or because of an extended recovery time.

Northern Ireland

The Department of Agriculture Environment and Rural Affairs (DAERA) concurs with Defra's view on progress to good status by 2027. The NIEA will also be setting water body objectives for the 3rd Cycle plans.

Water sustainability

I accepted that there are significant abstraction pressures in the RBDs in England mentioned in the report. I highlighted the steps we are taking to tackle these pressures, including our abstraction licensing reforms, the National Policy Statement including water resources infrastructure and local catchment measures. The primary water supply companies for the Thames RBD (Thames Water and Affinity Water) have significant abstraction control measures required by the EA in their water resource management plans for 2019. The EA queried the calculations referred to in the report. Having investigated further they inform me that their data supports the conclusions that there are high levels of water stress in those RBDs and it is very high in the Thames. The EA collect abstraction data annually. The calculation in the report is based on data over the period 2007-12, done for the 2015 Plans. Any improvements will not be known until new WEI+ calculation is done in 2021 for the 3rd Cycle RBMPs.

The Welsh Government made no additional comments on the Dee RBD, most of which lies in Wales, but NRW and EA have worked jointly on abstraction measures in this cross border RBD.

11 June 2019

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE MEETING OF THE PARTIES OF THE SOUTHERN INDIAN OCEAN FISHERIES AGREEMENT AND REPEALING DECISION 9767/17 (7214/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE SOUTH PACIFIC REGIONAL FISHERIES MANAGEMENT ORGANISATION AND REPEALING DECISION 9784/17 (7217/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE INDIAN OCEAN TUNA COMMISSION AND REPEALING DECISION 9398/1/14 REV I (7218/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE SOUTH EAST ATLANTIC FISHERIES ORGANISATION AND REPEALING COUNCIL DECISION 10127/14 (7224/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE NORTH ATLANTIC

SALMON CONSERVATION ORGANISATION (NASCO) AND REPEALING DECISION
9450/1/14 REV I (7229/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE NORTH-EAST ATLANTIC
FISHERIES COMMISSION AND REPEALING DECISION 9451/1/14 REV I (7233/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE WESTERN AND CENTRAL
PACIFIC FISHERIES COMMISSION AND REPEALING DECISION 10124/1/14 REV I
(7320/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE NORTHWEST ATLANTIC
FISHERIES ORGANISATION AND REPEALING DECISION 9449/1/14 REV I (7321/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE TAKEN
ON BEHALF OF THE EUROPEAN UNION IN THE ANNUAL CONFERENCE OF THE
PARTIES TO THE CONVENTION ON THE CONSERVATION AND MANAGEMENT OF
POLLOCK RESOURCES IN THE CENTRAL BERING SEA AND REPEALING DECISION
9782/17 (7330/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE COMMISSION FOR THE
CONSERVATION OF ANTARCTIC MARINE LIVING RESOURCES AND REPEALING
DECISION 10840/14 (7331/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE GENERAL FISHERIES
COMMISSION FOR THE MEDITERRANEAN AND REPEALING DECISION 9389/1/14 REV
I (7333/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE EXTENDED COMMISSION
OF THE CONVENTION FOR THE CONSERVATION OF SOUTHERN BLUEFIN TUNA
(CCSBT) AND REPEALING DECISION 10125/14 (7334/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE INTER-AMERICAN
TROPICAL TUNA COMMISSION AND THE MEETING OF THE PARTIES TO THE
AGREEMENT ON THE INTERNATIONAL DOLPHIN CONSERVATION PROGRAMME
AND REPEALING DECISION 10126/14 (7335/19)

PROPOSAL FOR A COUNCIL DECISION CONCERNING THE POSITION TO BE
TAKEN ON BEHALF OF THE EUROPEAN UNION IN THE INTERNATIONAL
COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS AND REPEALING
DECISION 10974/1/14 REV I (7337/19)

**Letter from the Chairman to the Rt Hon Robert Goodwill MP, Minister of State for
Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs**

Thank you for your Explanatory Memorandum (EM) on the above Decisions, which was considered by our Energy and Environment Sub-Committee at its meeting on 24 April.

We note that the Proposals seek to replicate principles that are already encoded in EU law, and that you are content to support them. We are therefore content to release all 14 Proposals from scrutiny.

However, we also note your concerns regarding the EU exceeding its competence in relation to the Conservation of Antarctic Marine Living Resources (CCAMLR) by submitting proposals that relate to the environment more widely than the Common Fisheries Policy. Therefore, please inform us whether you are successful in securing an additional provision to clarify the scope of the Decision.

We look forward to a reply to this letter in due course.

24 April 2019

Letter from Rt Hon Robert Goodwill MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 25 April 2019.

On the basis of initial comments put forward by other Member States regarding Commission competence in respect of CCAMLR, the Presidency put forward a series of suggested amendments/additions to the CCAMLR proposal (7331/19 + ADD 1). These were considered by the UK and others to adequately address concerns about competence. Work is now underway to produce a final version of the text and we expect this to be submitted to COREPER for approval in the coming weeks.

9 May 2019

Letter from the Chairman to Rt Hon Robert Goodwill MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter dated 9 May on the above Decisions, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 June.

Thank you for informing us that, in your view, the amendments and additions to the Decision regarding the Conservation of Antarctic Marine Living Resources (CCAMLR) adequately clarify the EU's competence in this area.

We are now content to close correspondence on these Decisions.

5 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON PERSISTENT ORGANIC POLLUTANTS (RECAST) (7470/18)

Letter from Dr Thérèse Coffey MP Parliamentary Under Secretary of State Department for Environment, Food and Rural Affairs

Thank you for your letter of 22 November and for granting a scrutiny waiver in anticipation of a vote on this file. Since my update of 7 November, Government officials have continued to participate in negotiations on the revision of this regulation and a final compromise text was provisionally agreed with the European Parliament in March. The revised text is now subject to technical finalisation before being submitted for a vote at the Committee of Permanent Representatives in early June and subsequently progressing as an "A" item on any suitable Council agenda. I am satisfied that the compromise text as agreed protects human health and the environment, whilst not being overly burdensome or disproportionate to UK industry.

As an update to my November response, separate low concentration limits have been agreed for a newly banned brominated fire retardant (BFR) in waste and recycled articles. These limits are stricter than previous limits for similar BFRs and require Member States to sort their waste to remove and destroy the higher concentrations of these chemicals. These concentrations must be reduced further

if the waste is to then be recycled. Both limits will be reviewed by the EU in the next two years with a view to reducing them further.

Member States have agreed that future updates to the Annexes on waste management will be completed through the 'ordinary legislative procedure'. The Government and a number of Member States supported the use of implementing acts but this compromise will also require the agreement of Member States and the European Parliament to make future changes to the Annexes. It has been agreed that delegated acts will be used for changes to other Annexes, which will reflect the agreements made by the Stockholm Convention.

A European Parliament proposal to soften the language on a target date for the removal of equipment containing Polychlorinated Biphenyls (PCBs) was rejected by Member States in favour of a firm target of 2025. The Government supports the removal of one of the original 'dirty dozen' POPs as soon as possible.

Given that we have reached the end of negotiations on this file and I am content with the agreed compromises, I would like to signal the UK's support for this proposal. Thus, I would be grateful if the Committee would consider lifting this proposal from scrutiny.

14 May 2019

Letter from the Chairman to Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter dated 14 May, which was considered by our Energy and Environment Sub-Committee at its meeting on 22 May.

Thank you for explaining that a final compromise text was agreed with the European Parliament in March.

We note that Member States have agreed that future updates to the Annexes on waste management will be completed through the 'ordinary legislative procedure', rather than implementing acts as the UK had called for, but that this would still require the changes to be agreed by Member States and the European Parliament. We note that delegated acts will be used for changes to other annexes, but that these will reflect agreements made under the international Stockholm Convention on Persistent Organic Pollutants treaty.

Thank you for explaining that the proposed amendment to soften the language on a target date for the removal of equipment containing Polychlorinated Biphenyls was rejected by Member States, and that the UK supports retaining a firm date.

We note that there has also been agreement on setting stricter limits on concentrations of brominated fire retardant in waste and recycled articles.

Thank you for explaining that the UK is satisfied with the compromise text and that you believe it strikes the right balance between facilitating industry and protecting the environment. We note that you expect a vote in early June on this Proposal, and that the UK would like to support it. We are therefore content to release this Proposal from scrutiny. Please provide a final update once the Proposal has been agreed, including details of any last-minute changes to the text.

22 May 2019

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON UNFAIR TRADING PRACTICES IN BUSINESS-TO-BUSINESS RELATIONSHIPS IN THE FOOD SUPPLY CHAIN (7809/18)

Letter from the Chairman to David Rutley MP, Parliamentary Under Secretary of State for Food and Animal Welfare, Department for Environment, Food and Rural Affairs

Thank you for your letter of 18 March 2019 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 3 April.

Thank you for explaining that the Directive was agreed by the European Parliament on 12 March, and that you expect it to be voted on in a General Affairs Council meeting on 9 April. Since you wrote to us, the date of the UK's withdrawal from the EU has been extended, and the UK will therefore have the option of ministerial representation at the meeting on 9 April. Please inform us of the position taken by the Minister and the outcome of the vote.

We welcome your statement that, if a withdrawal agreement is reached which would require the UK to implement the Directive, the Government would undertake a cost-benefit analysis on its implementation, including a Regulatory Impact Assessment, and that independent scrutiny of such analysis would be conducted if the impact exceeds the relevant threshold, as you expect it would. However, we note that this will be of limited use as once the legislation has been agreed there will be little scope to alter its impact

We note your statement that there is limited information about the expectations that will be placed on third countries, and that it is possible no concrete answers will be available until Member State transposition has begun. Please inform us what action you will take to seek clarity on this issue, both as a Member State and after the UK withdraws from the EU.

We note that you do not currently intend to modify the UK's Groceries Supply Code of Practice (GSCOP) to align with the proposed Directive. We also note your acknowledgement that it will be important to avoid duplication over the two regimes, and that it will be possible to provide clearer guidance for the 12 retailers implicated once the EU's enforcement approach is clearer.

We have decided to retain this Proposal under scrutiny. Please provide an update after the Council vote, in addition to responding to the question above regarding third country enforcement. We look forward to a reply to this letter within 10 working days.

3 April 2019

Letter from David Rutley MP, Parliamentary Under Secretary of State for Food and Animal Welfare

Thank you for your letter of 3 April 2019.

The Unfair Trading Practices Directive was a non-discussion point on the agenda of the General Affairs Council on 9 April. As anticipated, the item was passed with unanimous support from the other 27 Member States. Lord Callanan (Minister of State for the Department for Exiting the European Union) attended the Council meeting. The United Kingdom abstained. It is still expected that final signature by the Presidency and the Parliament will take place in Strasbourg on 17 April.

With regard to your question about expectations for third country enforcement, establishing the compliance requirements to be placed on UK businesses as a third-country will be a largely reactive exercise, once individual Member States have begun to transpose the Directive into respective domestic law. Currently, we are not aware of any other Member States having begun to develop plans for implementation in third countries, and questions regarding the level of engagement for the UK, both government and industry, are yet to be explored. We will monitor the approaches to implementation adopted in other Member States, which will allow us to respond to any proposals in the interests of UK businesses.

10 April 2019

Letter from the Chairman to David Rutley MP, Parliamentary Under Secretary of State for Food and Animal Welfare

Thank you for your letter of 10 April 2019 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 8 May.

We note that the proposed Directive was voted on at the General Affairs Council on 9 April, and that while the UK abstained it was passed unanimously by the EU-27.

We note your statement that you are unable to clarify the expectations that will be placed on third countries until Member States begin to transpose the Directive, and that you will monitor this process and respond as necessary in the interests of UK businesses.

We are now content to release this Directive from scrutiny and close this correspondence

8 May 2019

Letter from the Chairman to Dr Thérèse Coffey MP Parliamentary Under Secretary of State Department for Environment, Food and Rural Affairs

Thank you for your Explanatory Memorandum (EM) on the above Proposal, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 15 May.

Your EM states: "The UK is aligned with some of the proposed priorities and individual proposal positions identified in the draft Decision." This suggests that you do not agree with them all; please provide details of the aspects with which you disagree, and whether or not you have been able to resolve these disagreements.

We also note that the UK has concerns over the legal basis of the Proposal. Have these concerns been addressed? Are you satisfied with the level of participation that the UK will be able to undertake at the Conference of Parties? Is the legal basis being put forward by the Commission in this instance different to the one it has used for previous CITES Conference positions?

We have decided to retain the Report under scrutiny. We look forward to a reply to this letter within 10 working days.

15 May 2019

Letter from Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter of 16 May following the consideration of the Explanatory Memorandum (EM) on the above Proposal by the EU Energy and Environment Sub-Committee at its meeting on 15 May.

As you may be aware CITES CoP18 has been postponed due to the tragic events in Sri Lanka on 21 April. The CITES Secretariat has not confirmed when CoP18 will take place.

Negotiations on the proposed Council Decision have been ongoing. The Secretary of State has now decided to agree with the Council proposal. The final Council Decision will have a single substantive legal base (Article 192(1); environment).

The date at which the Council Decision will be taken is not yet known but could be as early as 6 or 7 June.

31 May 2019

Letter from the Chairman to Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter on the above Proposal, dated 31 May, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 5 June.

We note that, during the course of negotiations, the Council's Proposal has been amended so that it now has a single legal basis (environment). We note that this is in line with what you and other Member States had been arguing for, and that you are now in agreement with the Council Proposal.

Given that, we are content to release this Proposal from scrutiny and close correspondence on this matter.

5 June 2019

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ENVIRONMENTAL IMPLEMENTATION REVIEW 2019: A EUROPE THAT PROTECTS ITS CITIZENS AND ENHANCES THEIR QUALITY OF LIFE (8302/19)

Letter from Dr Thérèse Coffey MP Parliamentary Under Secretary of State Department for Environment, Food and Rural Affairs

Thank you for your Explanatory Memorandum (EM) on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 June.

We note that the 2019 Environmental Implementation Review (EIR) identifies a number of areas in which the UK needs to improve its implementation of environmental regulations, including:

- a. The effectiveness of separate waste collection
- b. Improving the protection of offshore birds
- c. Adopting national legislation to comply with the invasive alien species Regulation
- d. Improving cooperation and monitoring programmes regarding the protection of natural capital
- e. Accelerating the reduction of nitrogen oxide emissions, for example by implementing restrictions of vehicle access to urban areas and / or fiscal incentives
- f. Reviewing granted permits for industrial emissions for compliance with best available techniques, and strengthening the enforcement of such permits
- g. Improving access to environmental information
- h. Improving the application of the Environmental Liability Directive

What action are you taking on each of these issues?

The EIR provides examples of best practice in each of the thematic areas. Is any UK resource dedicated to assessing those examples, and engaging in other peer-learning across the EU, in order to take a view on whether other countries' approaches could be adopted in the UK?

You state in your EM that "the UK administrations already have well established fora to engage with wider stakeholders on the challenges highlighted in the UK country report". However, the Commission's report states that the UK "has not yet organised an EIR national dialogue that would help it to address the challenges [identified in 2017]". What part will stakeholders play in reviewing and implementing the EIR's conclusions as they apply to the UK?

As you note in your Explanatory Memorandum (EM), the UK will no longer be subject to the EIR process after it withdraws from the EU. What plans do you have for ensuring that there is a regular review of the extent to which the UK is complying with its environmental laws post-Brexit? Will it be part of the role of the Office for Environmental Protection?

Finally, you state in your EM that you see Brexit as an opportunity to "design an effective approach to driving environmental improvement, tailored to the needs of our country". Please provide examples of the 'tailored approach' you envisage.

We have decided to retain the Communication under scrutiny. We look forward to a reply to this letter within 10 working days.

12 June 2019

Letter from Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter of 12 June 2019. I shall respond to each of the points you raised in turn below.

Areas identified for improvement by the Commission in the 2019 Environmental Implementation Review (EIR) report

a. The effectiveness of separate waste collection

The Government's Resources and Waste Strategy published in December 2018 set out our ambition to preserve our stock of material resources by minimising waste, promoting resource efficiency and moving towards a more circular economy. Our strategy is to become a world leader in using resources efficiently and reducing the amount of waste we create as a society. We want to prolong the lives of the materials and goods that we use, and move society away from the inefficient 'linear' economic model of 'take, make, use, throw'. As a first step in implementing the strategy, the Government has recently consulted on measures to have greater consistency in recycling collections for households and businesses; to reform producer responsibility and to obtain views on the introduction of a Deposit Return Scheme for drinks containers.

These reforms will ensure all householders are able to recycle the same materials regardless of where they live and will also have a separate food waste collection. Businesses will also be required to segregate waste for recycling and to recycle food waste where this is produced in sufficient amounts. Our proposals to reform producer responsibility will ensure that those who place packaging materials on the market bear responsibility for the costs of collection and recycling or disposal of these materials. We will also look to consult on extending producer responsibility to other areas such as tyres, bulky items and textiles. These measures will support our strategy's ambitions to work towards all plastic packaging placed on the market being recyclable, reusable or compostable by 2025; to work towards eliminating food waste to landfill by 2030; and to eliminate avoidable plastic waste over the lifetime of the 25 Year Environment Plan. We will also minimise the damage caused to our natural environment by reducing and managing waste safely and carefully, and by tackling waste crime.

b. Improving the protection of offshore birds

The UK is committed to ensuring the protection of our offshore seabirds, which form an essential part of the UK's ecosystem and natural heritage. The UK Marine Strategy commits the UK to take the necessary measures to achieve or maintain Good Environmental Status (GES) in UK waters. In the updated UK Marine Strategy Part One, currently out for consultation, the target for marine birds is that the abundance and demography of marine bird species indicate healthy populations that are not significantly impacted by human activities. The latest assessment of their status is that while GES has been achieved for non-breeding waterbirds in the Greater North Sea it has not been achieved in the Celtic Seas and has not been achieved for breeding seabirds in either the Greater North Sea or the Celtic Seas.

The assessment of the status of marine birds could not distinguish between the impacts of human activities and the effects of prevailing environmental conditions. However it is thought that declines are driven by a combination of competition from fisheries, bycatch mortality, and climate change.

