



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 July – 13 October 2019

EU ENERGY AND ENVIRONMENT SUB-COMMITTEE

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

I am writing to confirm that the above dossier has now been successfully adopted by the European Parliament and the Council of the European Union in accordance with the features of the provisional political agreement reached in trilogue negotiation in February this year.

Publication of the new regulation in the Official Journal will follow, and it will come into force 20 days after its publication date. This is anticipated to have happened by late July. The Marine Management Organisation is working on compliance guidance for the fishing industry.

Meanwhile an update to the related EU Exit SI which will apply if the UK leaves the EU without a negotiated deal has been prepared to take into account this new regulation with the resulting operability adjustments. This SI also corrects other items of EU fisheries legislation that have been introduced since the first tranche of such SIs were agreed earlier this year. The intention is to lay this before Parliament next month.

4 July 2019

Letter from the Chairman to George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

Thank you for your predecessor's letter, dated 4 July, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 September.

Thank you for confirming that the Regulation has now been adopted, in line with the agreement reached in trilogue negotiations earlier this year.

We note that the Marine Management Organisation is developing compliance guidance accordingly, and that you have amended the relevant Statutory Instrument to reflect the revised legislation.

We are now content to close this correspondence.

4 September 2019

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

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

Thank you for your letter dated 22 May and for releasing this proposal from scrutiny. Since my previous update on 14 May I can confirm that no additional changes were made to the text and that it was adopted on 13 June. The regulation was subsequently published in the Official Journal on 26 June and will come into force on 15 July, 2019. We are currently working on an update to our domestic regulations which will be needed to enforce the provisions of the amended regulation which is on schedule to be in force on 15 July.

10 July 2019

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

Thank you for your letter dated 10 July, which was considered by our Energy and Environment Sub-Committee at its meeting on 24 July.

Thank you for explaining that the Regulation would come into force on 15 July 2019, and that you were working to update the UK's domestic regulations accordingly. We are now content to close the correspondence on this file.

24 July 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, Financial Secretary to the Treasury, HM Treasury

Thank you for your letter on the above Communication, dated 28 June, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 September.

We note that you disagree with the Commission's statement 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; that you are not aware of any proposals supported by the UK which have subsequently failed due to the unanimity requirement; and that you believe the EU can make sufficient progress in achieving its environmental and climate change objectives without a change in voting procedure, in part because individual Member States remain able to put additional measures in place.

Regarding our question on whether a compromise might be reached, we note your strong opposition to any voting procedure other than unanimity in this context, as it would risk restricting the UK's ability to determine its own tax policy in line with national objectives.

We note that no further discussions on voting procedures relating to energy taxation have taken place.

Thank you for explaining that the Member States seeking a greater role for the European Parliament in the governance of the Euratom Treaty have consistently challenged the role of nuclear power, and that you are therefore concerned that changes to the Treaty could lead to the introduction of measures that increase its costs, introduce project delays and create uncertainty for investors.

Although these are clearly substantive areas of disagreement with the Commission, as this document is a Communication and therefore is non-legislative, we are now content to release it from scrutiny and close this correspondence. If corresponding legislative measures are proposed, we will scrutinise them in due course.

4 September 2019

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL 2018 ASSESSMENT OF THE PROGRESS MADE BY MEMBER STATES TOWARDS THE NATIONAL ENERGY EFFICIENCY TARGETS FOR 2020 AND TOWARDS THE IMPLEMENTATION OF THE ENERGY EFFICIENCY DIRECTIVE AS REQUIRED BY ARTICLE 24(3) OF THE ENERGY EFFICIENCY DIRECTIVE 2012/27/EU (8461/19)

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

Thank you for your predecessor's letter on the above Report, dated 26 June, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 September.

We note your assessment that the measures that contributed to the UK's reduction in energy consumption between 2016 and 2017 include the Carbon Emissions Reduction Target, the Energy Company Obligation, the Carbon Reduction Commitment Energy Efficiency Scheme, and building regulations. We are pleased that these measures were effective, though also note your statement that external factors such as weather and oil prices played a part.

Regarding the underperformance of other Member States, we note your statement that the UK participates in a collaborative forum for the sharing of best practice. We welcome that the Commission has established a Task Force to encourage Member States which are not meeting their energy reduction targets to introduce additional measures.

We note that the EU framework for reporting, monitoring and enforcing progress towards energy efficiency objectives will be reviewed as part of the Paris Agreement process. However, that review will not take place until 2023, and therefore does little to ensure that the 2020 energy efficiency target will be met, and is already some way towards the 2030 target. Will the Commission consider enforcement action against Member States which are consistently failing to meet their energy efficiency targets before 2023?

We look forward to your response within 10 working days.

4 September 2019

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

Thank you for your letters dated 5 September 2019. I am writing to respond to your questions regarding the two Explanatory Memoranda referred above.

Concerning your letter on the NECP recommendations, you asked for clarity on how we intend to approach the Commission's recommendations, and if we plan to publish a final National Energy and Climate Plan (NECP) and National Forestry Accounting Plan (NFAP) before 31 December 2019 (EM 10515/19).

We are carefully considering the recommendations on our draft NECP made in June. If the UK leaves the EU with a withdrawal agreement by 31 October and we enter a transition period entailing alignment with EU legislation, this will include Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action (the 'Governance Regulation') containing the requirement to publish the final NECP, and the Regulation (EU) 2018/841 on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF) requiring the publication of a revised NFAP.

