



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 August 2018 to 31 December 2018

EU ENERGY AND ENVIRONMENT SUB-COMMITTEE

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COMMUNICATION FROM THE COMMISSION ON THE STATE OF PLAY OF THE
COMMON FISHERIES POLICY AND CONSULTATION ON THE FISHING
OPPORTUNITIES FOR 2018 (10742/17)

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

Thank you for your letter of 23 July 2018, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 September.

We welcome the UK's contribution to recommendations to address the choke risks arising in 2019, which will be transposed into delegated acts in the autumn. We note your assessment that additional measures will also be needed, and that you are addressing this through discussions with the Commission and consideration of domestic-level actions.

We are now content to close this correspondence.

12 September 2018

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE
COUNCIL ASSESSING MEMBER STATES' PROGRAMMES OF MEASURES UNDER THE
MARINE STRATEGY FRAMEWORK DIRECTIVE (11561/18)

**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 our Energy and Environment Sub-Committee at its meeting on 21 November.

We were pleased to note that the UK was one of only six Member States to meet the Commission's deadline for reporting their national programme of measures, and that the Commission considers it highly likely that the UK will implement its programme. We also note, however, that the Commission considers the UK's programme will only partially address some of the pressures on the marine environment identified by the Directive and that the staff working document that accompanies the Report contains an extensive list of recommendations for changes to the UK's programme. To what extent do you intend to make changes to your programme in light of these recommendations?

We note that the UK is one of eight Member States that have applied exceptions to some aspects of achieving Good Environmental Status and that, while it finds that the UK's exception in relation to exploitation of fish is justified, the Commission has concerns about your exception for contaminants. We note that the Commission has recommended you provide "more robust justifications", such as a cost-benefit analysis and an analysis of the pros and cons of alternative measures to prevent environmental damage. Have you undertaken such analysis? Have you, or do you intend to, provide this information to the Commission?

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

22 November 2018

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

Thank you for your letter of 22 November 2018.

We note that you have decided to retain under scrutiny the explanatory memorandum EM 11561/18 on the Commission's staff working document assessing Member States' programmes of measures (PoMs) under the Marine Strategy Framework Directive (MSFD), subject to obtaining clarity on two particular issues.

Before addressing these issues in detail, I would like to flag up two important points in order to put our response in context.

Firstly, the recommendations from the Commission in the staff working document are provided for Member States to consider by the time of the next update of their Marine Strategy Part 3 programmes of measures report, which is required by December 2021. In general the policy of the UK and Her Majesty's Government of Gibraltar (HMGoG) is not to wait until 2021, but to take the recommendations on board as soon as is practicable, and some are already addressed.

Secondly, the recommendations cover a) the PoMs reported by Defra and the devolved administrations in the UK Marine Strategy Part 3 published in December 2015 covering the North East Atlantic, b) the PoMs reported by HMGoG covering British Gibraltar territorial waters (BGTW) in 2017, and c) issues common to the PoMs for both the North East Atlantic and BGTW. The MSFD is implemented separately for BGTW by HMGoG but we have included its views on the recommendations regarding BGTW in this response.

Regarding your question about the extent that the UK intends to make changes to the PoM, in light of the recommendations, we and HMGoG agree that most of these make sense. For the North East Atlantic we have addressed the majority of them already, including the implementation of a number of the proposed measures. This includes the introduction of a ban on plastic microbeads in rinse off personal care products, the establishment of a UK Marine Noise Registry, and the designation of more Marine Protected Areas. For BGTW, HMGoG's Department of the Environment, Heritage and Climate Change has taken on board the Commission's recommendations and will be publishing its revised Programme of Measures for BGTW in January 2019. HMGoG also emphasises that further effective implementation of the MSFD will require coordination and cooperation with neighbouring countries which will depend on HMGoG participating in the working groups created under the Barcelona Convention of which it is still not a contracting party, and stresses the urgency of pressing its case for membership.

We also note that several of the recommendations are for the introduction of measures where in fact we have reported that we are already taking action, which the Commission has missed in its evaluation report.