To address the human impacts, we continue to work towards implementing the Food and Agriculture Organization (FAO) Plan of Action on Seabird Bycatch, working closely with the Joint Nature Conservation Committee (JNCC) and a wide group of stakeholders, including environmental groups and the fishing industry, to progress the UK's own national Plan of Action. This aims to protect offshore foraging areas for cliff-nesting seabirds, by mitigating bycatch in places where they are most at risk. In addition, we have designated 47 Special Protection Areas in English waters for seabirds covering 13,000km² in our inshore waters that protect nesting sites and nearby foraging areas.

The UK has a well-respected bycatch monitoring programme in place which is run by the Sea Mammal Research Unit (SMRU). This programme ensures data is collected and assessed on seabird bycatch levels. This data is currently being used to conduct a preliminary assessment of the extent of seabird bycatch across the UK, which will inform the initial focus of the UK National Plan of Action on Seabird Bycatch. We have had positive and informative discussions with NGOs and the fishing industry, and will be working hand in hand with them as we progress our programme of research and monitoring, to ensure we have a clear understanding of the risk of seabird bycatch and are taking appropriate action.

c. Adopting national legislation to comply with the invasive alien species Regulation

As regards implementing the EU Invasive Alien Species Regulation (1143/2014), The Invasive Alien Species (Enforcement and Permitting) Order has been made and laid before Parliament and enters

into force on 1 October 2019. We have formally notified the European Commission of the penalties which it contains, pursuant to Article 30(4) of the EU Regulation.

d. Improving cooperation and monitoring programmes regarding the protection of natural capital

The UK has a number of activities in place to strengthen the monitoring of the status of natural capital assets such as species and habitats.

At the UK scale, the Joint Nature Conservation Committee (JNCC) is coordinating improvements in the collection of, and access to, species monitoring data. They have established UK-wide partnerships to improve geographic coverage, integrate new technologies into monitoring such as acoustic sampling, and develop new metrics that summarise natural capital condition.

In England, our statutory nature conservation adviser, Natural England, has completed the first stage of a 'Living England' map. The map integrates satellite and field data to produce a habitat map for England, with the intention that this will be freely available for public use. Also in England, we have published a framework for developing metrics to monitor progress with commitments in the 25 Year Environment Plan which includes measures on the state of natural capital assets (air, water, land and seas).

In addition to strengthening the monitoring and reporting on the status of natural capital assets, the Government is supporting the development of tools to allow the assessment of the value of natural capital in decision making.

The Chancellor's Spring Statement this year confirmed that the Government will use the forthcoming Environment Bill to mandate net gain for biodiversity on new developments in England. Natural England is currently developing an updated metric to measure biodiversity impacts and gains from development.

Defra is developing a new online resource that will make the evidence base on natural capital and environmental valuation more accessible to non-specialists. An initial version will be launched in 2019.

The Office for National Statistics, working in conjunction with Defra, is on course to meet the target of incorporating natural capital values into the UK National Accounts by 2020.

The EIR also recommends action to more clearly define conservation objectives and improve access to supporting information on management of protected sites. Natural England has improved its advice on conservation objectives for European sites in England. From March this year all terrestrial Special Areas of Conservation have had supplementary advice published to better explain the site's Conservation Objectives and how to achieve them. In the marine environment, Natural England has developed marine conservation advice aimed at competent authorities, decision makers and anyone who has an interest in a marine site.

e. Accelerating the reduction of nitrogen oxide emissions, for example by implementing restrictions of vehicle access to urban areas and / or fiscal incentives

In July 2017, Defra published the UK Plan for Tackling Roadside Nitrogen Dioxide (NO₂) Concentrations, setting out how we will achieve NO₂ limit compliance in the shortest possible time. The Plan is supported by a £3.5 billion investment into air quality and cleaner transport.

As a result of this, the Government is currently working closely with 61 English local authorities, and has placed legal duties on them to tackle their NO₂ exceedances in the shortest time possible. This is supported by £495m to develop and implement required measures, and includes a £220m Clean Air Fund to mitigate the impact of the plans on individuals and businesses.

Also in 2017, the UK Government published a Clean Air Zone Framework in England setting out the principles local authorities should follow when setting up Clean Air Zones in England. A Clean Air Zone, or "CAZ", is defined as an area where targeted action is taken to improve air quality and resources are prioritised and coordinated in order to shape the urban environment in a way that delivers improved health benefits and supports economic growth.

CAZs can include, but do not necessarily mean, a charging zone. We believe that charging zones should only be used where local authorities are unable to identify equally effective alternatives. The Government firmly believes that local authorities are best placed to implement solutions in local

areas. All plans for CAZs will be assessed by the Government to make sure they are effective, fair, good value and will deliver the required improvements in air quality in the shortest time possible. If local plans do not meet that test, the Government will require councils to take action to achieve legal compliance.

As part of our drive to reduce NO₂ emissions on our roads, we introduced a Road to Zero strategy in 2018 which will end the sale of conventional new diesel and petrol cars and vans by 2040. We have also identified £1.2bn of funding projected for investment from 2016-21 in the Cycling and Walking Investment Strategy.

All of these initiatives were re-affirmed in Clean Air Strategy that was published in January 2019 and has been commended by the World Health Organisation as being “an example for others to follow”.

f. Reviewing granted permits for industrial emissions for compliance with best available techniques, and strengthening the enforcement of such permits

Under the Industrial Emissions Directive (IED), larger industrial facilities undertaking specific types of activity are required to use Best Available Techniques (BAT) to reduce emissions to air, water and land. In implementing the IED, we ensure that the relevant permits are reviewed and updated accordingly, using BAT as a reference for setting permit conditions. The EIR report provides an action to continue to ensure compliance with BAT conclusions through regulatory control and the UK Competent Authorities continue to use a range of enforcement options, as required, to address any noncompliance with such permits.

g. Improving access to environmental information

Defra has been working with the European Commission and colleagues in other Member States to improve publishing of INSPIRE datasets, across the EU. The data used in the 2019 EIR report is from 2016 and the situation across the UK has improved since then. The UK has one of the highest number of published INSPIRE datasets compared to other Member States.

Since 2016 the UK has helped lead work on the development of the conditions for publishing the datasets identified by Member States as a priority for reporting under EU environmental legislation. Defra has also sponsored the 2018 update of the UK GEMINI2 metadata standard which will help data publishers to make metadata available on Network Services in the UK.

In March 2018 the Government announced that strategic geospatial data policy initiatives from Defra and BEIS would be consolidated into the Cabinet Office to support the work of the newly formed Geospatial Commission. Following a call for evidence in 2018-19 the Commission is now developing a UK National Geospatial Strategy.

h. Improving the application of the Environmental Liability Directive

With regard to the Environmental Liability Directive (ELD), I should note that it is addressed only in the section on “Strengthening environmental governance”. The section on “Environmental liability” provides very little information.

The priority action is to “Improve financial security for liabilities and ELD-guidance and publish information on environmental damage.” It is not clear what this means. The connection between financial security for liabilities and ELD is unclear, and there is no indication as to how financial security should be improved. There is no explanation as to how the UK’s ELD guidance might be unsatisfactory. We are writing to the Commission to seek clarity on these points.

As for publishing information on environmental damage specifically, again there is no explanation as to how the UK’s practice is unsatisfactory. This is a complex issue, as the ELD is only one of several pieces of legislation that potentially apply, even where “environmental damage” as defined in the ELD may have been caused. For example, the Environment Agency publishes data on environmental pollution incidents, which would include the more serious kinds of damage which would be covered by the ELD, although it does not identify which cases specifically involve the ELD. There is a link between this part of the report to our ongoing collaboration in the Commission’s ELD national experts working group, and the current EU ELD multi-annual work programme. There is also a link to the forthcoming amendment of the ELD, which will require regular reporting to the EU Commission of cases involving the ELD. We are currently considering how best to implement this requirement when it becomes law. We are also seeking clarity from the Commission on this point.

Best practice and peer to peer learning

In terms of best practice and peer to peer learning, each year, UK policy and technical experts participate in working groups, workshops, meetings and other events across the EU to share knowledge and best practice with other Member States on all aspects of environmental policy and legislation. For example, as part of work on the EU Environmental Compliance and Governance Action Plan, UK experts have recently contributed to a document on the handling of environmental complaints to be published under the Plan.

With regard to the 2019 EIR, all the relevant documents have been shared widely with relevant policy teams in Defra and the Devolved Administrations, including the examples of “successful practice” set out in the Commission’s Communication document. Policy teams now have the opportunity to review them and to consider the EIR findings alongside any specific recommendations for individual policy areas.

The Peer to Peer (P2P) initiative was launched by the European Commission in September 2017, as a follow up action to the 2017 EIR. The P2P tool aims to facilitate the direct exchange of expertise, information and best practice between Member States to improve the implementation of environmental policy and law, for example through study visits and workshops. Its use is voluntary and demand-driven. The UK has been supportive of the P2P tool as a positive outcome of the EIR process. We have participated in two P2P workshops on air pollution from household heating and circular economy for cities. Information on the P2P tool has been shared with the Devolved Administrations and UK environment agencies, and we will continue to look for opportunities to participate in sharing best practice with other Member States.

Stakeholder involvement

In the UK we work closely with our stakeholders, experts in the environmental and conservation sector and the wider public to shape policy development, including in policy areas cited as areas for improvement in the 2017 and 2019 EIR reports. There has already been significant action taken this year in areas highlighted as requiring further action in the 2019 UK EIR country report, including air quality and marine designations. For example, 41 Marine Conservation Zones (MCZs) were recently designated and the Clean Air Strategy was published earlier this year. Stakeholders fed in to both of these significant areas of policy work, including through wide public consultation, with the consultation on MCZs receiving over 48,000 responses. The 2019 UK country report notes that we have a strong culture of public consultation in the UK.

Future environmental governance / Long term approach to environmental protection

Leaving the EU provides the opportunity to implement a new, long-term approach to environmental protection, tailored to the needs of the UK. The Government will bring forward the first Environment Bill in over 20 years, putting environmental ambition and accountability at the very heart of Government and providing a robust framework for maintaining and strengthening environmental standards. The Bill will include ambitious legislative measures tailored to address the biggest environmental priorities of our age: air quality, nature recovery, waste and resource efficiency, and water resource management.

The published draft clauses for the Environment Bill establish a new, independent environment body - the Office for Environmental Protection - that will hold Government to account on environmental standards, once we leave the EU, replacing the current oversight of the European Commission. The draft Bill also requires the Government to publish a statutory policy statement on the interpretation and application of nine environmental principles, including the four contained in EU treaties.

In addition, we will place the existing 25 Year Environment Plan on a statutory footing, committing Government to drive forward our green agenda and protect and enhance the environment. The Government will be accountable to Parliament for the delivery of the Plan. The required annual report to Parliament will ensure that this is regularly considered. The first annual progress report was published in April 2019. The new environment body – the Office for Environmental Protection (OEP) - will publish an independent, annual progress report on the implementation of the 25 Year Environment Plan following the Government’s annual report. This will ensure that our ambition is maintained.

The Environment Bill will be introduced early in the second Session of this Parliament. We are in ongoing discussion with the Devolved Administrations about potential areas of cooperation. Nonetheless, not all measures will be for the governments of the Devolved Administrations.

26 June 2019

**COMMUNICATION FROM THE COMMISSION A MORE EFFICIENT AND
DEMOCRATIC DECISION MAKING IN EU ENERGY AND CLIMATE POLICY (8417/19)**

**Letter from the Chairman to Jesse Norman MP, Paymaster General and Financial
Secretary to the Treasury, HM Treasury**

Your department's Explanatory Memorandum (EM) on the above Communication was considered by our Energy and Environment Sub-Committee at its meeting on 12 June.

The EM uses the fact "the EU has agreed several tax policy measures" since 2015 as evidence that a change in the voting mechanism for energy taxation is not required. The Commission's Communication, however, suggests there have been several occasions where measures to protect the environment and limit climate change have been prevented from coming into force because unanimity could not be achieved. Do you share these concerns? Given the UK Government's climate change ambitions, have there been occasions when the UK Government has supported energy taxation proposals that have subsequently failed because of the unanimity requirement? Are you confident that sufficient progress can be made by the EU in achieving its environment and climate change objectives without a change in the voting procedure?

We note that several other Member States are in favour of maintaining the current system, and so the Commission's proposal seems unlikely to succeed. Do you envisage any compromise being suggested, that could offer something between unanimity and qualified majority voting?

Have any further discussions on this issue taken place since the Economic and Financial Affairs Council meeting mentioned in the EM? If so, please provide an update.

We note your concern that discussions on potential future Euratom Treaty reform could provide "unnecessary uncertainty and burden for investors and industry" and could "undermine the investments required to produce a decarbonised base load electricity". It is not clear to us why giving the European Parliament a greater say in Euratom Treaty-related measures would have this outcome. Please explain your concerns in more detail.

We have decided to retain this Communication under scrutiny and look forward to your response in 10 working days.

12 June 2019

**Letter from Jesse Norman MP, Jesse Norman, Paymaster General and Financial
Secretary to the Treasury**

Thank you for your letter dated 12 June 2019 setting out further questions from the House of Lords' European Union Select Committee regarding the EU Commission's Communication on moving to qualified majority voting for energy taxation and on potential Euratom Treaty reform.

You asked whether the Government agrees with the Commission's suggestion that there have been several occasions where measures to protect the environment and limit climate change have been prevented from coming into force due to the requirement for unanimity in voting. The Government does not agree with this assertion. The fact that the Energy Tax Directive is in existence (mandating generalised arrangements for the taxation of energy products and electricity across the EU including minimum rates) shows in and of itself that measures can be introduced in energy and environmental tax.

You also enquired whether the Government has supported energy taxation proposals which failed because of the unanimity requirement. A 2011 proposal (2011/0092) from the European Commission to amend the Energy Tax Directive (2003/96/EC) sought to bring the Energy Tax Directive into line with the EU's energy and climate change objectives including through the introduction of a framework

for CO2 based taxation across sectors not covered by the EU ETS at EU level. The amendment did not pass and the UK opposed its introduction. In part, this was because the proposal contained no amendments to greenhouse gas limits, thereby forcing Member States to deliver previously agreed levels of emissions through changes to the energy tax rules, rather than lowering emissions further. There were also doubts that the proposal met the subsidiarity test. The Government is not aware of any proposals supported by the UK, which have subsequently failed due to the unanimity requirement.

In addition, you asked whether the EU can make sufficient progress in achieving its environmental and climate change objectives without a change in voting procedure. The Government believes they can. Proposed changes to the EU Emissions Trading System for Phase IV of that system have, for example, already had a significant effect on the carbon price which covers around 45% of EU greenhouse gas emissions. Individual Member States remain able to put in place measures in addition to those required under the Energy Tax Directive in order to meet more ambitious climate and environment objectives. An example of this is the UK's Carbon Price Support rates on fossil fuels in electricity generation.

You asked if a compromise between unanimous and qualified majority voting may be possible. The EU currently uses three voting procedures: 1) simple majority voting, requiring the backing of a minimum of 15 Member States, 2) qualified majority voting, requiring the backing of at least 55% of Member States representing at least 65% of the EU population and 3) unanimity voting. The Government's view is that unanimous decision-making in relation to tax policy preserves Member States' sovereignty over their tax systems and the Government are resistant to any changes, which would weaken this. Parliament's function as a tax-scrutinising body dates from its very inception in the 13th Century, and it would be unimaginable folly to give away that achievement.

Therefore, the Government does not believe that there is a suitable alternative that maintains the ability to prevent any EU tax policy measure unilaterally. Any other voting procedure risks restricting the UK's ability to determine its own tax policy in line with national objectives. In addition, the Government recognises that this is a discussion for the 27 Member States and believes it would be inappropriate for the UK to propose a compromise as an alternative way forwards.

The Government is not aware of any further discussions on voting procedures relating to energy taxation since the Economic and Financial Affairs Council meeting mentioned in the Explanatory Memorandum.

You also asked for further detail regarding our position on potential Euratom Treaty reform. Under the Euratom Treaty, the European Parliament has limited decision-making responsibilities. The EU Member States that are calling for a reform of the European Parliament's agency in this area have consistently challenged the role of nuclear power in future low-carbon electricity generation, through negotiating tactics and public statements. The Government supports democratic decision-making and transparency with regard to nuclear activities including investments in new nuclear power stations, transportation, decommissioning, waste management and safety and security requirements. It is also important to ensure that no changes to the Treaty, or in the decision-making process that applies to it, present unanticipated material risks to the nuclear industry, such as the introduction of measures that increase its costs, introduce project delays and create uncertainty for investors.

28 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE TRANSPARENCY AND SUSTAINABILITY OF THE EU RISK ASSESSMENT IN THE FOOD CHAIN AMENDING REGULATION (EC) NO 178/2002 [ON GENERAL FOOD LAW], DIRECTIVE 2001/18/EC [ON THE DELIBERATE RELEASE INTO THE ENVIRONMENT OF GMOS], REGULATION (EC) NO 1829/2003 [ON GM FOOD AND FEED], REGULATION (EC) NO 1831/2003 [ON FEED ADDITIVES], REGULATION (EC) NO 2065/2003 [ON SMOKE FLAVOURINGS], REGULATION (EC) NO 1935/2004 [ON FOOD CONTACT MATERIALS], REGULATION (EC) NO 1331/2008 [ON THE COMMON AUTHORISATION PROCEDURE FOR FOOD ADDITIVES, FOOD ENZYMES AND FOOD FLAVOURINGS], REGULATION (EC) NO 1107/2009 [ON PLANT PROTECTION PRODUCTS] AND REGULATION (EU) NO 2015/2283 [ON NOVEL FOODS] (8518/18)

Letter from Seema Kennedy MP, Parliamentary Under Secretary of State for Public Health and Primary Care

Following the lifting of scrutiny by the European Scrutiny Committee on the above proposal on 30 January 2019, I am writing to provide an update on the negotiations as you requested.

As mentioned in Steve Brine's letter to you on 18 January, the Council adopted a General Approach with a revised text for this proposal on the 18 December. While the Government agreed with the General Approach, the UK abstained from this vote as we had been unable to obtain scrutiny clearance from your Committee prior to the meeting.