You noted concern that the UK's national targets are "below the Commission's suggested ambition" and asked if the Government's planned responses to the Commission's recommendations will move the UK into the category of Member States whose ambition is in line with, or exceeds, that of the Commission? (EM 10515/19).

We are carefully considering the recommendations from the Commission and we are still in the process of considering our national contributions. Since June 2019, the UK's Climate Change Act 2008 has enshrined a world-leading target to achieve net zero greenhouse gas emissions from across the UK economy by 2050. The UK will continue to develop and deploy policies and measures to deliver further improvements in energy efficiency and to increase our renewable energy share, to contribute to meeting our legally binding emissions reduction commitments under the Act.

Turning to your letter on energy efficiency, you expressed concern for the reporting, monitoring and enforcement of energy efficiency objectives and asked if the Commission will consider action against Member States who consistently fail to meet energy efficiency targets before 2023 (EM 8461/19).

I note that the energy efficiency targets under Article 3 of the Energy Efficiency Directive are indicative at both the EU and Member State level, and therefore we expect any Commission action will be through issuing recommendations to Member States. The Governance Regulation empowers the Commission to issue recommendations as appropriate to Member States to ensure the achievement of the Energy Union objectives, particularly where it deems progress towards energy

efficiency objectives to be insufficient. Recommendations are made publicly available, and any Member State receiving one would be required to take due account of it and provide justification where choosing not to follow it.

24 September 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 the Chairman to the Rt Hon Matt Hancock MP, Secretary of State for Health and Social Care, Department of Health and Social Care

Thank you for Seema Kennedy's letter on the above Proposal, dated 12 June, which was considered by our Energy and Environment Sub-Committee on 4 September.

Thank you for informing us that you voted in favour of the agreed Council mandate in February. We note that although some technical amendments were agreed during trilogue negotiations, the text continues to meet the objectives agreed by the Council.

On that basis, we are now content to close this correspondence.

4 September 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 to the Chairman from George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

I write in follow up to your previous correspondence of the 8 May regarding the review of the EU Control Regulation 1224/2009. Please find a brief update note regarding this matter.

The review of the Control Regulation started with the EU Parliamentary first reading in May 2018. After this first reading 851 amendments were tabled by member states. The process of reviewing these amendments is currently ongoing.

Following on from the last correspondence there has been little progress on the review of these 851 tabled amendments, which are currently being scrutinised by the Working Party on the Internal and External Fisheries Policy. The last meeting of which was held on 20 September when they reviewed amendments to articles 5 through to 8. The Control Regulation has 124 articles and therefore we anticipate that this work will continue for some time. We will keep you abreast of any further developments as they arise

3 October 2019

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

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

Thank you for your letter of 12 June 2019 about the above proposal. I am grateful that you granted a waiver from scrutiny to allow me to participate in the General Approach discussion at the Environment Council on 26 June.

I made a Written Ministerial Statement to the House of Commons on 18 July on the outcome of the Environment Council, covering the Regulation on water reuse and the other items discussed, available via the following link:

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2019-07-18/HCWS1742/>

At the Environment Council, along with the majority of Member States, I spoke in support of the compromise text provided by the Presidency. I made clear that the harmonised rules provided by the Regulation could generate increased interest in reuse and that the current draft provided a good degree of health and environmental protection. I also offered support to the Finnish Presidency in the future trilogue discussions between the European Parliament, the European Commission and European Council which the Finnish Presidency expect to begin in October. The Presidency concluded the General Approach had been agreed, although two Member States, Germany and Slovakia, abstained on the grounds that they would have preferred stricter standards to be included in the Regulation.

You ask whether I have any concerns over the European Parliament's suggestions. The European Parliament has proposed over 130 amendments to the text. We will be considering our position on the amendments with reference to the UK negotiating priorities, set out in my previous letter. We are pleased that the European Parliament does not seek to extend the scope of the Regulation to cover reuse for other purposes. We would expect further work by the Presidency, in consultation with Member States, to establish a position on the amendments in advance of trilogue negotiations.

You also ask whether the Regulation ensures that roles and responsibilities are clear and that any burdens on end users are minimised, reflecting comments from stakeholders. These concerns from stakeholders have been reflected in our approach to negotiations on the proposals. I believe the current draft is a balanced text, providing sufficient clarity in some areas and flexibility in others, to allow Member States to implement the Regulation in a way that suits national circumstances and minimises burdens if required.

23 July 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING RULES ON SUPPORT FOR STRATEGIC PLANS TO BE DRAWN UP BY MEMBER STATES UNDER THE COMMON AGRICULTURAL POLICY (CAP STRATEGIC PLANS) AND FINANCED BY THE EUROPEAN AGRICULTURAL GUARANTEE FUND (EAGF) AND BY THE EUROPEAN AGRICULTURAL FUND FOR RURAL DEVELOPMENT (EAFRD) AND REPEALING REGULATION (EU) NO 1305/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AND REGULATION (EU) NO 1307/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (9645/18)

COMMISSION STAFF WORKING DOCUMENT IMPACT ASSESSMENT
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PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE FINANCING, MANAGEMENT AND MONITORING OF THE COMMON AGRICULTURAL POLICY AND REPEALING REGULATION (EU) NO 1306/2013 (9634/18)

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

I am writing to provide the Committee with a high-level update on the progress of the CAP Reform negotiations.