Regarding your question about whether we will provide more robust justifications for the Article 14 exception for Descriptor 8, including a cost-benefit analysis and an analysis of the pros and cons of alternative measures to prevent environmental damage, we do not think this is necessary. For us, it is clear that the cost of removing and cleaning up hundreds of thousands of tonnes of marine sediment around the UK contaminated with highly persistent legacy chemicals such as PCBs that entered the seas before they were banned, would be disproportionately expensive and is likely to exacerbate the problem by re-suspending contaminants into the marine environment. Our view, which other countries have also taken, is that the only realistic option is to leave them in place and not disturb them until the chemicals have degraded.

We trust that these explanations address your questions, and are happy to provide further advice if necessary.

6 December 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN CONSERVATION AND CONTROL MEASURES APPLICABLE IN THE REGULATORY AREA OF THE NORTHWEST ATLANTIC FISHERIES ORGANISATION AND REPEALING COUNCIL REGULATION (EC) NO 2115/2005 AND COUNCIL REGULATION (EC) NO 1386/2007 (11594/18)

Letter from the Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

You stated that you would "closely scrutinise those aspects related to delegated powers to ensure they are appropriate". Have you completed that scrutiny, and if so, are you now satisfied that the proposed powers are appropriate? If not, please set out your remaining concerns.

You also noted that you had a number of questions for the Commission on how the provision to allow it to enact later control and enforcement measures would be used. Have you received satisfactory responses? Again, if not, please set out your remaining concerns.

Finally, please clarify when you expect the Proposal to be discussed at Council, and the anticipated timeline for its final agreement.

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

31 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 31 October 2018 relating to EM 11594/18.

During our detailed scrutiny of this dossier we identified a number of inaccuracies and we are now working with the Commission to ensure these are corrected. However these are not substantive in nature. At this time we are not aware of any other Member States raising concerns on the specific content of the delegated powers.

We do not consider the delegated powers contained within the dossier to be a concern as they primarily relate to updating timeframes or deadlines for acting upon a requirement of NAFO (The Northwest Atlantic Fisheries Organisation). It is reasonable to facilitate the simple periodic modification of such deadlines. Some of the delegated powers are intended to ensure the EU keeps pace with changing requirements in NAFO which appears appropriate insofar as they will reflect what is adopted at NAFO. We are conscious of the need to ensure that delegated powers are limited to fulfilling the EU's obligations under NAFO and will continue to scrutinise language to ensure this is clear.

It is worth noting that these powers are time-limited and the Commission is required to consult experts of the Member States. These amendments will only enter into force if there are no objections from either the European Parliament or Council. These limitations are set out in article 53 of the proposal.

Whilst the method of utilising the Official Journal to amend legislation is unusual, we do not consider the mechanism itself to be problematic in principle. The issue arises if the provision is used for changes which go beyond those of a technical nature. These concerns are moderated by the fact that measures in the Control and Enforcement regime are negotiated and adopted on the basis of a mandate given to the Commission by Member States.

Our current understanding is that the EU Presidency intends for this proposal to be agreed and in place by the end of this year. However there is a chance that this may slip to January 2019 given other competing priorities. We do not have an agreed date as to when this dossier will be discussed at Council.

12 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter dated 12 November on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 21 November.

Thank you for informing us that you do not believe the Proposal's delegated powers are of concern, and for explaining both their purpose in this context and their limitations. We also note that your questions regarding the use of the Official Journal of the EU to enact later control and enforcement measures have now been resolved to your satisfaction.

Thank you too for setting out the expected timeline for this Proposal. We are now content to release this Proposal from scrutiny and close the correspondence.

22 November 2018

PROPOSAL FOR A COUNCIL REGULATION FIXING FOR 2019 THE FISHING
OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS
APPLICABLE IN THE BALTIC SEA (11735/18)

**Letter from the Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

We note that, while the UK does not have a direct interest in fishing opportunities in the Baltic Sea, you have identified four fish stocks where you believe the Total Allowable Catch (TAC) proposed is inconsistent with the advice from the International Council for the Exploration of the Sea. We note that your officials are seeking clarification on these inconsistencies. Please provide an update on these discussions, and whether your concerns have been addressed.