Following clearance, in February the UK voted in favour of the agreed Council mandate for trilogue negotiations with the European Parliament and Commission. Following successful negotiations, MEPs endorsed the deal agreed with the Council at a plenary session on the 17 April. The EP's report can be found at: http://www.europarl.europa.eu/doceo/document/TA-8-2019-0400_EN.html

While there were some technical amendments agreed during the trilogue negotiations, the final text continues to meet the overall direction and objectives of the Council mandate agreed in February. It is expected that the Council will proceed to finalise and publish the text as agreed through the trilogue negotiations.

12 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL REGULATION (EC) NO 1224/2009, AND AMENDING COUNCIL REGULATIONS (EC) NO 768/2005, (EC) NO 1967/2006, (EC) NO 1005/2008, AND REGULATION (EU) NO 2016/1139 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AS REGARDS FISHERIES CONTROL (9317/18)

Letter from the Rt Hon Robert Goodwill, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs

Thank you for your letter on the above Proposal, dated 21 March, which was considered by our Energy and Environment Sub-Committee at its meeting on 3 April.

Thank you for explaining that other Member States share your concerns about the proposals to track smaller vessels and to require smaller vessels to report their catches. We note that Spain has suggested changes to this aspect of the Proposal. Please keep us updated on negotiations on this matter.

Thank you for explaining that you do not expect the Proposal to have significant implications for the UK Fisheries Monitoring Centre or the UK Fishing Call Centre, or for compliance with the General Data Protection Regulation.

We note that you have yet to receive a response to your concerns over the imposition of penalty points but that amendments have been proposed that would allow the UK to meet the requirements

of the Regulation. Please keep us updated on how this issue develops and if the amendments are agreed.

Thank you for explaining that you do not hold data on proportion of the UK catch that sea anglers are responsible for, and it has been estimated at anywhere from 2 per cent to 43 per cent. Have there been any changes to the aspects of the Proposal related to recreational fisheries, since the UK and other Member States raised their concerns?

Thank you for explaining that discussions on developing minimum requirements for Remote Electronic Monitoring (REM) systems have begun, and that it will be considered by an expert group in the coming weeks. Please keep us updated on these discussions and on the European Fisheries Control Agency's plans to establish a working group to address data sharing and standards for audits. Are you content that enough work on this issue has been done to effectively implement the aspects of the Proposal relating to REM?

We note that you intend to assess the impact of the aspects of the Proposal related to traceability if a withdrawal agreement between the EU and the UK is reached. Again, please keep us updated on this issue.

We note that access to the EU CATCH system is not required to export fish to the EU and that the UK is developing its own IT system to enable exporters to obtain a UK catch certificate online. When will this be fully operational? We previously asked whether the UK would have the same access as Member States have to the EU CATCH system if a transition period is agreed. Please provide an answer to this question.

Thank you for explaining that amendments have been proposed in relation to the obligation for continuous engine power monitoring. Would these amendments address your concerns? Please keep us updated on this issue.

We note that there has been no further progress in addressing concerns over the aspects of the Proposal relating to logging and recording lost fishing gear. Again, please keep us updated as negotiations proceed.

Thank you for providing an update on the progress of the Proposal overall and for explaining that no additional concerns have arisen. We note that workshops are expected to provide Member States with the opportunity to discuss shared concerns. Please keep us updated on these discussions.

We have decided to retain this Proposal under scrutiny and look forward to a reply to this letter within 10 working days.

3 April 2019

Letter from the Rt Hon Robert Goodwill MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 3 April 2019. I appreciate the Energy and Environment Sub-Committee's consideration of this matter. Please find responses to the questions you have raised below.

Thank you for explaining that you do not hold data on proportion of the UK catch that sea anglers are responsible for, and it has been estimated at anywhere from 2 per cent to 43 per cent. Have there been any changes to the aspects of the Proposal related to recreational fisheries, since the UK and other Member States raised their concerns?

There have been 851 proposed amendments to the control regulation review overall. The amendments to article 55 on recreational fisheries from Member States are mostly to delete the proposal, as it seen as too difficult to implement. There are also suggested amendments to only require registration for conservation measures, not on all fish stocks.

No proposals have as yet been accepted as part of the review, but if these were to be confirmed then this would be satisfactory for the UK. The voting on the amendments is due to take place at the end of April 2019.

Thank you for explaining that discussions on developing minimum requirements for Remote Electronic Monitoring (REM) systems have begun, and that it will be considered

by an expert group in the coming weeks. Please keep us updated on these discussions and on the European Fisheries Control Agency's plans to establish a working group to address data sharing and standards for audits. Are you content that enough work on this issue has been done to effectively implement the aspects of the Proposal relating to REM?

The European Fisheries Control Agency (EFCA) has established a working group on Remote Electronic Monitoring (REM) technology standards. We welcome the work that has been done by the technical group which has made progress on a set of minimum standards for REM to ensure its ability to monitor compliance with the landing obligation. As part of its work, the group is considering the technical and logistical aspects of REM data sharing between flag and coastal states. Next steps are to bring suppliers into the conversation to try and generate commonality of data outputs and analytical software to allow for a consistent interpretation of REM data. Progress made by the group has been positive, however, legal and political implications of the introduction of REM are not discussed through the forum. Further conversations along these lines are required at an EU level to ensure that any legal and political issues that may affect the implementation of the Control Regulation proposals are discussed and resolved.

We note that access to the EU CATCH system is not required to export fish to the EU and that the UK is developing its own IT system to enable exporters to obtain a UK catch certificate online. When will this be fully operational? We previously asked whether the UK would have the same access as Member States have to the EU CATCH system if a transition period is agreed. Please provide an answer to this question.

The EU CATCH system has just completed a self-testing phase with Member States and there will be an official announcement at Seafood Expo in Brussels in May 2019. After this date 3rd countries will have the facility to obtain access to the system in order to test its functionality. It is not available to 3rd countries at the moment.

The Commission has indicated that the legal requirement for using the EU CATCH system is foreseen to be drafted in 2020/2021. This will make it mandatory for EU importers to use the EU CATCH system for importing fishery products from outside the EU. This would mean that the UK validating authorities would still have to get access permissions to the EU CATCH system in order to validate EU catch certificate applications.

In a transition period the UK would have access to the EU CATCH system though it would not be a mandatory requirement until the legal basis was laid later in 2020/2021. The EU are looking to integrate the EU CATCH system with other 3rd country catch certificates systems and have starting testing this. If integration is possible they will look to implement over a 3 to 4 year timescale.

The UK catch certificate system is for exports of UK caught fish to be exported to the EU and has been tested in preparedness for exit and is ready to be launched when required.

Thank you for explaining that amendments have been proposed in relation to the obligation for continuous engine power monitoring. Would these amendments address your concerns? Please keep us updated on this issue.

Proposed amendments to article 39 (Monitoring of engine power) include deleting the proposal, as it is seen as a disproportionate means to the risk and amendments to target any continuous engine monitoring on vessels already charged with infringements in relation to manipulation of engine power. There are also suggestions that this should only be applied in fisheries adopting an effort regime.

These changes would address the concerns of the UK.

The UK selects vessels at random for engine power testing using based criteria and has been visited by an EU appointed Verification Company and all checks undertaken by them were found to be in order.

We note that you have asked for updates on any amendments to the proposals in particular the areas of interest are:

1. Traceability
2. Penalty Points

3. Smaller Vessels and,
4. Retrieval of lost gear.

We will provide an update to the committee as more detail is known. This is likely to be after any voting on the amendments has taken place.

25 April 2019

**Letter from the Chairman to the Rt Hon Robert Goodwill MP, Minister of State for
Agriculture, Fisheries and Food**

Thank you for your letter on the above Proposal, dated 25 April, which was considered by our Energy and Environment Sub-Committee at its meeting on 8 May.

Thank you for explaining that amendments have been proposed to delete the aspects of the Proposal that relate to recreational fisheries, and that you would be willing to accept these. Please keep us updated on this issue.

Thank you for providing an update on the work being done to agree minimum standards for the use of Remote Electronic Monitoring (REM). Please continue to keep us updated. As you are aware, this is an area that this Committee has taken a particular interest in, as part of our inquiry into the implementation of the landing obligation. What timeline is the working group working to, and when do you expect discussions to have completed and decisions made on the introduction of REM?

Thank you for explaining that the UK catch certificate system, which would be used if the UK leaves the EU without a deal, has been tested and is ready for launch if required. Thank you also for explaining that if a transition period is agreed, the UK will have access to the EU CATCH system.

Thank you for explaining that amendments have been proposed to the elements of the Proposal related to the monitoring of engine power that would address the UK's concerns (by either deleting this aspect of the Proposal altogether, or making it a more targeted requirement). Please keep us updated on the progress of these amendments.

As your letter notes, our last letter also asked to be kept updated on: • your concerns over the requirements to track smaller vessels and require them to report their catches; • your concerns over the requirements to impose penalty points; • your assessment of the impact of the traceability requirements; and • your concerns over the requirements to log and record lost fishing gear.

Please provide an update on these issues, and the other issues raised in this letter, once progress has been made.

We have decided to retain this Proposal under scrutiny and look forward to a reply in due course

8 May 2019

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL ON THE REDUCTION OF THE IMPACT OF CERTAIN PLASTIC PRODUCTS
ON THE ENVIRONMENT (9465/18)

**Letter from Dr Thérèse Coffey MP Parliamentary Under Secretary of State Department
for Environment, Food and Rural Affairs**

Thank you for your letter of 12 December 2018, regarding the Proposal for a Directive of the European Parliament and of the Council on the reduction of the impact of certain plastic products on the environment. I would like to thank the Committee for clearing the proposal from scrutiny, and take the opportunity to answer the questions asked and provide an update on the progress made with this dossier.

My responses to your specific questions are as follows: -

- I. The Commission's Impact Assessment did not provide details on the impact of the proposal specifically on the UK, it did however provide some interesting analysis on a broader level.

For example, it highlighted how the removal of plastic litter from fishing nets can incur repair costs, as well as the damage caused to the catches, which reduces income.

Additionally, there are a number of domestic consultations which have either taken place, or are currently taking place, including those for introducing bans on plastic straws, plastic stemmed cotton buds and drinks stirrers, packaging EPR, and Deposit-Return Schemes. In some cases, such as our consultation on plastic straws, plastic stemmed cotton buds and stirrers, we propose that our domestic measures should be in place faster than the EU's proposals. Each of these consultations was supported by an Impact Assessment that assessed the impact of introducing such policy measures on the UK. Regulation and schemes such as these will contribute towards implementing certain Articles and achieving multiple targets set in the SUP Directive.

Defra officials will continue to undertake more in depth analysis of economic, environmental and social impacts of this Directive specifically on the UK throughout the transposition period.

2. The original text for the SUP Directive contained very broad language on implementing extended producer responsibility (EPR) for certain waste streams. In this original text, it was not clear how these obligations were linked to the Waste Framework Directive, separate collection, and how litter costs were being defined. Through negotiation, we now have a text which is clearer on these points. Crucially, there is a clear instruction that separate collection is not required for tobacco products, wet wipes and balloons in order to deliver on EPR for these waste streams.

We believe that the text agreed at the Environment Council is broadly in line with Government policy. The Government has said that where applicable, we will meet the aims and objectives of EU environmental policy. This can be seen in our recently published Resources and Waste Strategy, and in the recent publication of consultations on packaging reform, a deposit return scheme (DRS) for drinks containers, and consistency in household and business recycling collections.

With regards to your point regarding an assessment of the different outcomes likely to be generated by EPR and by a levy, an impact assessment would be needed for a comparative analysis to be made of these two policy options, and to fully understand the expected outcomes (such as cost of the system, expected collection and recycling rates, etc.). Nevertheless, one policy does not necessarily rule out the other. For example, the proposed plastic packaging tax (on which HM Treasury is currently consulting) would be complementary to packaging EPR.

3. In terms of progress made with the dossier, a compromise text was agreed with the European Parliament at the third and final Trilogue on 18 December. This agreement was publicly announced at the Environment Council on 20 December. The final text was then unanimously approved by all Member States at COREPER on 18 January. The UK were happy to support the text and welcomed the ambition and measures it was taking which we feel strike a good balance. I have provided an overview of these measures below.

The text has been through the *Jurist Linguists* process. It is currently due to be presented at COREPER as an I point (i.e. without debate) on 15 May and adopted at a subsequent Council as an A point, the date of which we are awaiting confirmation. The Directive will be a non-discussion agenda item with no further changes to be made. We would then expect the Directive to be published in the Official Journal of the European Union (OJ) in early June 2019, although this is dependent on the date of adoption at Council. My officials will then have a 2 week period in which to notify the RRC of the Government's intentions to transpose the Directive and initial plan for doing so. The Directive will enter into force on the 20th day after publication, marking the start of the two year transposition period for the SUP Directive, although implementation of certain measures will commence beyond this

In my previous update to the Committee, I gave details of the expected final measures in the Directive. Below you will find a summary of the final agreed measures, but please note they are not official until the Directive has been published in the OJ.

Article 4: Consumption Reduction

Member States are to implement necessary measures to achieve “an ambitious and sustained reduction in the consumption” of certain single-use plastic products.

- Reduction measured over the 4 year period 2022 – 2026
- A description of the planned measures proposed to achieve this must be submitted to the European Commission by the end of the transposition period
- Member State shall monitor the reduction in specified products and shall report on progress made to the Commission with a view to the establishment of binding quantitative Union targets for the consumption reduction

The scope of this article covers the following:

- Cups for beverages, including their covers and lids,
- Fast food containers.

Article 5: Placing on the Market

Any products made from oxo-degradable plastic and the following single use plastic items must be prohibited from being placed on the market:

- Cotton bud sticks (except for medical purposes)
- Cutlery
- Plates
- Straws (except for medical purposes)
- Beverage stirrers
- Balloon sticks
- Expanded polystyrene fast food containers, beverage containers and cups.

Member states shall apply the measures necessary to comply with Article 5 from 2 years after entry into force of this Directive.

Article 6: Product Requirements

1 – Tethered bottle caps/lids

Single-use plastic bottles can only be placed on the market if the caps/lids remain attached to the container during the products intended usage stage.

The European standardisation organisations will develop a harmonised standard relating to this requirement after the Directive enters into force.

This requirement will be implemented 5 years after this Directive enters into force, both for carbonated and non-carbonated drinks.

2 – Recycled content targets

- PET bottles must contain 25% recycled content by 2025
- Plastic bottles must contain 30% recycled content by 2030

Article 7: Marking Requirements

Certain single-use plastic products must contain markings informing consumers of:

- a) appropriate waste management options, or the methods of waste disposal which should be avoided for the items,
- b) the presence of plastic in the product and the negatives environmental impact of littering or inappropriate disposal.

This applies to the following items:

- Sanitary towels, tampons and tampon applicators
- Wet wipes
- Cigarettes and tobacco filters
- Cups for beverages

Member States shall apply the measures necessary to comply with Article 7 from 2 years after entry into force of this Directive.

Article 8: Extended Producer Responsibility

All items will be subject to the minimum requirements of EPR set out in the Waste Framework Directive.

1 – Packaging Items

Extended producer responsibility (EPR) schemes should be established for the following items:

- Fast food containers
- Packets and wrappers
- Plastic bottles
- Cups for beverages, including lids and covers
- Lightweight carrier bags

These EPR schemes should cover the costs of:

- The costs of the awareness raising measures outlined in Article 10
- The costs of collection of waste of the products, including the cost of infrastructure and its operation
- The costs of cleaning up the litter of the products

2 – Non-Packaging Items

EPR schemes should be set up for the following items:

- Wet wipes
- Balloons
- Cigarettes and tobacco filters

These EPR schemes should cover the costs of:

- The costs of the awareness raising measures outlined in Article 10
- The costs of cleaning up the litter of the products
- The costs of data gathering and reporting for these products

With regard to cigarettes and filters, the producers shall, in addition, cover the costs of collection of waste of those products discarded in public collection systems, including infrastructure and its operation, and its subsequent transport and treatment.

3 – Fishing Gear

EPR schemes should be set up for the following items:

- Fishing gear containing plastic

These EPR schemes should cover the costs of:

- The costs of the separate collection of waste fishing gear containing plastic that has been delivered to adequate port reception facilities

- The costs of the awareness raising measures outlined in Article 10 for fishing gear containing plastic

Member States shall set up a national minimum annual collection rate of waste fishing gear containing plastic for recycling. Member States shall monitor fishing gear containing plastic placed on the market of the Member State as well as waste fishing gear containing plastic collected and report this data to the Commission with a view to the establishment of binding quantitative Union targets for collection.

4 – Implementation Time

- EPR schemes to be operational by 31 December 2024, but in relation to extended producer responsibility schemes established before 4 July 2018 by 5 January 2023,
- EPR schemes established for tobacco filters will apply from 5 January 2023.

Article 9: Separate Collection

The necessary measures shall be taken to ensure that the following targets for separate collection of beverage bottles for recycling are met:

- 77% by 2025
- 90% by 2029

Article 10: Awareness Raising Measures

Consumers should be informed of the following:

- The availability of reusable alternatives and waste management options
- The impact of littering and inappropriate waste disposal
- The impact on the sewer network of inappropriate disposal

This applies to the following items:

- Food containers
- Packets and wrappers
- Beverage containers
- Cups for beverages
- Cigarettes and tobacco filters
- Wet wipes
- Balloons
- Lightweight plastic carrier bags
- Sanitary towels, tampons and tampon applicators
- Fishing gear containing plastic

In terms of next steps, following the Directive's final approval in COREPER and Council, once published in the Official Journal my officials will have a 2 week period in which to write to the RRC. This letter will notify them of the Government's intentions to transpose the Directive and initial plan for doing so.

I hope that this update provides you with sufficient updates on the progress made with the Directive to date.

7 May 2019

Letter from the Chairman to Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter on the above Proposal, dated 7 May, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 June.

We note that the Commission's impact assessment did not provide specific analysis of the Proposal's potential impact on the UK, but that it did provide some helpful general analysis. We note that you have already conducted a number of impact assessments that relate to elements of this Proposal, as part of domestic policy or legislative consultations, and that you will continue to analyse the impact of this specific Proposal in the period before it comes into force.

Thank you for explaining that the text of the Proposal in relation to Extended Producer Responsibility (EPR) has been amended in the course of negotiations and that it is now broadly in line with UK Government policy. We note that, although there was not agreement on including a flexibility for alternatives to EPR in the Proposal as you had hoped, the Proposal does not preclude the UK from introducing levies (such as the proposed plastic packaging tax).