Since the Department's last CAP Reform correspondence with the Committee, the Finnish Presidency has taken over from the Romanian Presidency in coordinating negotiations. The Romanian Presidency produced a redraft text which has been considered at length in Working Parties, Special Committees on Agriculture (SCA) meetings and at Agriculture and Fisheries Councils. While the redrafted text addresses a number of concerns raised by Member States throughout the technical discussions of the proposals, certain issues remain unresolved due to their complexity and the varying positions across Member States, as well as the need to determine the overall CAP budget which is being negotiated in parallel as part of the next multiannual financial framework (MFF).

Examples of some of the changes which have been proposed include the Austrian Presidency's proposal of biennial rather than annual milestone reviews in the new 'strategic plans' delivery model, which was subsequently revised by the Romanian Presidency to annual reviews of biennially-set milestones, with greater flexibility for deviation from those milestones. A number of proposals aim to give Member States more flexibility on implementation, for example making the 'genuine farmer' status requirements and redistributive income support measures voluntary for Member States and making the skills threshold for young farmers' receipt of support definable by the Member State, among others. Technical discussion of the Presidency redraft text is ongoing.

The Common Organisation of the Market (CMO) has been a key component of the CAP, set up as a means of meeting the CAP's objectives, stabilising the markets and increasing agricultural productivity, and the present regulation is amended as part of the reform package. A significant proposal is to move sectoral interventions away from the CMO framework to new CAP Strategic Plans, allowing Member States more flexibility. Changes proposed by the European Parliament include widening the scope of

public intervention purchasing, such as by extending the window for purchase and adding to the list of produce which can be bought into intervention.

In parallel to this process, in April, the European Parliament's (EP) Agriculture Committee approved their own version of the CAP Reform texts with amendments proposed by the rapporteur. The whole text must now be scrutinised by the EP in plenary, which will occur once the new EP sits. The Conference of Presidents (new EP president and new leaders of political groups) may decide to forward the previously approved text to the full EP. Alternatively the new Agriculture Committee may wish to look at the proposal afresh before submitting to the whole EP for scrutiny.

There have been calls from several Member States, and from COMAGRI, to extend the current CAP. The dates suggested for an extension range from 2022 up to 2024. The argument has been that it would ensure the post-2020 CAP text is properly scrutinised and a satisfactory agreement reached, as well as to provide Member States with sufficient time to plan their implementation of the programme.

The Romanian Presidency was seeking a Partial General Approach (PGA) at the Agriculture and Fisheries Council held on the 18 June. However, a number of Member States were concerned that a PGA would be premature due to considerable issues remaining unresolved, in particular a need for more clarity on the MFF. Therefore a PGA vote was not pursued at Council, and the Presidency offered a progress report instead.

As my predecessor has previously updated, CAP 2020 is the EU's future policy and both under the terms of the Withdrawal Agreement or under a "no deal" exit from the EU, we would not be participating in the new CAP. Therefore we continue to focus on designing our own future agriculture policy, while closely monitoring developments in the CAP negotiations. As discussions progress, I will keep the Committee updated.

17 July 2019

Letter from the Chairman to George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

Thank you for the letter from your predecessor dated 17 July 2019 on the above Proposals, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 September.

We are grateful for the update on the outcome of discussions in the Council under the Austrian, Romanian and Finnish Presidencies on the above proposals earlier this year. We note that the ongoing negotiations on the EU's next multiannual financial framework are making it difficult to determine the overall budget of the next CAP. We are also interested in the European Parliament's Agriculture Committee's scrutiny of the above proposals, and we would be grateful to receive further updates on this in the future.

We note the Government's announcement that from 1 September UK Ministers will only attend EU meetings where the UK has a significant national interest in the outcome of discussions. Please clarify whether the UK will continue to participate in meetings related to this next round of the CAP, and if not how the Government intends to ensure the UK's interests are protected.

We have decided to retain the Proposals under scrutiny. We look forward to a reply to this letter in due course.

4 September 2019

Letter to the Chairman from George Eustice MP, Minister of State

Thank you for your letter of 5th September 2019. I am writing to provide you and your committee with a high-level update on the progress of the CAP Reform negotiations, and the UK's approach to these negotiations.

Since the Department's last CAP Reform correspondence with your Committee, the Finnish Presidency has taken over from the Romanian Presidency in coordinating the CAP Reform negotiations. Technical discussion of the proposals is ongoing in Working Parties, and the Presidency is proposing redrafted text in accordance with Member State feedback.

Former agriculture commissioner Phil Hogan, who was strongly associated with the CAP Reform proposals, has now been appointed as the European Union's trade commissioner. The new agriculture commissioner is Janusz Wojciechowski. Commissioner Wojciechowski is yet to pass substantive public comment on the proposals, but Commissioner Hogan has indicated that he does not expect his successor to make substantial changes to the Reform proposals.

In my last letter, I mentioned that the European Parliament's Committee on Agriculture and Rural Development, composed of new members following the Parliament elections earlier this year, may want to scrutinise these proposals again. However, on September 4th, the Committee decided to take forward the reports on CAP reform that were agreed by the Committee pre-election. This means that the European Parliamentary scrutiny process will continue from where it left off, rather than beginning anew, and first reading will now take place.