We note your belief that this Proposal may provide an indication of how the Commission may proceed with TAC and quota allocations for fish stocks in which the UK does have a significant interest. Please clarify how you believe the Commission's approach to this Proposal could have implications for fisheries the UK have an interest in.

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

31 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Further to your recent communication on 15 October and letter of 31 October, I would like to provide an update on the above Explanatory Memorandum (EM) submitted for scrutiny on 24 September.

The EM identified that the rationale for the Commission's advice on several stocks was unclear. Whilst the UK has no direct catching interest in the Baltic stocks, understanding the reasons for any discrepancies between the scientific advice from the International Council for the Exploration of the Sea (ICES), the Commission's advice and the final agreement reached at the Council on 15 October, has relevance for the forthcoming proposals for the Atlantic stocks. An update on this is provided below.

Prior to the October Council meeting, the 'BaltFish' (The Baltic Sea Fisheries Forum) group of countries, chaired by Sweden, met to develop a compromise approach to setting total allowable catches (TACs) for the Baltic. Although during Council itself, some concerns were expressed that some TACs were too low, leading to socio-economic consequences, or too high to be sustainable, the first compromise text was agreed as the final text, without any objections. The final deal (document 13098/18) will be formally adopted by written procedure which is expected to occur by early November.

Whilst agreement at Council was reached, there remain some concerns from environmental NGOs regarding the TACs set for two of the stocks which were also highlighted in the EM. The rationale for the decision on these stocks, was as per the below:

1. Whilst the scientific advice from ICES was for a zero TAC for Herring 22-24, under an MSY (maximum sustainable yield) approach, the Commission proposed a 63% cut (on the 2018 quota). The Commission considered this compatible with the Baltic multi-annual plan (MAP) on the basis that it was an 'alternative measures' proposal. Final agreement was for a 43% cut, influenced by a German and in particular Danish request for socio-economics to be taken into account. The Danish Minister noted that even a 63% cut would have harsh consequences for fishers and a processing plant and therefore a stable development was preferred rather than the adoption of a 'drastic' ICES recommendation. The agreement has been criticised by marine biologists at DTU Aqua (National Institute of Aquatic Resources) and Greenpeace, both of whom state that the quota postpones sustainable fishing for years.
2. For Eastern Baltic cod, ICES advised a 36% reduction. However, the Commission advice was for a TAC of 24,112t for 2019 which was only a 15% cut. This was agreed at Council, together with a month-long closure for larger vessels targeting this fishery. Whilst some Member States had preferred

a precautionary approach with a bigger cut, the Commission considered that a smaller reduction was justified due to a disagreement with the ICES advice relating to the geographical distribution of the stock.

3. For Western Baltic Cod (Cod 22-14) the Commission's proposal advocated setting the TAC corresponding to the lowest value within the range of FMSY (the maximum rate of fishing mortality) representing a +33% increase in the TAC. Denmark and Germany supported a higher TAC increase in line with the scientific advice from ICES. The final TAC does not appear to correspond with any option provided with the ICES advice for 2019 but it is within the TAC limits provided for commercial catch under the Baltic MAP.

4. For Baltic plaice (Plaice 22-32) a +43% increase in the TAC was agreed. This increase was the Commission's original proposal and is the result of an improvement in the condition of the western plaice stock in the Baltic.

Noting the above, the UK has concerns that the proposals which were agreed at the October Council for the Baltic in 2019 were in some instances substantively different from the scientific advice. The UK has maintained a position that science must lead in setting fishing opportunities. The UK has no direct catching interest in the Baltic and it would not have been appropriate for the UK to have intervened; however, we remain uneasy and will therefore maintain an eye on the proposals for the North Sea and Atlantic and challenge any propositions that do not have a robust or clear scientific foundation.

12 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter, dated 12 November, on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 21 November.