We note that the final text of the Proposal has now been approved by Member States and is expected to be adopted at a future Council meeting. We are now content to close correspondence on this issue.

5 June 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON MINIMUM REQUIREMENTS FOR WATER REUSE (9498/18)

**Letter from Dr Thérèse Coffey MP, Parliamentary Under Secretary of State,
Department for Environment, Food and Rural Affairs**

Thank you for your letter of 6 September 2018 about the above proposal. I am sorry for the delay in replying.

Since our last exchange there has been a number of discussions at working party level as the Romanian Presidency has prioritised the file since the start of 2019. The Presidency has placed a General Approach discussion on the proposal on the draft agenda for the Environment Council on 26 June.

I am therefore writing to you with an update, which I hope you find helpful and would be grateful if you could consider granting clearance from scrutiny. My updates below are based on the latest Presidency compromise text as of April 2019.

The main amendments proposed in the Presidency compromise text (which may be subject to further change in the run up to the Environment Council) are, first, to limit the impact of the proposal on those Member States with no plans for reuse and, second, to clarify activities to be covered in water reuse risk management plans and roles and responsibilities in implementation and compliance checks. These amendments are intended to address the key issues raised to date by Member States in discussions at Working Parties. The Presidency has also proposed the removal of Article 7 which set detailed rules around the granting of permits in order to give Member States flexibility in their implementation of the proposal. The Presidency has removed Article 12, access to justice, as this duplicated existing legal requirements (under the Aarhus Convention). The Presidency is also proposing that the Regulation would apply four years after entry into force (rather than one year as proposed by the Commission). In general, the UK has supported these amendments as they reflect our negotiating priorities for a clear framework for permitting and compliance checks, for minimising burdens on Member States and for minimising any duplication in the proposal with existing EU law and international conventions.

The European Parliament published its first reading position on 19 February. This sets out a large number of amendments to the proposal. Many of the amendments seek to clarify roles and responsibilities beyond the discharge point at the reclamation plant facility where risk management and compliance is concerned. The European Parliament does not seek to extend the scope of the proposal but does propose that the evaluation (five years after entry into force) considers the

feasibility of covering reuse for other purposes. The European Parliament has proposed that the Regulation should apply two years after entry into force. Some the amendments proposed, particularly in the areas of risk management and compliance, are now reflected in the current Presidency compromise text.

You asked for details of any feedback received from stakeholders on whether this proposal could increase water reuse in the UK. Also, later in your letter, you ask about stakeholder consultation and whether stakeholders shared concerns about the burdens imposed by the proposal discouraging the uptake of reuse schemes. Of the responses received to consultation on the proposal, stakeholders expressed support in principle for the aims of the proposal in seeking to alleviate water scarcity. Most commented on the need to ensure that roles and responsibilities under the proposal were clear and straightforward and that any burdens on end users were minimised if the objective of increasing reuse was to be achieved. These comments have been reflected in our approach to negotiations on the proposals.

You noted that Cyprus, Malta, Italy, Greece and Spain have the highest levels of water reuse in the EU and asked whether the UK could learn from these countries in relation to increasing water reuse. As noted in the Commission's impact assessment accompanying the proposal, this high level reflects the severe water scarcity faced by these Southern European member states. Although the UK does not face the same level of water stress, as outlined in my previous letter of 6 September, water companies are considering reuse as part of their long term water resource management plans, drawing on European and global experiences of such schemes. The focus of reuse schemes within the UK is currently for drinking water purposes. So, although we would expect the level of reuse to increase within the UK in the future, it will likely be for purposes not within the scope of the current proposal. On the basis of current practice, we would expect this Regulation to have little impact in the UK. Of more direct relevance to the proposal, discussions at the working parties have benefited from presentations by several Southern European member states with high levels of reuse for crop irrigation covering practices within their country.

You also noted that we were considering how best to reclaim the costs of permitting and monitoring from reclamation plant operators. As clarified in the recitals to the proposal, Member States should be able to apply existing procedures for granting permits. We envisage therefore that costs associated with permitting and monitoring would be recovered in line with existing arrangements for permitting within the UK, as is the case, for example, with environmental permits covering waste water treatment plants (which fall within the definition of 'reclamation plant' under the terms of this proposal). We are satisfied that the detailed arrangements for permitting and charging set out in the draft Regulation allow Member States to decide how best to implement the proposal. We will consult on these arrangements, after the entry into force of the proposal.

23 May 2019

Letter from the Chairman to Dr Thérèse Coffey MP, Parliamentary Under Secretary of State

Thank you for your letter, dated 23 May, on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 June.

We note that feedback from stakeholders has been broadly supportive of the aims of the Proposal but that they suggested roles and responsibilities would need to be clear, and burdens on end users minimised, if it is to increase water reuse. Do you believe the text, as currently drafted, meets these criteria?

Thank you for explaining that water companies in the UK are drawing on European (and global) best practice in their consideration of water reuse, although direct comparisons with Cyprus, Malta, Italy, Greece and Spain (the countries with the highest levels of water reuse) may be difficult given the different challenges they face.

We note that you are now satisfied with the arrangements for permitting and charging, and for how costs for permitting and monitoring can be reclaimed, contained in the draft text as they will allow individual Member States to decide how to implement these aspects of the Proposal.

Thank you for explaining that the UK has broadly supported the amendments that have been proposed by the Presidency. We note that the European Parliament has also proposed a large number of amendments, some of which are now included in the Presidency's draft text and some of which appear to be in contradiction to it. Do you have any concerns over any of the Parliament's suggestions? Please keep us updated on key changes made to the text, and whether any concerns arise for the UK.

We note that a General Approach discussion is planned for 26 June. We are content to grant a waiver to allow you to participate in any vote that may take place at that Environment Council meeting, but have decided to retain this Proposal under scrutiny and look forward to receiving an update following the meeting

12 June 2019

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT
AND THE COUNCIL ON THE STATE OF PLAY OF THE COMMON FISHERIES POLICY
AND CONSULTATION ON THE FISHING OPPORTUNITIES FOR 2019 (9635/18)

Letter from the Rt Hon Robert Goodwill MP, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food & Rural Affairs

Thank you for your letter of 27 March 2019 asking for clarity on what steps are being taken to monitor the 41% of stocks not being fished in accordance with International Council for the Exploration of the Sea (ICES) advice and for an update on the preliminary economic analysis on all stocks for 2019. I will answer both of your points in order and will also provide an update on the Farne Deep Nephrops and its Maximum Sustainable Yield (MSY).

Monitoring stocks 'not at MSY'

For all the quotas which were set using the ICES MSY approach, and for which the UK has an interest, 59% were set in line with MSY for 2019 (29 of 49), compared with 69% (31 of 45) in 2018. Quotas which have improved to become MSY compliant for 2019 include Irish Sea sole, 7fg sole, North Sea whiting, North Sea plaice and 7b-k whiting. MSY compliant fishing levels have been maintained for 22 quotas, including Irish Sea cod and haddock and North Sea haddock.

However, ten stocks previously fished at MSY, including cod, sole and herring in the North Sea will exceed MSY levels in 2019. The fall in the number of stocks fished at their MSY needs to be seen in the context of 2019 being the first year of the full implementation of the landing obligation, as our fleet adjusts its practices to avoid unwanted catches of bycatch species from closing economically important mixed fisheries while further discard reduction measures are developed and implemented.

In relation to the 41% of stocks 'not at MSY', the UK Government agencies are involved in an ongoing program of stock monitoring for a wide variety of commercially harvested fish and shellfish species. Generally, stocks classified as 'not at MSY' are subject to similar monitoring to those which are 'at MSY', although some bespoke studies may be instigated where there are particular concerns. The classification of stocks to be MSY compliant varies on a regular basis following the latest stock assessments, and so the need for consistent monitoring across multiple stocks is key to best understanding trends.

Stock assessment and monitoring for those fish and shellfish stocks subject to EU quota occurs at an international level through ICES. Stock assessments undertaken through ICES are generally annual, although the data collection for these assessments occurs throughout the year. The UK is actively involved in these scientific assessments, which include routine sampling of catches at ports and at sea as well as deploying our research vessels in internationally coordinated surveys. Additional survey work is sometimes undertaken on commercial vessels. ICES also undertakes assessments for some stocks not subject to EU quotas, however the responsibility for the assessment and monitoring of the majority of non-quota stocks falls to national institutions. The UK Government marine institutes (the Centre for Environment, Fisheries and Aquaculture Science; Marine Scotland Science; and the Agri-Food and Biosciences Institute) undertake assessment and monitoring work on a range of the key non-quota stocks such as edible crab, lobster and scallop. These assessments are typically undertaken every one to three years.

Preliminary economic analysis on all stocks for 2019

In EM 13731/18 which set out the UK Government position ahead of the annual negotiations for fishing opportunities for 2019, we said we would provide a full valuation of the outcome of those negotiations following the final settlement ratified at the December Council. A report prepared by our economists is now attached.

The value estimated for the 2019 December Council settlement to the UK is around £554 million with the 2019 EU-Norway negotiations estimated to be worth around £130 million to the UK. There has been a decrease of 15% in quota for 2019 (519,304 tonnes) compared to 2018 (610,200 tonnes). This represents a relative value decrease of 9%, indicating a larger decrease in total allowable catch for lower value per tonne stocks.

Update on the Nephrops Farne Deep and MSY

In my predecessor's letter of 14 January 2019, it was advised that the Farne Deeps Nephrops stock will be fished at its MSY in 2019. That was correct based on the evidence that we had about its MSY status after the December Council. However, it has since emerged that some landings by the 10 metre and under fleet which were sold to Scottish buyers did not feed into the ICES stock assessment. Our scientists advise that after taking these removals into account the stock will be fished above its MSY harvest rate. While this is disappointing news, the trajectory of the harvest rate for the Nephrops in the Farne Deeps is still downwards and the stock biomass is expanding. The recovery measures, designed to reduce fishing activity, remain in place and industry is broadly compliant. These measures have ended the serious overexploitation of this locally important fishery.

9 April 2019

Letter from the Chairman to the Rt Hon Robert Goodwill MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 9 April 2019 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 8 May.

Thank you for clarifying that the 41% of stocks not being fished in accordance with advice from the International Council for the Exploration of the Sea (ICES) are subject to similar monitoring to those which are being fished sustainably, namely through stock assessment via research vessels and sampling catches at ports. We also note that the UK's Centre for Environment, Fisheries and Aquaculture Science, Marine Scotland Science, and the Agri-Food and Biosciences Institute carry out additional monitoring activities for stocks not subject to EU quotas.

We note your correction regarding the Farne Deeps Nephrops stock, and encourage you to take steps to ensure that in the future all of the necessary data is supplied to ICES in a timely fashion to enable its stock assessments.

Thank you for providing your assessment of the economic value to the UK of the outcome of the December Council settlement. We note that the value of the settlement was lower than the 2018 settlement, as a result of total allowable catch (TAC) reductions to improve stock sustainability. However, in our view this report is not the "economic analysis of the implementation of the landing obligation on all stocks" that your predecessor referred to in his letter of 14 January, as it is unclear what decisions and trade-offs were made as a result of the landing obligation. We would find it helpful to understand what scenarios you considered and assessed regarding the landing obligation, and intend to raise this issue when you appear before the Sub-Committee on 29 May.

We wish to once again make it clear that we are dissatisfied with the extent to which unsustainable total allowable catches were agreed for 2019. However, we are now content to close this correspondence.

8 May 2019

GENERAL CORRESPONDENCE

OVERVIEW OF THE IMPLEMENTING AND DELEGATING REGULATIONS BEING NEGOTIATED UNDER THE SMARTER RULES FOR SAFER FOOD PACKAGE AND POSSIBLE UK IMPLICATIONS

Letter from Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity

After more than a decade in development, the application date is approaching for three important reforms to sanitary and phytosanitary regulation in the European Union: the Animal Health Regulation (2016/429), the Plant Health Regulation (2016/2031) and the Official Controls Regulation (2017/625). Together these regulations are known as the Smarter Rules for Safer Food package, or SRSF.

The three SRSF EU principal framework Regulations contain a number of empowerments for the Commission to make delegated and implementing regulations (often referred to as “tertiary EU legislation”), containing more detailed provisions. After around three years of discussion in European Commission expert and working groups in which UK officials have been active and influential, many of these EU delegated and implementing regulations are now being finalised and published, although negotiations continue in some areas, and the Commission has not chosen to exercise all of their empowerments.

Following a request from your Committee clerks, my officials agreed that it would facilitate scrutiny for me to provide an overview of the delegated and implementing regulations currently being finalised or still under discussion, and their possible implications for the UK.

Enclosed to this letter are four annexes:

Annex A covers information that is identical for all delegated and implementing acts deposited for each of the principal framework Regulations. This information is often identical across all three SRSF Regulations, reflecting the package’s ambition to create an integrated biosecurity system.

Annex I details the specific UK implications for each of the eleven delegated and implementing regulations made under the empowerments of the Animal Health Regulation.

Annex 2 does the same for the twenty six regulations made the Official Controls Regulation.

Annex 3 does the same for the ten regulations made under Plant Health Regulation.

We hope that this detailed overview assists your Committee’s assessment of which delegated and implementing acts require additional scrutiny. By reviewing all this EU tertiary legislation together it is easier to see how they function together as a system.

14 May 2019

Annex A: information common to SRSF delegated and implementing acts

	REGULATION (EU) 2016/429 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on transmissible animal diseases	REGULATION (EU) 2016/2031 OF THE EUROPEAN PARLIAMENT OF THE COUNCIL on protective measures against pests of plants	REGULATION (EU) 2017/625 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on official controls and other official activities performed to ensure the application of food and feed law,

			rules on animal health and welfare, plant health and plant protection products
Draft Delegated and implementing acts (only three are in the Official Journal)	11 total	10 total	26 total
Ministerial responsibility	Secretary of State for Environment, Food and Rural Affairs	Secretary of State for Environment, Food and Rural Affairs	Secretary of State for Environment, Food and Rural Affairs. Food safety elements are the responsibility of the Secretary of State for Health and Social Care.
Interest of the devolved administrations	Scottish Government Ministers, Welsh Government Ministers and Northern Ireland have an interest in this legislation as food safety, animal health, plant health and the delivery of official controls are fully devolved policy areas. Officials from across the UK have been working together closely throughout the negotiations on the development of this tertiary legislation.		
Legal and procedural issues	<p>Legal basis: delegated and implementing regulations are adopted on the basis of three principal framework EU Regulations and a Justice and Home Affairs opt-in is not considered appropriate in this case. The three principal Regulations are:</p> <ul style="list-style-type: none"> • Regulation (EU) 2016/429 of the European Parliament and of the Council of 9 March 2016 on transmissible animal diseases (Animal Health Regulation/ “AHR”) • Regulation (EU) 2016/2031 of the European Parliament of the Council of 26 October 2016 on protective measures against pests of plants (Plant Health Regulation/ “PHR”) • Regulation (EU) 2017/625 of the European Parliament and of the Council of 15 March 2017 on official controls and other official activities performed to ensure the application of food and feed law, rules on animal health and welfare, plant health and plant protection products (Official Controls Regulation/ “OCR”). . <p>European Parliament Procedure: Delegated acts are scrutinised by the European Parliament and the Council. Implementing acts are voted on at the Standing Committee on Plants, Animals, Food and Feed and the European Parliament can only object if it believes the Commission is acting beyond the powers defined in the initial act.</p> <p>Voting Procedure: delegated regulations can be rejected by an</p>		

	<p>objection from either the EU Parliament or the Council within a period of two months of notification. To successfully object, the European Parliament requires a majority of members whilst the Council requires a qualified majority vote. Implementing acts are adopted by examination procedure: if a qualified majority votes in favour of the proposed implementing act, the Commission must adopt it; if a qualified majority votes against the proposed act, the Commission may not adopt it; if there is no qualified majority either for or against the proposed act, the Commission can either adopt it or submit a new, amended version.</p> <p>Application to Gibraltar: none.</p> <p>Fundamental Rights Analysis: no fundamental rights are considered to be affected by the draft EU tertiary legislation proposals.</p>	
<p>Impact on United Kingdom Law</p>	<p>The Animal Health Regulation is due to be applied April 21st 2021. As this is after the end of the planned implementation period we would not be legally required to introduce this legislation unless its implementation was mutually agreed in Future Economic Partnership negotiations.</p>	<p>The Withdrawal Agreement between the UK and the EU, as currently drafted, foresees a time-limited implementation period until 31st December 2020. As set out in the 'Legislating for the Withdrawal Agreement' White Paper, the Withdrawal Agreement Bill will legislate to ensure that EU law continues to apply during the implementation period. This means that, in this scenario, the OCR and PHR and most of their delegated and implementing acts would apply in the UK from 14th December 2019, and then become retained EU legislation at the end of the implementation period under the EU (Withdrawal) Act.</p> <p>If we leave the EU on a non-negotiated basis before 14th December 2019, we would not be legally required to introduce this legislation.</p>
<p>Application to EEA</p>	<p>Tertiary legislation under the OCR and AHR are applicable to the European Economic Area. The PHR is not applicable to the EEA and therefore neither is tertiary legislation falling under it.</p>	
<p>Subsidiarity</p>	<p>There is no change in subsidiarity as a result of these delegated acts.</p>	
<p>Consultation</p>	<p>The various tertiary legislation have been discussed in a series of expert group meetings between Member States and the Commission. Technical feedback and approval was sought on the UK's approach to negotiating this legislation from the devolved administrations. This includes working closely with the Welsh Government, the Scottish Government, the Northern Ireland Executive, the Food Standards Agency in Wales and Northern Ireland and Food Standards Scotland.</p> <p>European stakeholder organisations were consulted through the European Commission's Advisory Group on the Food Chain and Animal and Plant Health. European public consultation requirements have been adhered to regarding this legislation immediately prior to publication.</p>	

	<p>We will consider whether formal consultation of UK stakeholders is necessary after the various tertiary legislation has been finalised and published by the Commission following the completion of scrutiny by the European Parliament and the Council.</p> <p>There has been regular informal consultation with UK stakeholders through the negotiations of the framework Regulations and their various draft delegated and implementing acts.</p>
Impact assessment	<p>Should the new proposal require implementation in the UK (in the event of a negotiated withdrawal from the EU) we will consider whether impact assessments will be necessary for public consultation.</p>