The Committee is no doubt aware that, as of the 1st September 2019, UK officials only attend EU meetings where the UK has a significant national interest in the outcome of discussions. The topics of such meetings would include topics such as UK exit, sovereignty, international relations, security, or finance. As the UK will not be implementing the next CAP, and will instead be pursuing our own ambitious domestic agriculture reform, the overwhelming majority of CAP-related meetings do not fit this criteria. The Government continues to review attendance on a case-by-case basis.

We are fully committed to the duty of sincere cooperation and the decision to reduce attendance at EU meetings is not intended to obstruct EU business. While we are preparing to leave the EU on 31st October, we do not wish to stand in the way of the conduct of EU business during our last few weeks in the EU. We have agreed to delegate our vote to Finland as they hold the Presidency of the EU, with instructions to abstain, or to cast our vote in favour if it would otherwise pass at EU27 in those situations where we are a swing vote.

3 October 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN A PROHIBITION ON DRIFTNET FISHERIES, AMENDING COUNCIL REGULATIONS (EC) NO.850/98, (EC) NO.812/2004, (EC) NO.2187/2005 AND (EC) NO.1967/2006 AND REPEALING COUNCIL REGULATION (EC) NO.894/97 (9934/14)

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

I have written separately today to confirm that the new regulation to overhaul the EU technical conservation measures has now been adopted by the European Parliament and Council of the European Union (ref: EM 6993/16).

This means that the proposed general prohibition on driftnet fisheries which featured in the above dossier cannot proceed as the new technical conservation measures regulation will repeal the relevant legislation it was intended to amend. The new regulation addresses driftnet fisheries management issues more appropriately on a regional basis rather than across all EU waters.

We therefore anticipate the Commission will withdraw the above proposal accordingly in due course. I note you have held the dossier under scrutiny to await this confirmation.

4 July 2019

Letter from the Chairman to George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

Thank you for your predecessor's letter, dated 4 July, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 September.

Thank you for clarifying that this alignment can no longer proceed, as the original legislation will be repealed when the new technical conservation measures come into force; and for your view that the new Regulation addresses driftnet fisheries management issues more appropriately.

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

4 September 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 2020 (10186/19)

**Letter from the Chairman to Rt Hon Robert Goodwill MP, Minister of State for
Agriculture, Fisheries and Food, Department for Environment, Food & 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 24 July.

As you know, we have concerns about the degree of overfishing currently taking place in EU waters. This overfishing is illustrated in the Communication by the number of stocks with 2019 total allowable catches (TACs) that exceed their maximum sustainable yield (MSY). Do you believe the requirement set out in Article 2(2) of EU Regulation 1380/2013 – that all stocks be fished at or below maximum sustainable yield (MSY) by 2020 – will be met? If not, what percentage of TACs do you aim for the Council to set at MSY for 2020?

While we recognise the concerns of the fishing industry regarding choke risks, the statement in your explanatory memorandum that setting zero TACs was “not possible” because of the consequential choke risk reflects a concerning prioritisation of short-term economic benefit over long-term sustainability. We encourage you to consider the long-term viability of the industry when deciding what is “possible”.

The Communication states that progress made regarding bycatch reduction measures will be evaluated prior to setting fishing opportunities, and STECF would review the effectiveness of the bycatch TAC. Please update us on the conclusions of these evaluations when they are available.

We support the Commission’s conclusions regarding the implementation of the landing obligation, which closely mirror those set out in our reports Fisheries: implementation and enforcement of the EU landing obligation¹ and The EU fisheries landing obligation: six months on.² As you will be aware, we have significant concerns about both the implementation and enforcement of the landing obligation, and look forward to your response to our later report.

We note with concern that of stocks that are subject to consultation with Norway, Iceland and the Faeroe Islands, none of the 2019 TACs were set in line with MSY. Why has it proven so difficult to agree sustainable catch limits with these countries? And given that the UK will be in a similar position post-Brexit as an independent coastal state sharing waters and fish stocks with the EU, what steps will be taken to ensure the same issues do not arise in post-Brexit UK-EU negotiations?

Finally, we would be grateful if you could confirm that the UK will continue to rely on ICES advice in its negotiations on fishing opportunities post-Brexit, and explain in what forum those negotiations will take place if the UK does leave the EU on 31 October.

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

24 July 2019

¹ <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/276/276.pdf>

² <https://publications.parliament.uk/pa/ld201719/ldselect/ldcom/395/395.pdf>

Letter to the Chairman from George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

Thank you for your letter of the 24th July 2019 in response to the State of Play (SoP) for the Common Fisheries Policy (CFP) 2020 consultation document. I will address each of your points individually below.

Stocks managed at Maximum Sustainable Yield (MSY) by 2020

The UK Government remains fully committed to sustainable fishing and the concept of Maximum Sustainable Yield (MSY). Progress has been made; in 2019, 29 stocks that the UK has a fishing interest in, had total allowable catches (TACs) set at MSY, compared to 25 stocks in 2016, now amounting to 59% of such stocks with an MSY assessment. Nevertheless it will be difficult to transition to fishing all stocks at MSY by 2020, something the EU themselves have recently accepted. We will continue to press strongly for more stocks being fished at MSY in line with the commitment made in the Fisheries White Paper and the 25 Year Environment Plan. The UK Government is currently examining the implications of the recent ICES advice in detail and is in consultation with the devolved administrations, eNGO's and the fishing industry to develop the UK's negotiation positions for 2020.