Annex 1: Draft tertiary regulations made under the Animal Health Regulation.	
Subject Matter	Animal health requirements for movements of terrestrial animals and placing on the market of products of animal origin
Full title	Commission Delegated Regulation supplementing Regulation (EU) 2016/429 of the European Parliament and the Council, as regards animal health requirements for the movements of terrestrial animals and hatching eggs
Type	Delegated Regulation
Status	Final draft (no more meetings expected, awaiting public consultation)
Likely UK implications	<ul style="list-style-type: none"> • There would be some UK implications due to the changes in legislation but the main activities of government bodies, vets and operators will remain largely unchanged. • There are some changes to the rules for movements, for example more rules for camelids and cervids and also possible additional rules for movements to countries which are free of voluntary eradication diseases. • Additionally the new rules will not allow bilateral agreements, so any related derogations that are permitted must be available to all Member States. This would have implications, for example, for the movement of horses and other equines that would have previously been covered by the Tripartite Agreement (TPA). The implication is that the concessions associated with it would have to be extended to other Member States who could meet the requisite higher biosecurity standards. This is not an issue for the UK though as we are hoping that this principle could ultimately also be applied to third countries, to allow us to benefit from similar concessions in the event of 'no deal'. The Commission have made clear that otherwise we would not be able to remain part of the TPA (or its successor). • In relation to bovine Tuberculosis, the drafts have improved significantly since early 2018. Our remaining concerns relate to a shortened window for post movement testing (from 60 to 30 days). This would be logistically challenging for receiving farmers to organise tests to take place in shorter time with a local official veterinarian. • The draft regulation does not introduce any other significant changes to the animal health regime.
UK position	As this is a delegated regulation, there is no vote. Our position will depend on whether the remaining issues with the regulation are resolved.
Purpose of document	Streamline existing legislation into one instrument for rules on prevention and control of animal diseases when moving terrestrial animals between EU Member States. It covers: <ul style="list-style-type: none"> • General biosecurity needs for the means of transport and containers transporting terrestrial animals and hatching eggs • Rules for assembly operations of ungulates and poultry • Obligations of animal health certificates and their derogations for different movement types and animal category • Notification requirements for certain movement categories • Animal health requirements on movements of several animal/ hatching egg categories, including but not limited to movements of: <ul style="list-style-type: none"> - animals between states for slaughter - kept animals into confined establishments - hatching eggs - traveling animal acts / animals intended for exhibitions or sporting events

Subject Matter	Surveillance, eradication, disease-free status
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of XXX supplementing Regulation (EU) 2016/429 of the European Parliament and the Council laying down rules for disease notification and reporting, surveillance, eradication programmes and disease freedom for certain listed diseases
Type	Delegated Regulation
Status	Final draft (no more meetings expected, awaiting public consultation)
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications due to the changes in legislation but the main activities of government bodies, vets and operators will be largely unchanged. Defra will continue to control diseases in line with the existing control strategies and contingency plans. • Some additional surveillance may be required, for example for Bovine tuberculosis (bTB) in camelids and cervids. • In relation to bTB, the drafts have improved significantly since early 2018. Our remaining concern in this Act relates to the procedure for regaining officially bTB free status for herds in the low risk area and Scotland, which would see them placed under restrictions for a minimum of 12 months (vs 4 months currently). • Additionally, there are some production diseases, such as bovine virus diarrhoea (BVD) and infectious bovine rhinotracheitis (IBR) where it is now possible to have an eradication programme, however, these are voluntary and we would anticipate any programme would be industry led. • The aquatic health rules are limited by current EU legislation and there are still outstanding discussions regarding the categorisation system for disease status of aquaculture establishments. The implications of this proposal have not been clarified yet, but they are unlikely to pose significant risk or burden on UK authorities or businesses.
UK position	As this is a delegated regulation, there is no vote. Our position will depend on whether remaining issues with the regulation are resolved.
Purpose of document	<p>This regulation updates rules to reflect new technical and international standards on disease notification, surveillance, eradication programmes and conditions for recognition/ maintenance of disease-free status locations. It aims to provide a smooth transition to the new AHR and lays out:</p> <ul style="list-style-type: none"> • rules and conditions for surveillance by authorities to detect listed / emerging diseases • Criteria for what diseases are subject to union surveillance programmes/relevant for the union • Rules for implementation of compulsory and optional eradication programmes for specific listed diseases • Measures to be implemented by authorities and operators under compulsory and optional eradication programmes • Rules for granting disease-free status to member states and zones • Surveillance and biosecurity measures to be implemented by authorities and operators for maintaining disease-free statuses • Supplementary rules for the suspension, withdrawal and restoration of disease-free status • Derogations from the requirements under the act and information to be provided by member states concerning such derogations

Subject Matter	Animal disease prevention and control measures
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of XXX supplementing Regulation (EU) 2016/429 of the European Parliament and the Council, as regards rules for the prevention and control of certain listed diseases
Type	Delegated Regulation
Status	Final draft (no more meetings expected, awaiting public consultation)
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications, such as adjustments to the size of restriction zones in the case of disease outbreaks and changes in processes for showing disease freedom after an incursion, but the main activities of government bodies, vets and operators will remain largely unchanged. Defra will continue to control diseases in line with the control strategies and contingency plans. • The aquatic health rules are wordy and less reader-friendly than the existing 2008/88 Directive, and the wording on the declaration of restricted areas may allow other Member States to do less than the UK considers appropriate to control and eradicate diseases. These issues do not hinder the UK's disease control processes. • Animal operators, vets and other professionals will not have to change what they do because of this act. Nor does the act change the scope of animal health rules.
UK position	As this is a delegated regulation, there is no vote. Our position will depend on whether the remaining issues with the regulation are resolved.
Purpose of document	<p>This Regulation supplements the rules on disease awareness, preparedness and control under the AHR, focusing on effective control measures and prevention of the spread of diseases. By creating one source for detailed standard rules it intends to create transparency and guide understanding from with animal keepers, operators, vets etc. The regulation covers:</p> <ul style="list-style-type: none"> • Obligations of operators and other relevant/ natural legal persons • Rules on disease control measure in the event of suspicion and official confirmation of category A disease (in kept terrestrial animals, wild terrestrial animals, aquatic animals wild aquatic animals) • Rules for repopulation or vaccination in the event of confirmation of category A disease (kept terrestrial animals) • Establishment and duration of restricted zones in event of category A disease confirmation (in kept animals and aquaculture animals) • Disease control measures in the event of suspicion or confirmation of category B or C diseases (in kept terrestrial animals)

Subject Matter	Approval of aquaculture establishments and traceability of aquatic animals
Full title	Aquatics registration, ID, approvals
Type	Delegated regulation
Status	In early negotiation
Likely UK implications	<ul style="list-style-type: none"> • No draft of the document has been seen, but there have been several meetings to consider individual elements of the future regulation and the overall approach the Commission and Member States would like to take to aquatic animal health across the AHR delegated regulations. • The information provided at meetings to date have few implications on the UK aquatic animal health regime but much improvement is needed to the drafting.
UK position	Our position will depend on the outcome of ongoing negotiations at EU expert groups.
Purpose of document	This delegated regulation will lay down rules for the movement of aquatic animals and aquatic animal products with the European Union. No draft of the document has yet been seen.

Subject Matter	List of transmissible animal diseases
Full title	COMMISSION DELEGATED REGULATION (EU) 2018/1629 of 25 July 2018 amending the list of diseases set out in Annex II to Regulation (EU) 2016/429 of the European Parliament and of the Council on transmissible animal diseases and amending and repealing certain acts in the area of animal health ('Animal Health Law')
Type	Delegated Regulation
Status	Published in the Official Journal
Likely UK implications	<p>This delegated regulation was scrutinised by the Committee through EM C(2018) 4785. In that EM it was explained that “there are some implications for the UK in terms of disease surveillance due to the listing of new diseases and the de-listing of others but the impact of these will be limited.”</p> <p>http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/commission-delegated-regulation-eu-of-25-7-2018-amending-the-list-of-diseases-set-out</p>
UK position	As this is a delegated regulation, there was no vote, but the UK does support the list.
Purpose of document	<p>This document supplements AHR, adding diseases to the 'listed diseases' in the original Annex II to the AHR which pose a risk to animal health, public health, the economy and environment in the Union.</p> <p>The AHR details five diseases within its core text and several others in its Annex II. This regulation</p> <ul style="list-style-type: none"> • Addresses AHR dictation that the Commission must review the list of disease within that annex by April 20th 2019 (three years from the date when the AHR was introduced) • Replaces the original Annex II list of diseases in the principal framework AHR • Adds approximately 20 new diseases to this replacement Annex II, based on an EFSA review and Working Group discussions.

Subject Matter	Entry into the Union of certain animals, germinal products and products of animal origin
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of XXX on animal health requirements for the entry into the Union, movement and handling after the entry of certain animals, germinal products and products of animal origin from third countries or territories
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> This delegated regulation is still in negotiation. Defra officials are engaging actively with the Commission to resolve outstanding issues. We will update the Committees when we have a clearer idea of the direction of travel.
UK position	There is no vote on a delegated regulation. Our view will depend on the outcome of ongoing negotiations at EU expert groups.
Purpose of document	<p>This regulation lays down rules on the entry into the EU of certain animals, germinal products and products of animal origin from third countries. It aims to lower the risk of introducing or spreading animal diseases. The regulation applies to several animal categories. Those not explicitly described are covered by general relevant rules in the AHR. The regulation sets out rules on:</p> <ul style="list-style-type: none"> Obligations of competent authorities at Border Control Plans (currently called border inspection posts of “BIPs”) and compliance requirements they must review during inspections Obligations of operators transporting animals into (and then within), the Union such as; <ul style="list-style-type: none"> That transported animals be free from listed diseases That transported animals not be diverted from the purpose listed for their entry General preventative animal health requirements for animal types (and by volume) such as ID tags, vaccination and disease surveillance Residency periods of animals/ donor animals and conditions and requirements within these periods Transportation conditions and requirements Identification and certification procedures (including health certificate) Obligations for operators transporting animals from third country through the Union (i.e to the its final destination in another State) Derogations to the above requirements.

Subject Matter	Movements within the Union and entry into the Union of germinal products of certain kept terrestrial animals
Full title	COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council as regards the approval of germinal product establishments and the traceability and animal health requirements for movements within the Union of germinal products of certain kept terrestrial animals
Type	Delegated Regulation
Status	Public consultation closed, awaiting adoption
Likely UK implications	<ul style="list-style-type: none"> • Defra, APHA and other government bodies will not have to change what they do because of this tertiary legislation. • There will be changes for animal operators, vets and other professionals as new techniques have been recognised that were not covered in the old legislation and conditions have been applied. The area of germinal products and particularly new techniques are continually changing, so changes like these happen fairly regularly. These changes have been generally well received by industry and do not involved major restrictions. • This regulation does not change the scope of animal health rules or introduce any other significant changes to the current regime.
UK position	As this is a delegated regulation, there is no vote, but the UK does support this regulation.
Purpose of document	<p>This regulation focuses upon the approval of germinal product establishments, the collection and handling of germinal products, their traceability and animal health requirements for the movements within the Union of germinal products of kept animals of the bovine, ovine, caprine, porcine and equine species, and if necessary of other species. The regulation sets out rules on:</p> <ul style="list-style-type: none"> • Requirements for the approval and for the cessation of activities of germinal product establishments • Information to be included in authority registers of approved germinal product establishments • Record keeping obligations for operators, including for establishments that have ceased their activities; • Traceability requirements for germinal products of several animal categories • Animal health requirements for the dispatch of consignments of germinal products between Member States; • Animal health certification and notification requirements for the dispatch of consignments of germinal products between Member States; • Derogations from requirements for dispatch of consignments of germinal products between Member States for scientific purposes and where stored at gene banks; • Transitional measures to protect the acquired rights and legitimate expectations of stakeholders resulting from pre-existing Union legislation

Subject Matter	Animal health requirements for movements within the Union of aquatic animals and products from aquatic animals
Full title	Working document on Aquatics movements
Type	Delegated regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • A draft of the document with a full title has not yet been seen, but there have been several meetings to consider individual elements of the regulation and the overall approach the Commission and Member States would like to take to aquatic animal health across the AHR delegated regulations. • On the whole these provisions are yet to be drafted, and these could have a significant impact on UK aquatic animal health status if changed significantly.
UK position	Our position will depend on the outcome of ongoing negotiations at EU expert groups.
Purpose of document	This delegated regulation will lay down rules for the movement of aquatic animals and aquatic animal products with the European Union. No draft of the document has been seen.

Subject Matter	Registration and approval of establishments and identification and registration of terrestrial animals
Full title	Commission Delegated Regulation supplementing Regulation (EU) 2016/429 of the European Parliament and of the Council, as regards registration obligations of certain transporters, requirements for granting approval of certain establishments keeping terrestrial animals and hatcheries, registers to be kept by the competent authorities, record-keeping obligations of registered establishments, transporters and operators, and of approved establishments, identification and registration of kept terrestrial animals and traceability of hatching eggs
Type	Delegated regulation (with relevant Implementing Regulation)
Status	In negotiation.
Likely UK implications	<ul style="list-style-type: none"> This delegated regulation is still in negotiation. Defra officials are engaging actively with the Commission to resolve outstanding issues. We will update the Committees when we have a clearer idea of the direction of travel.
UK position	There is no vote on a delegated regulation. Our view on the regulation will depend on the outcome of ongoing negotiations at EU expert groups.
Purpose of document	<p>Streamline rules on registration and approval of establishment/ processes relating to ID and registration into one single piece of tertiary legislation (applying only to commercial movements. It establishes rules for;</p> <ul style="list-style-type: none"> Registration of transporters moving certain species between Member States/ between a Member State and a third country Identification and movement documents, where they are appropriate and information to be included ID and registration of animals after they enter into the Union Establishments which require approval (if they pose risk for kept terrestrial animals) or extra record-keeping obligations Information about establishments, transporters and operators to be included in registers (and what is available to the public) Computer databases and the exchange of electronic data (especially for bovine) Requirements for the means and methods of identification including how they are applied, exemptions and special provisions for the identification of certain species (i.e bovine) Risk management measures (i.e quarantine or surveillance) <p style="text-align: right;">The</p> <p>traceability requirements for hatching eggs</p>

Title	Commission Implementing Regulation (EU) laying down rules for the application of Regulation (EU) 2016/429 of the European Parliament and of the Council with regard to traceability of kept terrestrial animals
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	This Implementing Regulation is still in negotiation. Defra officials are engaging actively with the Commission to resolve outstanding issues. We will update the Committees when we have a clearer idea of the direction of travel.
UK position	Our position will depend on the outcome of ongoing negotiations with the European Commission.
Purpose of document	<p>This Implementing Regulation provides the detailed technical processes for applying the relevant Delegated Regulation on Animal health requirements for movements of terrestrial animals and placing on the market of products of animal origin. It lays down more detailed rules on;</p> <ul style="list-style-type: none"> • Uniform access to data contained in computer databases kept animal species and the technical specifications and operational rules for them • Technical conditions and modalities for the exchange of electronic data between computer databases of Member States in respect of bovine animals and the recognition of full operability of the data exchange systems; • Design and technical specifications of the means of identification of kept terrestrial animals and the configuration of the identification code; • Time periods for the application of identification methods for kept terrestrial animals and deadlines for transmission of information to computer bases • Procedures for removal, modification and replacement of the ID means for kept terrestrials

Title	COMMISSION IMPLEMENTING REGULATION (EU) 2018/1882 of 3 December 2018 on the application of certain disease prevention and control rules to categories of listed diseases and establishing a list of species and groups of species posing a considerable risk for the spread of those listed diseases
Type	Implementing Regulation
Status	Published in the Official Journal
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications due to the changes in categorisation of certain diseases but the main activities of government bodies, vets and operators will remain largely unchanged. • Animal operators will have some additional reporting requirements to the EU but this is likely to just be periodic reporting on the presence or absence of disease. • The Act does not introduce any other significant changes to the animal health regime.
UK position	The UK voted in favour of this Implementing Regulation.
Purpose of document	<p>This implementing regulation applies categories to the diseases listed in Annex II (as replaced by Delegated Regulation 2018/1629 detailed above).</p> <p>These disease categories (applying across tertiary legislation) are;</p> <ul style="list-style-type: none"> • Category A: listed disease that does not normally occur in the Union and for which immediate eradication measures must be taken as soon as it is detected • Category B: listed disease which must be controlled in all Member States with the goal of eradicating it throughout the Union • Category C: listed disease which is of relevance to some Member States and for which measures are needed to prevent it from spreading to parts of the Union that are officially disease-free/ have eradication programmes • Category D: listed disease for which measures are needed to prevent it from spreading on account of its entry into the Union or movements between Member States, • Category E: listed disease for which there is a need for surveillance within the Union

Annex 2: Tertiary regulations made on the basis of the Official Controls Regulation (OCR).

Subject Matter	Requirements to be respected by consignments of certain animals and goods intended for human consumption entering the Union
Full title	COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council with regard to requirements for the entry into the Union of consignments of certain animals and goods intended for human consumption
Type	Delegated Regulation
Status	Adopted
Likely UK implications	<ul style="list-style-type: none"> • There are some implications for the UK as this regulation will affect the way our system of import conditions currently works. For the most part, however, the system will continue to function as it currently does for trade in major commodities such as poultry, pork, lamb and beef. • The new rules have the potential to be slightly more burdensome for certain parts of industry dealing with composite products. However, overall, the Commission have sought to base controls more on risk than prescriptive rules, as in the past. This is a positive move towards a risk-based approach that successive UK governments have promoted. • While UK officials did raise concerns that some aspects of the new rules may impede trade, particularly for products with a low proportion of specific products of animal origin, on balance in negotiations we felt this was an acceptable trade-off for a more risk-based approach overall. • The range of goods practically subject to harmonised import conditions will expand under this regulation (i.e insect and reptile meat, sprouts for human consumption). Consignments of these commodities will need to originate in a listed third country and to come from a 'registered establishment', rather than the more stringent 'approved establishment' category. • The regulation increases the requirements for the import of raw materials for the production of gelatine and collagen so that in future they could be required to derive from approved establishments, such as slaughterhouses. This could potentially impact on the movement of goods in to Europe from trade partners if the necessary administrative provisions have not been made in time. • Lower risk composite products which may currently not require an official certificate in order to enter the European Union will in future require a private attestation from business.
UK position	As this was a delegated regulation the UK did not vote.
Purpose of document	<p>Lays down rules for the performance of official controls by Member States' competent authorities and requirements for consignments of animals and goods from third countries for human consumption to enter the EU. Sets out rules on:</p> <ul style="list-style-type: none"> • Requirements for the listing of third countries or regions to be authorised for imports of food into the EU (listed in another implementing regulation) • Requirements for establishments that third country consignments of certain animals and goods are dispatched, obtained or prepared in • Official certification requirements confirming their consignments compliance

	<p>with EU rules or evidence of compliance with equivalent rules</p> <ul style="list-style-type: none"> • Specific import requirements taking into account characteristics of products • Derogations when products pose a lower public and animal health risk. • Requirements for consignment entering the EU to be placed onto the market
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Subject Matter	Rules on specific training requirements for staff for performing certain physical checks at border control posts
Full title	COMMISSION DELEGATED REGULATION (EU) .../... establishing rules on specific training requirements for staff for performing certain physical checks at border control posts
Type	Delegated Regulation
Status	Adopted
Likely UK implications	<ul style="list-style-type: none"> • The regulation will require the UK to develop a training plan that ensures staff at Border Control Posts have the necessary level of expertise to assist Official Veterinarians in performing physical checks of animals or on meat/edible meat offal. Records must be kept of training programmes and participation. Otherwise the main duties of will remain the same. • The delegated regulation would allow Border Control Posts (BCP) to use trained staff to help perform physical checks depending on commodity. It will not replace the Official Veterinarian but can support their role. The regulation also introduces training requirements for staff performing physical checks on aquatic animals and some animal products. • The regulation does not introduce any other significant changes to the official controls regime. It will facilitate current practices at the BCP. • The regulation also contains a derogation for competent authorities to designate staff who did not attend the official training, but who are otherwise trained on the same subject or who have participated in exchange programmes organised by the Commission.
UK position	As this is a delegated regulation, there was no vote.
Purpose of document	<p>Establishes training requirements to ensure a certain standard of competence in the workforce at BCPs verifying compliance with EU agri-food chain legislation. This regulation sets out:</p> <ul style="list-style-type: none"> • Which staff require training, including (nb. It does not apply to official veterinarians and to official plant health officers) • Obligation for competent authorities to develop and arrange training for the staff • Relevant training topics, including; <ul style="list-style-type: none"> ○ applicable EU legislation; ○ identification of animal species and examination of the fitness to travel of animals ○ the use of equipment ○ investigation and control techniques ○ labelling requirements

	Possibility for competent authorities to designate staff who did not complete specified training but have previously received relevant training.
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Subject Matter	Derogating from the rules on the designation of control points and from the minimum requirements for border control posts
Full title	COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by derogating from the rules on the designation of control points and from the minimum requirements for border control posts
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • This regulation would change the UK approach to approving Border Control Posts (BCPs). Defra would have to ensure BCPs and control points are designated for specific categories of goods. Currently, designation is just for products and/or live animals. • The regulation introduces a notification process, providing information on measures taken to address non-compliances when designation has been partially withdrawn. If the Commission agrees the measures are sufficient, then Defra can re-designate the affected BCP/control point to specific category of goods. • The regulation sets out derogations that allow Defra to approve BCPs that are situated away from point of entry, if due to geographical constraints. • The regulation allows for a mobile official control team to check sawn and chipped wood which enters UK via long coastal line, so long as the necessary equipment is available. A specific BCP is not required. This is suitable for current practices. • The regulation does not introduce any other significant changes.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>The purpose of this delegated regulation is to specify the cases where and the conditions under which certain derogations and exemptions from BCP requirements can be granted for their designation. Allows for:</p> <ul style="list-style-type: none"> • Re-designation of a border control post or of a BCP where the designation has been partially withdrawn • BCPs situated at a distance other than in the immediate vicinity of the point of entry into the EU due to specific geographical constraints • Designation of BCPs for imports of unprocessed logs and sawn and chipped wood to take account of specific geographical constraints

Subject Matter	Meat and molluscs inspection
Full title	COMMISSION DELEGATED REGULATION (EU) .../... concerning specific rules for the performance of official controls on the production of meat and for production and relaying areas of live bivalve molluscs in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council
Type	Delegated Regulation
Status	Adopted
Likely UK implications	<p>This delegated regulation was scrutinised by the Committee through EM C(2019) 10. In that EM it was explained that “The DR largely replicates existing EU requirements for official controls in Regulation (EC) 854/2004. Changes to the existing official controls for products of animal origin under Regulation 854/2004 include:</p> <ul style="list-style-type: none"> • the possibility for ante-mortem inspection for all species to take place at holdings of provenance where this is authorised by competent authority; • restrictions on the size of establishment which can be considered a ‘low-capacity’ slaughterhouse or game handling establishment; and • minimum training requirements for staff undertaking official controls who are not official veterinarians (OV) or official auxiliaries (OA)” <p>http://europeanmemoranda.cabinetoffice.gov.uk/memorandum/commission-delegated-regulation-eu-of-8-2-2019-concerning-specific-rules-for-the-performance-of</p>
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Establishes rules on official controls affecting the production of meat (meat inspection) and production and relaying areas of pectinadae, marine gastropods and Holothuroidea. It sets out rules on;</p> <ul style="list-style-type: none"> • Criteria and conditions for the performance of ante-mortem inspections outside of slaughterhouses • The performance of post-mortem inspections by the official veterinarian in the case of emergency slaughter; • Specific requirements for official veterinarians, official auxiliaries and other staff designated by the competent authorities; • Training required of slaughterhouse staff in order to perform certain inspection tasks. • Derogation conditions allowing ante-mortem, post-mortem inspections and official controls to be performed by staff other than official veterinarians • Derogations to provide continuation for local and traditional customs and for production and relaying areas of pectinadae, marine gastropods and Holothuroidea to not be classified.

Subject Matter	Regulation on the measures to be taken in case of non-compliances related to VMPs and their residues.
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of XXX supplementing Regulation (EU) 2017/625 of the European Parliament and Council regarding specific cases of suspected or established non-compliance with Union rules applicable to the use or residues of pharmacologically active substances authorised in veterinary medicinal products or as feed additives or with Union rules applicable to the use or residues of prohibited or unauthorised pharmacologically active substances
Type	Delegated Regulation
Status	Planned
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications but the regulation largely maintains the requirements of Council Directive 96/23, which this regulation repeals. • The regulation maintains requirements to hold live animals at a slaughterhouse, possibly for days, if officials believe they are still within a withdrawal period for a veterinary medicine. However Food and Veterinary Office (FVO)/ SANTE F inspectors have recognised this approach as impractical and, in these cases, the VMD requires animals to be slaughtered and processed on the day of arrival. The meat is required to be held until analytical results are available to confirm the residues status. • The regulation indicates that if analytical results from a slaughtered animal are inconsistent with details on the Food Chain Information (FCI), even if they are within the legal limit for a pharmacologically active substance, the Competent Authority shall carry out an investigation. The need for this is unsure, as the UK believes most Member States use FCIs which simply indicate respected withdrawal periods, without identifying the substance. • The regulation has been re-drafted by the Commission based on Member State comments, including not having to dispose of all of the meat from a consignment of animals if it can be proved that only the tested animal was treated. • The Commission has indicated that it wants to clear this with the Council and European Parliament before EP elections at the end of May.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Lays down measures for cases when the use of authorised, unauthorised or prohibited pharmacologically active substances on food-producing animals and to their residues do not comply (or are suspected to not comply) with EU Rules. The regulation's covers;</p> <ul style="list-style-type: none"> • Batch requirements (i.e separation of concerning batches from unaffected ones) • Slaughtering and carcass disposal requirements • Ability of competent authority to take action against non-compliant operators • Samples necessary to detect cases of non-compliance • Investigation requirements and next steps (including if operators are found in possession of non-authorised persons or substances or not able to provide relevant treatment documentation) • Follow-up investigation requirements and approaches in cases of repeat non-

	compliance
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Subject Matter	Common Health Entry Document accompanying consignments of animals and goods to their destination
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of XXX Supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council concerning the Common Health Entry Document accompanying consignments of animals and goods to their destination
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • The current practices of Defra, APHA and other government bodies would not be changed by this regulation. There are no new rules with regards to CHEDs accompanying consignments to final destination • The regulation introduces a derogation to allow for split consignments at the BCP. If the consignment is non-compliant on checks, then the consignment can be split if new CHEDs are submitted by the operator for each part of the compliant consignment. • Currently the whole consignment is rejected but the new act stipulates part of the consignment can still be cleared for vet checks and customs cleared for free circulation. • The regulation does not introduce any other significant changes to the status quo.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Establishes rules on the conditions and the practical arrangements under which the CHED should accompany consignments intended for placing on the market to their destination. Addresses traceability and proper communication between the competent authorities. This regulation does not apply to transit. Sets out:</p> <ul style="list-style-type: none"> • CHED to accompany the consignment to final destination either by paper copy of electronic form, and then is released for free circulation. CHED number must be referenced in the lodged customs declaration. • Customs will communicate to Information Management System for Official Controls (IMSOC) to ensure quantity set out in CHED is not exceeded. • Consignments must arrive at BCP and once CHED is finalised the consignments can be split at the BCP and new CHEDs must be submitted by operator and finalised by BCP for the relevant parts of the consignment. • Non-compliant consignment split at the border is permitted, and the compliant parts of the consignment

Subject Matter	Categories of consignments to be subjected to official controls at border control post
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of 14.1.2019 amending Regulation (EU) 2017/625 of the European Parliament and of the Council as regards the categories of consignments to be subjected to official controls at border control posts
Type	Delegated Regulation
Status	EU scrutiny complete, awaiting publication
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications due to the changes in categorisation of consignments but the main activities of government bodies, professional operators and border control staff will remain largely unchanged.
UK position	As this is a delegated regulation, there is no vote, but the UK does support this regulation.
Purpose of document	<p>Amends the OCR to add to the categories of consignments which must undergo official controls at the border control post after they arrive into the EU. Adds:</p> <ul style="list-style-type: none"> • Composite products • Hay • Straw <p>It links with other acts that also set out a lists of relevant composite products, exempts certain categories of composite products from BCPs and specifies what import conditions apply to the different categories of composite products, hay and straw.</p>

Subject Matter	Detailed rules for the performance of specific official controls on consignments of animals and goods originating from and returning to the Union following a refusal of entry by a third country and establishing additional conditions for products of animal origin and composite products
Full title	COMMISSION DELEGATED REGULATION (EU) .../... establishing detailed rules for the performance of specific official controls on consignments of animals and goods originating from and returning to the Union following a refusal of entry by a third country and establishing additional conditions for products of animal origin and composite products
Type	Delegated Regulation
Status	EU scrutiny complete, awaiting publication
Likely UK implications	<ul style="list-style-type: none"> • There will be few UK implications of this regulation. The main activities of government bodies and professional operators will remain largely unchanged. • The regulation states that when EU goods are rejected by a third country and returned to a BCP in the EU the same checks will apply as today. The consignment is then monitored back to a place of destination, as practiced today. • There will be no changes for BCP requirements. The BCP must be aware of the requirement to receive a letter/ documentation from the competent authority agreeing to receive the consignment before it arrives in the UK. The consignment is then monitored to the nominated place of destination stated by the operators. Currently, they must return to the establishment of origin. • Derogations have been made to reduce the requirement above if the seals of the container are intact and if other evidence is provided by the operator. • The regulation does not introduce any other significant changes to the status quo.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Establishes rules on official controls for consignments of animals and goods which have originated from the EU and been returned after refusal for entry by a third country. It establishes requirements ensuring public health, animal health and plant health requirements are met for these products returning to the EU. Areas covered include:</p> <ul style="list-style-type: none"> • Obligations for authorities to carry out documentary checks, identity checks and if necessary physical checks • Specific rules for the performance of the official controls and checks necessary to ensure that consignments comply with animal health, plant health or public health requirements • Checks on animals re-entering the EU are fit for further transportation to their place of destination

Subject Matter	Monitoring the transport and arrival of consignments of certain animals and goods
Full title	COMMISSION DELEGATED REGULATION (EU) .../... establishing conditions for monitoring the transport and arrival of consignments of certain animals and goods from the border control post of arrival to the establishment at the place of destination in the Union
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be few implications for the UK. The main activities of government bodies and professional operators will remain unchanged. There will be implications for BCPs, as there will be new responsibilities for them to investigate and enforce the non-arrival of channelled consignments. • BCPs will be required to ensure Defra/APHA receive notification from them of the expected arrival of the consignment to the place of destination. • Under the regulation if Defra/APHA have not confirmed through IMSOC the arrival of the consignment to the destination, then the BCP should carry out further investigation and enforcement responsibilities fall on them or Defra/APHA. Currently APHA are fully responsible for monitoring channelled consignments and investigating non-arrivals and border inspection posts are not involved. • The regulation does not introduce any other significant changes to the status quo.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Establishes conditions for monitoring the transport of consignments of goods between the border control post it arrived into the union from at the establishment at its place of destination in the EU. More specifically, the regulation establishes:</p> <ul style="list-style-type: none"> • The time limit by which a consignment must arrive at the place of destination • The requirements and time limits for the exchange of information between operators and competent authorities set to 15 days • Conditions for monitoring the transport and arrival of consignments of animals and goods intended for placing on the market in the EU

Subject Matter	Plant health requirements for controls of wood packaging material including notification and remedial measures in cases of non-compliance
Full title	Commission Delegated Regulation supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council as regards rules concerning the performance of specific official controls of wood packaging material, notification of certain consignments and measures to be taken in cases of non-compliance
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications but the main activities of government bodies and operators will be mostly unchanged. • The regulation's measures to be taken in the event of non-compliance are largely the same so there will be no change to the impact of remedial actions on operators. • The regulation introduces a new requirement for a risk-based monitoring plan that takes account of findings from previous monitoring of wood packaging material (WPM) and a requirement to provide advanced notification of WPM consignments when entering the EU. • There is also new requirement for competent authorities to have access to the entire consignment for checks to allow these to be carried out on all the accompanying WPM. • Custom authorities will now be required to detain consignments with WPM for checks at the request of competent authorities, who must then notify customs and the responsible operator of the consignments of the checks outcome. • There will be a new procedure for reporting the results of checks on WPM through the Common Health Entry Document (CHED) and to submit results through a computerised management system for official controls (IMSOC). • The UK have not had the opportunity to evaluate the impact of introducing the new reporting procedure through CHED and IMSOC and wishes to retain the capability to carry out checks on material of these systems (i.e walk-around checks on consignments which have already landed). The APHA and the Forestry Commission are commonly interested in retaining use of PEACH/eDomero systems.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Establishes plant health requirements for controls on wood packaging materials (WPM), including;</p> <ul style="list-style-type: none"> • WPM which is exempted from official controls and a definition for the forms of WPM within the scope of the Regulation • Rules for preparation of a risk-based monitoring plans for checks • Obligations on operators for notification of consignments of WPM • Rules on completion of CHED and reporting the outcome of checks on WPM through IMSOC • Remedial measures to be taken in cases of non-compliance

Subject Matter	Regulation on import conditions for third countries for controls of VMP and pesticides residues and contaminants.
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of XXX on conditions to be respected by animals and goods entering the Union from third countries, in order to ensure that the animals and goods provide equivalent guarantees regarding the Union restrictions on the use of pharmacologically active substances and regarding the Union requirements on contaminants and residues of pharmacologically active substances and pesticides in animals and products thereof.
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be implications for Border Control Posts and Laboratory staff. • The regulation will maintain requirements for allowing third countries to offer equivalent guarantees that their exported food of animal origin respects EU rules on use of pharmacologically active substances and non-use of prohibited substances. These requirements will also apply to pesticide products and the Commission will draw up and agree a plan for EU domestic surveillance of contaminants so that third countries will know what equivalence will look like for these too. • Third countries will be expected to follow those rules of the new Veterinary Medication Products Regulations for the use of antimicrobial products, including reserving designated antimicrobials for use in humans. This should not have big implications for the UK. Compliance with EU rules for horses will also be required which will also not have notable implications. • Regardless of the UK's status after EU Exit, it will be necessary to develop a contaminants plan (FSA) and incorporate testing for insecticides and biocides in food producing animals (Defra/ HSE/ FSA). Current enforcement and reporting activity covering veterinary medicines and pesticides will also need to be extended. • There would likely be an increased workload for BCP staff if the current expected increase in sample numbers is agreed upon. Laboratories will also be required to process more samples. The resultant increase in costs will likely have to be borne by importers.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>The Regulation specifies that the import of animals and animal products into the EU is subject to following requirements:</p> <ul style="list-style-type: none"> • Dictates Member States can only import animals and products of animal origin from approved list of third countries (established in an implementing regulation) • Requires third countries to submit a residue control plan for veterinary medicinal products, pesticides and contaminants to be approved by the commission to be added to said list • Third country submissions must provide equivalent guarantees to EU restrictions on the use of pharmacologically active substances, contaminants, pesticides and residues of pharmacologically active substances in animals and animal products intended for human consumption.