Choke risks and long term viability of the UK fishing Industry

The UK will always consider long term viability of the industry and the need to ensure that our management strategies deliver stock recovery; occasionally a slower rate of recovery may be necessary in order to avoid widespread choke.

STECF review of the Bycatch Reduction Plan (BCRP)

The BCRP was submitted to the European Commission by the North Western Waters (NWW) regional group at the start of June. In addition to bringing together existing measures contained in the new Technical Conservation Regulations and existing discard plan, there are some new provisions including a voluntary move on rule and request for scientific advice on spatio-temporal closures plus an assessment of the 7hjk plaice stock area. For Irish Sea whiting it sets out a plan for review of existing selective measures with a view to considering further improvements, and to improve data collection and monitoring.

The UK proposed new technical measures for the West of Scotland *Nephrops* fishery which were included in the draft plan submitted to the European Commission. We also proposed further technical (selective gear) measures for the Celtic Sea with the view to reduce bycatch of cod (and haddock) but other Member States did not want to introduce new measures until the existing ones (which came into force for a limited part of the Celtic Sea on 1st July) have been assessed.

The EU's Scientific, Technical and Economic Committee for Fisheries (STECF) concluded the BCRP does not currently fulfil the commitments made by member states at the 2018 December Agrifish council, as it does not contain any new elements to ensure reduced bycatches of the relevant stocks that are already included in the discard plan, the Joint Recommendations and the new technical-measures regulation. It is worth noting that the West of Scotland technical measures proposed by the UK were included in the Joint Recommendations from a process perspective, having been proposed as part of the group's work on the BCRP.

STECF also concluded that the respective measures in the new technical-measures regulation, the discard plan and the Joint Recommendation that are mentioned in the BCRP are likely to reduce bycatches of the relevant species. Finally, STECF concluded that the BCRP is not comprehensive, as it did not consider any additional gear options that are available and did not contain any area closures. The proposals put forward by the UK to the NWW regional group for new selectivity measures aimed at reducing mortality of Celtic Sea cod and West of Scotland cod and whiting were the most ambitious of all proposals submitted by Member States, but in the end they were not accepted by the NWW regional group.

We understand that the Commission will now review the feedback from STECF and then provide their own view to the North West Waters Regional Group on how to take forward the bycatch reduction plan. The UK will continue to seek a greater level of ambition in terms of the measures included within the plan.

Landing Obligation Reports

I am grateful to the Committee for their reports *Fisheries: implementation and enforcement of the EU landing obligation* and *The EU fisheries landing obligation: six months on*, we are currently considering your recommendations.

TACs managed with Norway, Iceland and the Faroe Islands and the post UK – EU negotiations

We agree with the Commission's analysis on the challenges associated with the management of shared fish stocks. That said, our understanding of the outcomes of the coastal States negotiations on shared stocks for 2019 is that of the three stocks of significant interest to the UK, the Total Allowable Catch (TAC) for both blue whiting and Atlanto-Scandian herring (ASH) were set in line with their respective Long Term Management Strategies. Only the mackerel TAC was not set in line with the scientific advice on Maximum Sustainable Yield (MSY) due to a greater than usual level of uncertainty in the assessment. This was justified by the subsequent review of the advice which resulted in an improved perception of the stock and meant that the agreed TAC was considered to be in line with MSY.

However, it should be noted that whilst TACs have been set at MSY, catches continue to exceed MSY because the shares taken by the coastal States collectively exceed 100%. Achieving sustainable outcomes for these stocks is difficult, principally because of the ongoing and significant disagreement between coastal States on shares. This remains a key concern for the UK Government and needs to be resolved urgently if these stocks are to be managed sustainably.

Turning to the six shared stocks that are jointly managed with Norway, four TACs were set at MSY in 2019 (North Sea haddock, saithe, whiting and plaice). Given the magnitude of the cuts proposed for North Sea cod and herring a stepped approach to returning these stocks to MSY was agreed between the EU and Norway, with TACs set at a level that the scientific advice indicated should ensure positive progress towards achieving MSY and fishing remained within safe biological limits.

As outlined in the Fisheries White Paper, after EU Exit, the UK Government will continue to work closely with our neighbours to ensure the sustainable management of shared stocks and the wider marine environment. As set out in the Fisheries Bill, the UK Government remains fully committed to sustainable fishing and the principle of Maximum Sustainable Yield. As outlined in the White Paper, we will further seek to agree an approach for continued cooperation on fisheries management and on longer term sustainable approaches as part of our future relationship with the EU.

ICES advice informing fishing opportunities post Brexit and the Negotiations Forum

The Government's objective is to set a gold standard for sustainable fishing and protection of the marine environment around the world after we leave the EU. We intend to continue to collect marine and fisheries data to inform ICES research and stock assessments and to use their research outputs and advice to support our work in setting fishing opportunities after we leave the EU. Even though the UK has been a member of ICES since it was established, the advice ICES produces is delivered through a specific agreement with the EU. The UK is currently in the process of establishing an agreement with ICES to ensure the advice we require is in place for when we leave the EU.

When we leave the EU, the UK will be an independent coastal state. We will take up our seat in coastal state and Regional Fisheries Management Organisation negotiations and will negotiate new fisheries framework agreements with the EU, Norway and the Faroe Islands to govern future annual negotiations on fishing opportunities and access to waters.

7 August 2019

Letter from the Chairman to George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

Thank you for your letter on the above Communication, dated 7 August, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 September.

Thank you for confirming your commitment to the concept of Maximum Sustainable Yield (MSY), and we welcome your commitment to press strongly for more stocks being fished at MSY. We note your

statement that it will be “difficult” to meet the requirement to fish all stocks at or below MSY by 2020. We agree, as currently only 59% of stocks with an MSY assessment in which the UK has a fishing interest currently have total allowable catches (TACs) set at MSY. Once you have reviewed the implications of the ICES advice in more detail, please inform us what percentage of TACs you aim for the Council to set at MSY for 2020.

Thank you for updating us on the EU’s Scientific, Technical and Economic Committee of Fisheries’ (STECF’s) review of the Bycatch Reduction Plan. We note that they concluded it does not fulfil the commitments made by Member States last year, and that it is not comprehensive as it did not consider additional gear options or contain area closures. We also note that the UK’s more ambitious proposal for selectivity measures relating to cod and whiting were not accepted by the relevant regional group. We welcome your commitment to continue to seek a greater level of ambition regarding this plan. Please update us when the Commission has provided a view on the appropriate next steps.

Regarding TACs managed with Norway, Iceland and the Faroe Islands, we note your clarification that TACs for the three stocks of significant interest to the UK are all set at MSY (after a review of the scientific advice relating to mackerel). However, the fact that shares taken by the coastal states exceed 100% of the agreed TAC render that somewhat moot. We note your explanation that this difficulty arises from disagreements between the states regarding shares. What steps are being taken to resolve this disagreement?

Thank you for explaining that the TACs for four of the six stocks that are jointly managed with Norway were set at MSY in 2019, and that a stepped approach has been agreed for cod and herring. Based on that approach, at what point will those stocks be fished at MSY?

We note your confirmation that you intend to continue to use ICES research and advice to set fishing opportunities after leaving the EU. However, we are concerned that you have not yet established an agreement to ensure access to that advice after Brexit, particularly in light of the UK’s potential withdrawal from the EU on 31 October. We urge you to progress that agreement as quickly as possible, and ask that you keep us informed of your progress.

We also note your explanation that, post-Brexit, the UK will negotiate fisheries framework agreements, fishing opportunities and access to waters in coastal state and Regional Fisheries Management Organisation negotiations.

Finally, we note the Government’s announcement that from 1 September UK Ministers will only attend EU meetings where the UK has a significant national interest in the outcome of discussions. Please clarify whether the UK will continue to participate in meetings related to the CFP and 2020 fishing opportunities, and if not how the Government intends to ensure the UK’s interests are protected.

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

4 September 2019

Letter to the Chairman from George Eustice MP, Minister of State

Thank you for your letter of the 5 September in response to the above EM.

We are continuing to develop priorities for the forthcoming negotiations for fishing opportunities for 2020 informed by the recent advice from the International Council for the Exploration of the Sea (ICES). We are still analysing the implications of their advice and at this stage we cannot advise on the percentage of total allowable catches (TACs) we the UK would like the Council to set at maximum sustainable yield (MSY) for 2020.

The Commission has asked the North West Waters Regional Group to review its proposals for the Bycatch Reduction Plan before STECF’s Plenary session in early November. While the UK wants to be more ambitious, there is no support for this approach in EU Member States. If improvements are not made, the Commission has indicated that it will include technical measures to reduce bycatches linked to the TAC within its TAC and Quota proposals for 2020.

Regarding your question on the TACs for stocks managed with Norway, Iceland and the Faroe Islands and the resolution of disagreements involving shares. It is worth noting that Greenland and the Russian Federation also participate in management negotiations for these shared stocks. Whilst the TACs for these shared stocks were set in line with FMSY for 2019 it is clearly essential for there to be agreement on shares among all parties fishing any shared stock. Regrettably this is not currently the case for any of these stocks (a threeparty agreement between the EU, Norway and Faroes on mackerel notwithstanding). The UK will continue to engage actively with other coastal states to reach solutions on shares which are fair and equitable for all concerned, including for example by seeking to collectively agree evidence-based share allocation criteria.

In relation to stocks managed jointly with Norway, at the time when the stepped approaches were agreed for cod and herring, it was anticipated that the approach should allow these stocks to reach FMSY by 2020. The approach adopted for cod was predicted to be consistent with FMSY in 2019 based on the 2018 ICES advice, though the agreed approach was anticipated to delay the recovery of the biomass above MSYBTRIGGER(a) by a further year until 2022. However, in light of new ICES advice released in July 2019 a significantly greater cut in the TAC has now been advised for cod (-70%); whereas a TAC reduction for herring no longer appears to be required, with ICES advising a 9% TAC increase. This new ICES advice will now inform negotiations setting fishing opportunities for 2020.