Subject Matter	Exemptions at BCPs
Full title	COMMISSION DELEGATED REGULATION (EU) .../... of XXX on the cases where and the conditions under which animals and goods may be exempted from official controls at border control posts
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will not be major implications for the UK under this regulation and there are no changes to the public health rules on category of goods. • The regulation requires points of entry into the EU, specifically airports and ports, to display posters and leaflets about procedures for the introduction of products of animal origin • There will be changes to the types of research animal which are exempt from BCP. The UK is in negotiation to add an exemption for trade samples entering into the EU for testing and consumption as part of the internal operations of a Food Business Operator. This may include Products of Animal Origin (POAO) or composite products.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Establishes conditions for exemption of certain categories of animals and goods from official controls at BCPs. Intends to facilitate exhibitions and the promotion of scientific activities and reduce unnecessary administrative burden on BCPs in low risk cases. The regulation covers the below categories (detailing items in annexes) which are not intended to enter the market:</p> <ul style="list-style-type: none"> • Goods sent as trade samples or as display items for exhibitions • Animals and goods intended for scientific purposes • Goods on transportation which are not unloaded and are intended for consumption by the crew and passengers • Goods which form part of passengers personal luggage and are intended for personal consumption or use • Small consignments of goods sent to natural persons • Pet animals • Categories of animals or goods posing a low risk or no specific risk

Subject Matter	Rules on official controls that may be performed at places other than the border control post of first arrival
Full title	Delegated Regulation to establish rules for the cases where and the conditions under which identity checks and physical checks on certain goods may be performed at control points other than border control posts and documentary checks performed at distance from border control posts
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be few implications for UK government bodies and professional operators as a result of this regulation. • There will be derogations set out under this regulation that mainly continue derogations listed under previous legislation. Most of these derogations apply to plant health cases.
UK position	As this is a delegated regulation, there will not be a vote. The act is still under development. The UK has welcomed the improvements made to the document. The requirement for issuing subsequent CHEDs is one of the outstanding issues. Negotiations are ongoing.
Purpose of document	<p>Establishes the cases and conditions that allow official controls to be performed at places other than the border for goods entering the EU. Covers:</p> <ul style="list-style-type: none"> • Which competent authorities may perform checks away from the border and in what scenarios they are preferable to checks at border posts (i.e post designated for certain goods type) • Requirements of identity checks and physical checks at non-border posts, including on consignments of plants/ plant products and consignments of feed and food of non-animal origin. • Requirements for documentary checks on consignments of plants, plant products and other relevant products • Consent required from operators and authorities to authorise non-border checks • Pre-notification requirements and document requirements from operator and authorities before sending to non-border posts • Transport requirements for operator consignments between border post and destination post • Requirement for confirmation at destination post and time-periods for processes

Subject Matter	Official controls at Border Control Posts: rules on transshipment, transit and onward transportation of animals and goods
Full title	COMMISSION DELEGATING REGULATION (EU) .../... of XXX establishing specific rules for official controls at the border control posts on the transshipment, transit and onward transportation of animals and goods referred to in Article 47(1) of Regulation (EU) 2017/625
Type	Delegated Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be no significant implications for the UK, other than ensuring training is performed for the TRACES-NT IT system. The main activities of government agencies will remain the same although professional operators and border control/ warehouse staff need to be aware of some additional documentary requirements. • The regulation will reduce the transit period between the border control post (BCP) of entry and BCP of exit from a maximum of 30 day maximum to 15 days. Transshipment periods have been extended to 3 days at airports and 30 days at ports for documentary check for third country goods. • The regulation introduces the need for two Common Health Entry Documents (CHED) for onward transportation. For transits, a separate CHED is now required for the BCP of exit to confirm arrival and ID/doc checks. For vessels leaving the EU, CHEDS now also need to be accompanied by an official ship supply certificate from the BCP of exit. • Approved warehouses must receive a relevant CHED and official certificates to then perform ID checks verifying seals are intact when consignments enter the warehouse. The regulation requires a new CHED (with reference to the old CHED) to be issued by BCP staff from an approved warehouse to accompany consignments to the exit border inspection post or final destination. • Operators and importers must receive training on how to use the new TRACES-NT system. The IT logistics of pre-notification of trade will also be different and training is required.
UK position	As this is a delegated regulation, there is no vote.
Purpose of document	<p>Establishes rules for official controls at border control posts on consignments of animals and goods. The regulation covers goods that are subject to physical checks at border control posts then transported to their place of final destination, animals and goods in transit, animals arriving by air or sea that stay on the same means of transport for onward travel and those moved from a vessel or aircraft to under supervision in preparation for onward travel. Rules cover areas such as:</p> <ul style="list-style-type: none"> • Conditions under which identity checks / physical checks may be performed at a border control post other than the first one of arrival • Requirements of BCPs to check consignments staying for long time periods in ports and airports and time limits for them remaining • Documentation which must accompany consignments in certain circumstances (including ensuring it leaves EU again) • Checks of products leaving the union to then re-entering it after passing through third-country territory (and exemption on plant and plant products that are low risk). • Conditions which allows BCPs to authorise onward transportation to final place of designation

Subject Matter	Reference laboratories for pests of plants
Full title	COMMISSION DELEGATED REGULATION (EU) 2018/631 of 7 February 2018 supplementing Regulation (EU) 2017/625 of the European Parliament and of the Council by establishing European Union reference laboratories for pests of plants
Type	Delegated Regulation
Status	Published in the Official Journal.
Likely UK implications	<ul style="list-style-type: none"> • There will be little impact for the UK as result of this tertiary legislation, the UK has not put itself forward to be considered for a European Union Reference laboratories (EURL) • There will be one EURL established for each specialism. This is predominantly an exercise to identify and establish centres of expertise within the EU and will require no change in behaviour for the UK. • In early discussions the UK nominated and informed the Commission of our National Reference Laboratories, however as the UK is leaving the EU we did not apply for a plant health EURL as we would not be eligible. In a deal scenario we may see to clarify if we are eligible in future and to confirm if the UK has access to the network and expertise. •
UK position	As this is a delegated regulation there will be no vote. The UK favours this act and will not be directly affected.
Purpose of document	<p>Establishing these labs aims to assist competent authorities to take adequate and timely measures against quarantine pests and intends to ensure the application of OCR rules. The labs within this regulation specifically focus upon quarantine plant pests (or pests meeting the criteria for quarantine listing). The labs will be responsible for:</p> <ul style="list-style-type: none"> • Updating analysis, diagnosis and testing methods • Developing of validated methods • Co-ordinating and provide assistance to official laboratories • Promoting uniform practices in the development or use of those methods <p>The regulation also sets out specialisation categories of the EURLs: insects and mites, nematodes, bacteria, fungi and oomycetes, and viruses, viroids and phytoplasmas.</p>

Title	Working document on the preparation of an implementing regulation to establish rules for the uniform application of frequency rates for identity checks and physical checks
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications due to changes to product categorisations, however the main activities of government bodies and professional operators will remain the same. Border control staff and the manner of checks and frequency of checks are more clearly defined, however this in reality does not deviate from current BCP activities. • The key difference introduced by the regulation is changes in frequency rates for physical checks. • The act's possible implication on blood-products or rendered fats import (category 1 animal by-product material) is still up for negotiation.
UK position	<p>The UK is currently negotiating with the Commission about decreasing the frequency rates for certain categories of goods (i.e poultry meat), which could go down. The UK has also asked for a small number of extra products to be included.</p> <p>Annex II lists requirements for higher frequency rate of non-compliances for specific commodities by certain country, determined by a non-compliance rate above 30% average threshold. The UK has expressed concerns about the practicality of this approach and the potential confusion this could cause at BCPs due to inconsistency and fluctuations in non-compliance data values, so third country goods can be added and removed off the list regularly.</p>
Purpose of document	Establishes rules for competent authorities performing identity and physical checks on each different consignment on specified animal categories. Specifically, lists products and categories of goods to check and outlines management of check frequency, how to review and how often to do so.

Title	COMMISSION IMPLEMENTING REGULATION (EU) .../... of XXX establishing the model of official certificate and rules for issuing certificates for goods which are delivered to vessels leaving the Union and intended for ship supply or consumption by the crew and passengers or to NATO or US military base
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There are no major implications for the UK. The key change is that ship certification now also needs to come from a border control post directly.
UK position	No notable interest areas.
Purpose of document	<p>Sets out the issuance rules and the model official certificate which must accompany goods from third countries which are delivered to:</p> <ul style="list-style-type: none"> • Vessels leaving the union and intended for ship supply or consumption by the crew and passengers • NATO or US military bases (EU territory or third country based) <p>It also addresses rules for issuing electronic official certificates.</p>

Title	COMMISSION IMPLEMENTING REGULATION (EU) .../... Of XXX establishing detailed rules on operations to be carried out during and after the documentary checks, identity checks and physical checks on animals and goods subject to official controls at border control posts
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications but the main activities of government bodies, professional operators and border control staff will remain largely unchanged. • The application of the legislation when there are multiple containers is currently slightly unclear and under discussion. • The proposed regulation introduces IMSOC performing full ID checks on certain consignments, which is a change from the current UK risk-based approach. The UK and several other Member States are more in favour of a risk based approach and are pushing for this in negotiations.
UK position	Our position will depend on whether remaining issues with the regulation are resolved.
Purpose of document	<p>Establishes rules on operations which must be carried out before and after checks (documentary, identity and physical) on animals and goods, subject to official controls at border control posts. Details what should be checked and how to conduct these checks. Many of the physical test conditions are laid out in the regulation's annexes. Areas addressed include:</p> <ul style="list-style-type: none"> • Conditions for documents to pass inspection (i.e. completion of necessary certificate sections and accuracy across documents) • Elements visual inspections should cover to verify document accuracy (i.e. identifying content, quantity and labelling) • Requirement for competent authority at border control posts to keep official certificates or documents for at least three years • Steps to take should seals been opened during checks • Physical check requirements on animals including clinical examinations, sampling procedures and inspections for fitness to travel • Physical checks carried out on goods including accuracy of accompanied documents, monitoring plans and lot homogeneity/ sampling methods

Title	Lists of animals, products of animal origin, germinal products and animal by-products subject to official controls at border control posts in accordance with regulation (EU) 2017/625
Type	Implementing regulation
Status	In negotiation
Likely UK implications	There are no major impacts for the UK. The list of commodity codes are largely transferred from the existing lists with a few amendments. The list does not include composite products but it's likely the current list for these will be retained until 2021.
UK position	The UK would like to see a few products (i.e royal jelly, jelly powder) added to the list but this is not of major concern.
Purpose of document	Repeals 2007/275/EC. Establishes lists on what is subject to official controls at border control posts of first entry. Specifically, within its annexes it creates lists with qualifying descriptions for: <ul style="list-style-type: none"> • Animals • Products of animal origin • Germinal products • Animal by products

Title	Measures pursuant to Regulation (EC) No 178/2002 for the Rapid alert system for food and feed, rules pursuant to Regulation (EU) 2016/429 concerning the computerised information system for Union notification and Union reporting of information on listed diseases, specific rules pursuant to Regulation (EU) 2016/2031 concerning the submission of notifications and rules pursuant to Regulation (EU) 2017/625 as regards the administrative assistance and cooperation between competent authorities in the Member States and the functioning of the Information Management System for Official Controls ('the IMSOC Regulation')
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • This act specifies how a new IT system, the Information Management System for Official Controls (IMSOC), will function. • Several Member States have concerns about data required, technical issues around connecting with Member States' national systems, eSignatures and the time available for implementation. There has not yet been much engagement about the implications of electronic signatures in the UK. • The UK will be required to apply for training by the commission on how to use the new TRACES-New Technology. Member state national systems must link to TRACES-NT before 14th December 2019 for data exchange. • Under the act plants, which are not currently on TRACES, will require a CHED and will use TRACES-NT. These TRACES-NT CHEDs for plant products will be automatically linked to Europhyt notifications. • New registration is required and information on DEFRA/FSA competent authorities and officials who would require access to TRACES-NT and to qualify for e-signatures must be passed to the Commission. • The act will apply IMSOC to the movements of temporary horses around the EU where the horses will have several movements to be linked. It is not yet clear what the implications could be. • The UK believes that further work on this regulation will be needed to address CHED and fields that are mandatory, particularly for transshipments where all of the information in Part 1 is not known to the carrier. We have also raised that IMSOC working groups are not best suited for CHED formatting discussions. • The regulation could allow for the use of derogations (i.e. port systems) however not all airports have such a system and lots of notifications for transshipments will have to be made. The UK believes the system should only require the minimum information that is required at the moment and not all of the Part 1.
UK position	The draft was discussed at a SCoPAFF meeting on the 11 th April. The UK is in general not against the new system.
Purpose of document	Establishes the rules for managing, handling and exchanging information and documents in relation to official controls. Includes: <ul style="list-style-type: none"> • Establishing a new system that will integrate all existing reporting systems. • Migrating from TRACES classic to TRACES-NT. • Establishing two types of electronic signatures: qualified for Member States and advanced for third countries. • Establishing E-certifications and e-signatures are available on TRACES-NT- to allow paperless SPS certification. • Establishing that third countries can use e-signatures on TRACES-NT.

Title	Working title for coordinated intensified official controls at borders
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be few UK implications as a result of this regulation and the main activities of government bodies, professional operators and border control staff will remain largely unchanged • The principles of intensified controls remain the same under this regulation but reinforced checks are updated, such as legislating so that results arrive quicker.
UK position	As this regulation does not introduce key changes there are no key areas of UK concern. Some technical details under act are unclear, such as how the Commission will review Member States' communications, how imposed checks will be listed and how to exclude consignments on intensified official control on IMSOC. Discussions to clarify these areas are ongoing.
Purpose of document	<p>Lays down rules on the practical arrangements that coordinate intensified official controls on certain categories of foods entering the EU and how to review them. Areas covered include:</p> <ul style="list-style-type: none"> • Conditions for carrying out intensified controls and steps when requirements are met • Obligations of the Commission upon receiving a notification request for intensified official controls and to notify of outcomes • Derogations from intensified official controls upon a 'duly justified request' • Additional 'imposition checks' after multiple consignments fail to meet requirements

Title	Minimum requirements for prior notification of certain categories of goods entering the Union
Type	Implementing Regulation
Status	Public consultation finished, act not published yet
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications but the main activity of government bodies and professional operators will remain the same. • New requirements under this act will not affect operations greatly and could in fact be of benefit to trade for goods transported by road and sea. • Products of animal origin may be impacted since at present they are notified just before arrival.
UK position	UK voted in favour
Purpose of document	<p>Sets out requirement for operators responsible for certain categories of animals and goods consignments to give prior notification to the competent authority of the border control post of first arrival into the Union. Specifically it sets out:</p> <ul style="list-style-type: none"> • Prior-notification must be given least one working day before the expected arrival of the consignment. • Derogations where, if necessitated by logistical constraints, Member States may shorten prior notification requirements to at least four hours before expected arrival.

Title	COMMISSION IMPLEMENTING REGULATION (EU) .../... to lay down detailed rules on minimum requirements for border control posts, including inspection centres, and for the format, categories and abbreviations to use for listing border control posts and control points
Type	Implementing Regulation
Status	Approved, awaiting publication.
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications of changes to border control post infrastructure requirements. This will affect the activities of border control staff although the main activities of government bodies and professional operators will remain largely unchanged. • The regulation introduces more detail on building and room requirements, including the need for separate buildings for import and export activities. This is a notable change from current UK infrastructure, especially for animal proteins. • This new requirement could also affect bulk storage facilities which are currently used for both export and import goods. Some sites could be more affected by these change than others (e.g. Gatwick already has such a system in place). • The requirements for high-risk food not of animal origin are also slightly higher under this regulation, but this does not have large implications for the UK and is in part welcomed.
UK position	The UK raised the new separation requirements for import and export sites at a recent SCOPAFF meeting, as it is unclear how this could affect processes for animal protein. The UK is in favour of a system which saves time and space. This technical change to the draft was introduced quite soon before a vote took place, which the UK abstained on.
Purpose of document	Lays out rules for the common minimum requirements for; <ul style="list-style-type: none"> • The infrastructure, equipment and documentation of border control posts. • Border control posts designated for the categories of animals and goods referred to in • For inspection centres; and • The format, categories, abbreviations and other information for the listing of border control posts.

Title	COMMISSION IMPLEMENTING REGULATION (EU) .../... of XXX laying down uniform practical arrangements for the performance of official controls on products of animal origin intended for human consumption in accordance with Regulation (EU) 2017/625 of the European Parliament and of the Council and amending Commission Regulation (EC) No 2074/2005 as regards official controls
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be few UK implications as a result of this regulation and the main activities of government bodies and border control staff will remain largely unchanged. • This implementing regulation addresses what official controls must be conducted on products for animal origins including molluscs, fishery products and milk and dairy products. It does not make significant changes to existing requirements for shell fish or dairy. • This implementing regulation relates to the delegated regulation on the performance of official controls on the production of meat and live bivalve molluscs which has had an explanatory memorandum supplied. The delegated regulation establishes who may conduct controls and this regulation lays out details on what controls are required
UK position	The UK position will depend on negotiation outcomes for this regulation and the relevant delegated regulation.
Purpose of document	<p>Addresses domestic hygiene controls and establishes uniform practical arrangements for the performance of official controls on production of products of animal origin (which are intended for human consumption). This implementing regulation relates to the delegated regulation on the performance of official controls on the production of meat and live bivalve molluscs. The delegated regulation establishes who may conduct controls and this regulation lays out details on required controls themselves. Specific rules cover:</p> <ul style="list-style-type: none"> • The frequency/ uniformity of official controls on several animal categories • Requirements on audit, identification marking and specific controls tasks • Classification and monitoring of classified production processes • Ante and post-mortem inspection requirements and conditions for several animal categories • Measures in cases of non-compliance • Notification of scientific and technological developments

Title	The Commission Implementing Regulation (EU) .../... of XXX laying down rules for the application of Regulation (EU) 2017/625 of the European Parliament and the Council as regards the standard model form to be used in the annual reports submitted by Member States
Type	Implementing Regulation
Status	Approved at SCoPAFF meeting on 25 th Feb, now awaiting a Council vote.
Likely UK implications	<ul style="list-style-type: none"> • There are few UK implications under this regulation and the main activities of government agencies and professional operators will remain the same. • This regulation establishes standard model forms for annual reports and aims to streamline forms and guidance according to needs of Member States • The New Multi-Annual National Control Plan (MANCP) annual reporting requirements will apply in 2021 and includes a rebadge of the current model forms used by the UK. The new forms will be data driven and broken down to highlight data at the level of different sectors and sub-sections (i.e plant health and animal health). The UK will need to collect more data at the local authority level but this has not been raised as an issue • To allow Member States to make the necessary modifications to data systems the initial implementation of this system is expected to be quite flexible • The UK understands that the use of Nomenclature des Activités Économiques dans la Communauté Européenne (NACE) codes as a common point of reference is not a concern as it is not a legal requirement. There is no need to transition to NACE codes but states must correlate them to other systems • Where possible the digital reporting system of the forms would draw from existing databases, such the Rapid Alerts for Food & Feed (RASFF), and data held by the European Food Safety Authority (EFSA) to pre-complete relevant sections of the report. Double reporting would be avoided where possible.
UK position	No major concerns are outstanding, the UK supports the new model forms.
Purpose of document	<p>Establishes the standard model form detailing what information and data must be included in each Member States annual report (in accordance with Article 113(1) of Regulation (EU) 2017/625). Part one of the form addresses:</p> <ul style="list-style-type: none"> • Measures taken to ensure the effective operation of the Multi-Annual National Control Plan, including enforcement action and the results of such measures • Amendments to the Multi-Annual National Control Plan • Fees and charges <p>Part II of the form outlines whether compliance to OCR requirements has been achieved</p>

Title	Working document on the rules applicable to national official control programmes and annual reports by Member States on residues of pharmacologically active substances authorised as veterinary medicinal products or as feed additives and prohibited or unauthorised pharmacologically active substances
Type	Implementing regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be implications for the UK under this regulation that affects the monitoring, surveillance and sampling activities of Defra, the FSA and border control staff. • This regulation establishes the need for a new surveillance plan requirements for Member States to test their own produce from food producing animals by December 2022. It was originally intended to be risk-based but the fipronil in eggs incident in 2017 has resulted in an increasingly risk-averse approach by the Commission. • The regulation indicates Members States' official controls will need to cover all authorised pharmacologically active substances and adds insecticides and biocides which could be used on or around livestock to the programme. Monitoring for pesticides in livestock will likely need to increase. • The regulation also introduces a new, smaller programme to measure consumer exposure in Member States. This programme will be expensive, currently Norway and Iceland are excluded from this requirement (as is the UK as matters stand). • The number of samples border control staff are required to take from third country imports. These increased sampling and analytical requirements will incur additional costs for importers who pay for surveillance. The proposed changes will also involve producing surveillance plans to monitor progress, collate and report results.
UK interest areas/ UK voting position	A vote has not yet taken place for this Regulation. The UK is currently negotiating in favour of a more risk-based programme for testing domestic produce.
Purpose of document	<p>Establishes the conditions to animals and products of animal origin entering into the Union from a third country must fulfil, and requirements for third country control plans. These plans outline a third country's controls on contaminants, pharmacologically active substances and pesticides. Includes requirement for third country plans to demonstrate equivalence to EU restrictions on</p> <ul style="list-style-type: none"> • Requirement that country plans include Union equivalence n restrictions on the use of pharmacologically active substances • Requirement that country plans include Union requirements on contaminants and residues of pharmacologically active substances / pesticides in products for human consumption • Format and submission process of third country plans • Evaluation process of the plans and grounds for inclusion on third country lists

Annex 3: Tertiary regulations made on the basis of the Plant Health Regulation.