With regard to UK's access to fisheries science evidence post Brexit, the UK has agreed in principle a Memorandum of Understanding (MOU) with ICES for when we leave the EU. This will ensure the advice we require is in place so that the UK can continue to meet its international and domestic commitments and obligations on sustainability. UK scientists make a significant contribution to the science that generates ICES' annual recommendations for total allowable catches, and they will continue to provide their scientific expertise.

Finally, I would like to confirm that, consistent with the Government's wider approach, Defra officials are currently continuing to participate directly in key meetings relating to the CFP, including discussions relating to setting fishing opportunities for 2020.

30 September 2019

(a) 'MSY Btrigger' means the spawning stock biomass where specific and appropriate management action is to be taken to ensure that exploitation rates in combination with natural variations rebuild stocks above levels capable of producing MSY in the long term.

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS UNITED IN DELIVERING THE ENERGY UNION AND CLIMATE ACTION - SETTING THE FOUNDATIONS FOR A SUCCESSFUL CLEAN ENERGY TRANSITION (10251/19)

COMMISSION RECOMMENDATION OF 18.6.2019 ON THE DRAFT INTEGRATED NATIONAL ENERGY AND CLIMATE PLAN OF THE UNITED KINGDOM COVERING THE PERIOD 2021-2030 (10515/19)

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

Thank you for the explanatory memorandum from your predecessor dated 8 July 2019 on the above documents, which was considered by our Energy and Environment Sub Committee at its meeting on 4 September.

Further to the table on page 3 of your explanatory memorandum, we are concerned by the Commission's assessment that the UK has highlighted national targets and contributed information which are "below the Commission's suggested ambition". Will the Government's planned responses to the Commission's recommendations move the UK into the category of Member States whose ambition is in line with, or exceeds, that of the Commission?

Given the government's stated intention to leave the EU on 31 October 2019, do you still intend on taking into account the Commission's recommendations and publishing a final National Energy and Climate Plan (NECP) and National Forestry Accounting Plan (NFAP) before 31 December 2019?

We have decided to retain the documents under scrutiny. We look forward to a reply to this letter in due course.

4 September 2019

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

Thank you for your letters dated 5 September 2019. I am writing to respond to your questions regarding the two Explanatory Memoranda referred above.

Concerning your letter on the NECP recommendations, you asked for clarity on how we intend to approach the Commission's recommendations, and if we plan to publish a final National Energy and Climate Plan (NECP) and National Forestry Accounting Plan (NFAP) before 31 December 2019 (EM 10515/19).

We are carefully considering the recommendations on our draft NECP made in June. If the UK leaves the EU with a withdrawal agreement by 31 October and we enter a transition period entailing alignment with EU legislation, this will include Regulation (EU) 2018/1999 on the Governance of the Energy Union and Climate Action (the 'Governance Regulation') containing the requirement to publish the final NECP, and the Regulation (EU) 2018/841 on greenhouse gas emissions and removals from land use, land use change and forestry (LULUCF) requiring the publication of a revised NFAP.

You noted concern that the UK's national targets are "below the Commission's suggested ambition" and asked if the Government's planned responses to the Commission's recommendations will move the UK into the category of Member States whose ambition is in line with, or exceeds, that of the Commission? (EM 10515/19).

We are carefully considering the recommendations from the Commission and we are still in the process of considering our national contributions. Since June 2019, the UK's Climate Change Act 2008 has enshrined a world-leading target to achieve net zero greenhouse gas emissions from across the UK economy by 2050. The UK will continue to develop and deploy policies and measures to deliver further improvements in energy efficiency and to increase our renewable energy share, to contribute to meeting our legally binding emissions reduction commitments under the Act.

Turning to your letter on energy efficiency, you expressed concern for the reporting, monitoring and enforcement of energy efficiency objectives and asked if the Commission will consider action against Member States who consistently fail to meet energy efficiency targets before 2023 (EM 8461/19).

I note that the energy efficiency targets under Article 3 of the Energy Efficiency Directive are indicative at both the EU and Member State level, and therefore we expect any Commission action will be through issuing recommendations to Member States. The Governance Regulation empowers the Commission to issue recommendations as appropriate to Member States to ensure the achievement of the Energy Union objectives, particularly where it deems progress towards energy efficiency objectives to be insufficient. Recommendations are made publicly available, and any Member State receiving one would be required to take due account of it and provide justification where choosing not to follow it.

24 September 2019

PROPOSAL FOR A COUNCIL DECISION ESTABLISHING THE POSITION TO BE ADOPTED ON BEHALF OF THE EUROPEAN UNION WITH REGARD TO CERTAIN RESOLUTIONS TO BE ADOPTED IN THE FRAMEWORK OF THE INTERNATIONAL ORGANISATION FOR VINE AND WINE (OIV) (12679/14)

Letter to the Chairman from George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

Thank you for your letter of 6 November 2014 in which you noted an interest in whether the UK would re-join the OIV. As an update to this, I can confirm that the UK is seeking accession to the OIV and we have begun the process for the UK to become a member of the organisation following EU Exit.

Command Papers for the agreement, including the agreement text and an explanatory memorandum were laid in Parliament on 18 July 2019 as required under the Constitutional Reform and Governance Act 2010 (CRaG) before ratification of the agreement can take place. Both the agreement text and the explanatory memorandum can be found at

https://www.gov.uk/government/publications/agreement-establishing-the-internationalorganisation-of-vine-and-wine-ms-no292019?utm_source=7d5f542c-83b0-4c24-b99617140fc8a07a&utm_medium=email&utm_campaign=govuknotifications&utm_content=immediate

4 September 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL REGULATION (EC) NO 850/98 CONCERNING THE CONSERVATION OF FISHERY RESOURCES THROUGH TECHNICAL MEASURES FOR THE PROTECTION OF JUVENILES OF MARINE ORGANISMS (13076/12)

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

I have written separately today to confirm that the new regulation to overhaul the EU technical conservation measures has now been adopted by the European Parliament and Council of the European Union (ref: EM 6993/16).

The above proposal was originally intended to amend Council Regulation (EC) No 850/98 – featuring the current technical conservation measures – to bring it into alignment with the terms of the Lisbon Treaty. When the new regulation comes into force it will repeal 850/98 which means that the above alignment exercise cannot now proceed. We therefore anticipate the Commission will withdraw the proposal accordingly in due course. I note you have held the dossier under scrutiny to await this confirmation.

4 July 2019

Letter from the Chairman to George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs

Thank you for your predecessor's letter, dated 4 July, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 September.

Thank you for clarifying that this alignment can no longer proceed, as the original Regulation will be repealed when the new technical conservation measures come into force.

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

4 September 2019

GENERAL CORRESPONDENCE

DRAFT COUNCIL DECISION REQUESTING THE COMMISSION TO SUBMIT A STUDY ON THE UNION'S OPTIONS FOR ADDRESSING THE LEGAL SITUATION OF NEW PLANT BREEDING TECHNIQUES TAKING INTO ACCOUNT THE EXISTING LEGAL FRAMEWORK PROVIDED BY DIRECTIVE 2001/18/EC OF THE EUROPEAN PARLIAMENT AND THE COUNCIL AND THE COURT OF JUSTICE'S JUDGMENT IN CASE C-528/16

DRAFT COUNCIL DECISION REQUESTING THE COMMISSION TO SUBMIT A STUDY ON THE UNION'S OPTIONS TO CONSOLIDATE AND UPDATE THE EXISTING LEGISLATION ON THE PRODUCTION AND MARKETING OF PLANT REPRODUCTIVE MATERIAL

Letter to the Chairman from George Eustice MP, Minister of State, Department for Environment, Food, and Rural Affairs

Thank you for your request of 28 August regarding these two proposals. Both proposals are to request the Commission to submit studies to identify options to address issues relating to EU legislation.

For new plant breeding techniques, the 2018 EU Court of Justice judgment has created difficulties for regulators and those producing and trading in plant material. The Court concluded that new breeding techniques, such as genome editing, generate products that must be regulated as genetically modified organisms, without exception. The issue is that in many cases, the products of these techniques cannot be distinguished from unregulated products leading Council to propose a study to identify solutions.

For plant reproductive material, the background is the Commission's proposal in 2013 to modernise EU legislation for the production and marketing of material. The Commission subsequently withdrew its proposal in 2014 after it was rejected by EU Parliament. However, the underlying need to modernise the legislation remains, leading to Council now proposing a study to identify options for consolidation of the legislation.

Both are important issues for the UK and, because of the interdependence of the plant breeding and plant reproductive material sectors across Europe, will remain relevant after leaving the EU. Consequently, we support both Council proposals. However, at this stage it is not essential to engage actively, with the main importance being the outcome of the resulting studies and any proposals from the Commission to introduce new legislation.

Should it be necessary to vote in Council on the proposed studies, and assuming that the final text does not differ substantially from the current drafts, the UK will join the consensus view on both requests to the Commission.

6 September 2019

RESTRICTIONS ON NAMING VEGETARIAN FOOD

Letter to the Chairman from Zac Goldsmith MP, Parliamentary Under Secretary of State, Department for Environment, Food, and Rural Affairs

The government supports clear and honest food information to consumers that protects shoppers from being misled and allows them to make safe and healthy choices. Many people are reducing or eliminating meat from their diet while others continue to enjoy meat and we support the right of citizens to make those choices.

Current legislation on nutrition and ingredients labelling helps consumers compare the nutritional and other qualities of their food, whilst the UK front of pack 'traffic light' system helps consumers balance

the basic nutrients in their diets. Furthermore, consumers are protected from misleading information both on food labels and on advertising for food products by the Regulation on the Provision of Food Information to Consumers (EU 1169/2011).

Vegetarian sausages and burgers have been on the UK and European market for many years now and where they are clearly and honestly labelled, as the large majority are, consumers are not at all misled. There appears to be a growing demand for such foods and exciting opportunities for our great British food industry to meet this demand with new products. I agree with you that we should not stand in the way of these innovations, and that any problems that arise from the marketing of these foods can be addressed by existing legislation.

Part of this is ensuring that vegetarian foods are not marketed in a way that suggests a nutritional equivalence with meat products where this does not exist, or that undermines the well-deserved reputation for high quality, high-welfare meat enjoyed by UK livestock farmers. Responsible food producers must design labels that do not mislead as to the characteristics of the food, including its nature, composition or method of manufacture or production.

In conclusion, I agree with the points made in your letter, that existing legislation properly protects consumers from misleading information and that the Government should not put unnecessary barriers in the way of new foods being put on the market.

16 August 2019