Subject Matter	Commission Delegated Regulation establishing conditions concerning the authorisation for the movement of Union quarantine pests
Full title	COMMISSION DELEGATED REGULATION (EU) .../... supplementing Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants, authorising Member States to provide for temporary derogations in view of official testing, scientific or educational purposes, trials, varietal selections, or breeding
Type	Delegated
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There are few implications of this act, which mainly maintains the status quo without requiring a considerable change in the behaviour of government authorities and professional operators. • This regulation will allow Member States to provide a derogation which allows the import of normally prohibited plants, plant pests and other material. For example, it provides derogations for soil if it is being used for scientific or educational purposes, official testing, breeding or varietal selection. • The delegated regulation provides details on what information competent authorities need to obtain from applicants in order to grant an authorisation under the derogation, what needs to be reported to the Commission and what should be done in cases of non-compliance. This is similar to previous legislation and the UK currently issues many 'licences' for prohibited material to be imported and worked upon for scientific reasons. • The act also requires endorsement of the Letter of Authority from Third countries, which may cause problems for some researchers who import material from Third countries.
UK position	As this is a delegated regulation there will be no vote. The UK is in favour of this regulation
Purpose of document	<p>This Regulation establishes the conditions under which certain harmful organisms, plants, plant products and other material may be introduced into or moved within the Community or certain protected zones for activities related to official testing, scientific or educational purposes, trials, varietal selection or breeding. It outlines</p> <ul style="list-style-type: none"> • The information competent authorities need to obtain from applicants in order to grant an authorisation • Monitoring requirements and information to be reported to the Commission • Procedure in cases of non-compliance • Details on the Letter of Authority, the import document which must accompany material being imported under this derogation and allows it to be exempt from normal border controls

Subject Matter	List of priority pests
Full Title	Working document for the Commission Delegated Regulation establishing a list of priority pests
Type	Delegated
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There could be some UK implications due to new categorisations of certain pests incurring new requirements but the main activities of government bodies will remain largely unchanged. Border control staff will not be affected as the delegated regulation does not specify particular action to prevent entry. • The act establishes a list of ‘priority pests’, regulated pests that have particular economic, environmental or social impact potential for the EU and incur additional requirements such surveys, contingency and eradication plans and simulation exercises. All these are to be co-financed by the EU. • The final list of priority pests is not yet defined, but all will be chosen from the current list of EU regulated pests which the UK already takes action on. Many of the proposed pests are ones which the UK already has suitable measures in place for (e.g. contingency plans and information to the public) but these target pests based on their status and interest to the UK, not EU level impact. The final list of priority pests will define what additional mitigations need to be put in place. • When the list is finalised there may be actions which the UK needs to undertake, such as surveys, writing contingency plans, and in some cases action plans for eradication if any of the priority pests are pests which are currently present in the UK. • Professional operators may need to change their behaviour but this is not clear until specific pests and required measures are finalised. There is an obligation to eradicate any pests which are currently present in the UK, and if any of these pests, although currently well regulated, are selected as priority pests this may have impacts on professional / authorised operators. • Currently each proposed pest is being rated by different criteria through an agreed methodology. The final outcomes will be presented to the working group in April for prioritisation
UK Position	This is a delegated act so there will not be a vote. Our position will depend on the outcome of ongoing negotiations on the regulation.
Purpose of document	<p>Establishes a list of ‘priority pests’, regulated pests that have particular economic, environmental or social impact potential for the EU. Also sets out additional requirements attached to these pests (co-financed by the EU) including:</p> <ul style="list-style-type: none"> • Provide information to the public • Administer surveys • Contingency plans for the priority pests • Simulation exercises • Eradication action plans

Subject Matter	Rules on plant passports and criteria for professional/ authorised operators issuing plant passports
Full title	COMMISSION DELEGATED REGULATION (EU) .../... on criteria to be fulfilled by the professional/ authorised operators in order to comply with the conditions set out in Article 89(1) point (a) of Regulation (EU) 2016/2031 of the European Parliament and of the Council and procedures to ensure that those criteria are met
Type	Delegated Regulation
Status	Adopted
Likely UK implications	<ul style="list-style-type: none"> • There would be some new requirements for Defra and government agency staff to process and authorise professional operators. Overall this act makes few changes to the status quo. • The act introduce new requirements for professional operators to familiarise themselves with, including new pests which affect their trading and plant passporting criteria to be met. Operators will be required to identify what pests may affect their trade and familiarise themselves with them. • Professional operators will not need to train entomologists specifically but they will need to be aware of and able to identify pests relevant to plants being traded. • No great changes to the behaviour of competent authorities are expected since the UK already covers many relevant areas addressed by this act (i.e. hosting information that professional operators can use as a reference). There is currently negotiation over the inclusion of treatment advice which the UK has asked for greater clarification on. Some early discussions took place on the use of a formal exam to authorise issuance, however this had little support and is unlikely to progress.
UK position	As this is a delegated regulation there will be no vote. As the implications are limited the UK is overall in favour of the regulation.
Purpose of document	<p>Establishes criteria for the authorisation of professional operators to issue plant passports and the conditions which they must fulfil. Requires professional operators to demonstrate to the competent authorities knowledge of;</p> <ul style="list-style-type: none"> • Applicable rules relevant to examinations concerning relevant pests subject to measures that affect or are likely to affect their plants, plant products or other objects; • Best practices, measures and other actions required to prevent the presence and spread of the pests • The existence of an effective plan to be followed in case of any findings of the pests referred • Competence for the performance of the required examinations and possession or access to the necessary equipment and facilities for their performance <p>The regulation also details requirements for the competent authority in order to ensure that the professional operators comply with such criteria to be fulfilled by the operators. This regulation links with the delegated act for authorisation of professional operators to issue plant passports.</p>

Title	Working document on rules concerning the release from, or the movement between, quarantine stations and confinement facilities, of specified material
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications under this regulation due to changes in legislation but the main activities of government bodies border control staff and quarantine station staff will remain unchanged • This act changes the requirements for release from quarantine of plants which are normally prohibited or can normally be imported with a phytosanitary certificate, but for scientifically justified reasons this is not possible and are imported under licence instead. • This will impact on the release of some plants from quarantine, however the majority of plants held under licence are never released from quarantine so the impact is not expected to be large. • Scotland may need to change how they conduct testing for potatoes for release from quarantine. However, the impact will be minor. • The act introduces quarantine testing for plants normally subject to phytosanitary certificates. This may increase costs for some licensees who import plants for breeding or varietal selection, as they are currently able to release these plants from quarantine without the need for full post-entry quarantine testing. • The above change may also create more work for bodies such as Fera, SASA and AFBI, as they may be required to carry out this extra testing. However, this is still being discussed in working group and is not yet clear.
UK position	A vote has not yet taken place. The UK would need to see the final decision on the requirements for release of plants from quarantine before deciding if we are in favour.
Purpose of document	The purpose is to allow prohibited plants to be released from quarantine if free from specified pests.

Title	Commission Implementing Regulation (EU) 2018/2018 of 18 December 2018 laying down specific rules concerning the procedure to be followed in order to carry out the risk assessment of high risk plants, plant products and other objects within the meaning of Article 42(1) of Regulation (EU) 2016/2031 of the European Parliament and of the Council
Type	Implementing Regulation
Status	Published in Official Journal
Likely UK implications	<ul style="list-style-type: none"> • This regulation allows for plants identified as high risk and consequently prohibited from entering into the EU to be risk assessed by EFSA to determine whether the plants could be allowed to enter the EU from countries providing an appropriate technical dossier. The criteria for the risk assessment are included in the regulation. • The regulation means that technical dossiers will need to be prepared by third country national plant protection organisations (NPPOs) wishing to apply for a derogation to allow export of specified high risk plants to the EU. • At present countries can apply for a derogation for plants currently prohibited by providing relevant information without the information being presented in a specific format. There is no predetermined template that needs to be completed. EFSA doesn't need to evaluate derogation requests. • Border control staff/ quarantine station staff will not have to change what they do because of this regulation
UK position	A vote has taken place on this act.
Purpose of document	This Regulation lays down procedures for risk assessment and aims to ensure these assessments are conducted within a reasonable period of time and on the basis of a demand for import. Also sets out that assessments must be accompanied by a comprehensive technical dossier and subject to a defined procedure (which addresses confidentiality of applicants, verification of compliance and examination of a received dossier.)

Title	Commission Implementing Regulation (EU) 2018/2019 of 18 December 2018 establishing a provisional list of high risk plants, plant products or other objects, within the meaning of Article 42 of Regulation (EU) 2016/2031 and a list of plants for which phytosanitary certificates are not required for introduction into the Union, within the meaning of Article 73 of that Regulation
Type	Implementing Regulation
Status	Published in the Official Journal
Likely UK implications	<ul style="list-style-type: none"> • This regulation will affect what government bodies, professional operators and border control staff have to do. • This regulation establishes a list of high risk plants requiring a phytosanitary certificate for the introduction of plants into the EU and a short list of exempted plants. The scope is being widened so that a broader range of plant produce becomes regulated, for example almost all fruit, vegetables and cut flowers. These lists are finalised. • The plants, plant products and other objects listed are considered to be high risk and introduction into EU territory should be prohibited pending a risk assessment. The UK agreed with and helped to define the proposed list • Importers that previously imported high risk plants will either have to seek alternative plants that are not high risk or encourage third country sources to complete a technical dossier for use in risk assessment (the process for which is outlined in another Implementing Act). Third countries could then seek a derogation from the ban. • Border Control Posts will need to process newly regulated produce (e.g. fruit & vegetables) that will require a phytosanitary certificate. An additional proportion of material is also likely to be subjected to required inspection. Additional remote phytosanitary certificate checks will also need to be conducted by government bodies.
UK position	The UK agreed with and helped to define the proposed list and voted in favour on the ban on high risk plants and plants exempt from phytosanitary certification (vote at SCOPAFF on 10-11 Dec 2018 was approved; Portugal and Greece abstained).
Purpose of document	<ul style="list-style-type: none"> • The purpose is to (i) make clear which plants or plant products are prohibited from entry into the EU/ UK until a phytosanitary risk assessment is carried out, and (ii) to make clear which plant products are low risk and do not need a phytosanitary certificate for entry.

Title	COMMISSION IMPLEMENTING REGULATION (EU) .../... of XXX on particular protected zone pests, plants, plant products or other objects to which the requirements of point (b) of Article 81(1) of Regulation (EU) 2016/2031 shall only apply and on types and species of plants for planting for which the exemption referred to in Article 83(2) of Regulation (EU) 2016/2031 shall not apply
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • This act governs which professional operators would need to administer plant passports to the final user in a protected zone. This also impacts the amount of training the government would have to oversee. It has no implications for the UK as the requirements outlined in the current draft do not apply to pests of relevance to the UK. • This regulation addresses two areas; traceability codes and plant passporting at the final-user level in protected zones. Currently sections on both topics are being discussed together in working groups and it is unclear if they will finally be scrutinised as two separate regulations or one cohesive one. • There has been debate about how far down the supply chain plant passporting requirements in protected zones should stretch. The UK, following advice from our inspection services, has argued for a risk-based approach that avoid onerous requirements for final users. Following lobbying by the UK and other Member State, the Commission seems to have taken our concerns into account. • The act also sets out a list of plants which need traceability codes administered despite meeting general derogation conditions. For professional operators and border staff handling these varieties of plants for planting, they will need to spend extra time ensuring these codes are present and correct. • The derogation list proposed in this regulation is small and would have few implications for the UK. We think this is a proportionate measure that takes a positive step towards improving traceability of plants for planting.
UK position	A vote has not yet taken place. Our position will depend on the outcome of ongoing negotiations.
Purpose of document	<p>Establishes a list of cases where general derogations for plant passport requirements on traceability codes do not apply. Under the derogation only a plant passport is required for plants meeting certain conditions (outline in article 83.3 of the Plant Health Regulation) whereas the plants listed in this act, even if they meet these conditions, will also require a traceability code.</p> <p>Also establishes situations where plant passports need to be issued to final users in protected zones, defined as 'someone who is buying that plant/ plant product for their own use outside of their business'.</p>

Title	Commission Implementing Regulation (EU) 2017/2313 of 13 December 2017 setting out the format specifications of the plant passport for movement within the Union territory and the plant passport for introduction into, and movement within, a protected zone
Type	Implementing Regulation
Status	Published in the Official Journal
Likely UK implications	<ul style="list-style-type: none"> • This act does not introduce any considerable requirements or content changes. Its main purpose is to harmonise plant passports format and appearance. • This act was agreed early on in December 2017 to allow industry time to adopt systems and labels to cope with any new requirements in advance of the December 2019 application date. Several professional operators are already using passports with the new format changes. • Plant passports issued in older formats before 14th December 2019 will be viable for the usual five years. • This act was passed in a straightforward manner. During negotiation the placement of EU flags on plant passports (which would be required during an EU exit implementation period) was somewhat queried by industry. The ability to merge passport formatting within one larger label was also raised – this approach has been approved.
UK position	The UK voted in favour of this Implementing Regulation.
Purpose of document	<p>Establishes the formats to which different types of plant passports must comply. Aim is to harmonise plant passports format and appearances. Sets out format requirement for:</p> <ul style="list-style-type: none"> • Plant passports for movement within EU territory (alone or combined with a certification label) • Plant passports for introduction into, and movement within, a protected zone (alone or combined with a certification label) • Alternative models which allow for flexibility in certain cases (e.g. due to the differences in size and characteristics of plants or, plant products). <p>Establishes that elements of the plant passport should be arranged within a rectangular or square shape, be clearly separated from any other written or pictorial matter by a border line or otherwise to enhance the visibility of plant passports and their distinctiveness from any other information or label.</p>

Title	COMMISSION IMPLEMENTING REGULATION (EU) .../... of XXX establishing uniform conditions for the implementation of Regulation (EU) 2016/2031 of the European Parliament and of the Council on protective measures against pests of plants
Type	Implementing Regulation
Status	In negotiation
Likely UK implications	<ul style="list-style-type: none"> • There will be some UK implications but the main activities of government bodies will remain largely unchanged. • Professional operators will need to administer plant passports for plants which have not require plants passports in the past. • Various lists of pest are established in the annexes of this act. Many of these pest lists (i.e for EU quarantine pests) will be near exact transfers of existing lists and will have few implications. • A new category of pests named regulated non-quarantine pests (RNQPs) will be introduced by this regulation. This means movement requirements are introduced for plants which previously did not require them and would require professional operators to issue more plant passports. The small seeds industry (which includes fodder and cereal plants) is brought into the scope of plant passporting by this change. • There are some additional prohibitions on high risk plants, plant products and other objects, these are prohibited pending a risk assessment and are the plants etc. set out in 2018/2019/EU • It should be noted that there may be some changes to the geographic origins to which specific requirements apply. There is a move by the commission to change requirements which referred to non-European populations of pests as non-EU. These changes have not been voted on and there may be some changes following consultation with Member States. • Member States have not yet seen all annexes for this act and the annex on quarantine pests has been seen by SCOPAFF.
UK position	A vote has not yet taken place. Our position will depend on the outcome of ongoing negotiations.
Purpose of document	<p>Establishes lists of pests of different categories and relevant measures to prevent the introduction into or movements within the EU. Category lists cover:</p> <ul style="list-style-type: none"> • EU quarantine pests and requirements for the introduction of plants and plant products into the EU and/or movements within the EU. • EU regulated non-quarantine pests and measures concerning plants for planting moved within the EU. • Protected zones' pests and requirements for the movement of certain plants and plant products into the protected zones. • Plants, plant products and other objects whose introduction into the EU, certain prohibited zones or some third countries is prohibited or subject to special and equivalent requirements. • Plants, plant products and other objects that are subject to phytosanitary certificates for introduction into the EU and list of the respective third countries, require phytosanitary certificates are for introduction into a protected zone or are subject to plant passports for movement within the EU territory and protected zones.