Thank you for explaining the rationale behind the total allowable catches (TACs) agreed for Baltic stocks for 2019. We note your concern that, in some instances, these varied significantly from scientific advice but that you felt it would be inappropriate to intervene as the UK has no direct catching interest in the Baltic. We were pleased to note that you would challenge any proposal for the North Sea or Atlantic that does not "have a robust or clear scientific foundation" as we share your view that a science-based approach is crucial.

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

22 November 2018

PROPOSAL FOR A COUNCIL REGULATION AMENDING REGULATION (EU) 2018/120 AS REGARDS FISHING OPPORTUNITIES FOR EUROPEAN SEABASS (11827/18)

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs

Further to my explanatory memorandum of 17 September on the above proposal, I am pleased to report that the proposed reinstatement of the one bass specimen a day per angler – the 'bag limit' to permit some retention of bass angling catches – was completed following the anticipated fast track route to political agreement. This ensured it was in place in EU legislation for 1 October.

Following initial presentation and discussion in the Council working group the proposal was submitted for a vote in the Permanent Representatives Committee (COREPER) at their meeting on 19/ 21 September. As scrutiny clearance was unobtainable within this short timescale, the UK registered an abstention for the COREPER vote, while indicating strong support for the substance of the proposal, though I note that your Committee has subsequently confirmed clearance from scrutiny. This was submitted for agreement as an 'A point' on the agenda of the Competitiveness Council on 27 September, and was published in the Official Journal the next day, in time to be in force on 1 October.

23 October 2018

**PROPOSAL FOR A COUNCIL REGULATION OPENING AND PROVIDING FOR THE
MANAGEMENT OF AUTONOMOUS UNION TARIFF QUOTAS FOR CERTAIN FISHERY
PRODUCTS FOR THE PERIOD 2019-2020 (12082/18)**

**Letter from the Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 November.

We note that you are seeking increases in the proposed quotas for a number of species, namely:

- Cod;
- Frozen cod fillets and meat;
- Alaska Pollack;
- Haddock;
- Cooked and peeled shrimps and prawns for processing;
- Warm water prawns; and
- Tuna.

Please provide an update on your negotiations to increase these quotas. Are other Member States seeking similar increases? The significant increases you are seeking imply you do not believe the quotas currently proposed to be adequate. What assessment have you made of the impact the proposed quotas would have on the UK processing sector, if your negotiations are unsuccessful?

We note your concerns about the removal of the '20% safeguard measure'. Do other Member States share this concern? Are there any indications that it may be reinstated?

Your EM makes clear that these quotas are of significant importance to the UK processing sector. In the case of a 'no deal' Brexit, how quickly could alternative arrangements be put in place so that disruption to the sector's supply chains was minimised?

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

14 November 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 14 November regarding the Explanatory Memorandum (EM) on the above Proposal.

Since the EM was tabled, the proposals have been discussed at official level in the weekly Fisheries Working Group meetings in Brussels, with the Presidency producing two further compromise texts.

With regard to the quotas for the species of most importance to the UK processing sector, the latest Presidency compromise for these are as follows:

Species	Commission Proposal (tonnes)	UK Request (tonnes)	Presidency Compromise (tonnes)
Cod (headed and gutted)	80,000*	80,000#	95,000*
Cod (frozen fillets and meat)	38,000	42,500	50,000
Alaska Pollack	250,000*	300,000#	320,000*
Haddock	2,500	5,000	3,500

Cooked and peeled shrimps and prawns	10,000	15,000	7,000 (<i>Pandalus borealis</i> & <i>Pandalus montagui</i>) 3,000 (<i>Pandalus jordani</i>)
Warm water prawns	30,000	45,000	40,000
Tuna	25,000	30,000	30,000

*No safeguard measure

#Plus safeguard measure

Defra officials have been regularly engaging with the UK processing sector during the discussions on the autonomous tariff quota (ATQ) proposals and on the Presidency compromises. Whilst there has been some positive proposed increases in quotas (for cod and tuna) in line with UK requests, for the other key species the proposed quotas are not as high as we would have liked.

With regard to the '20% safeguard measure' the UK was among a number of Member States (Germany, Denmark, the Netherlands, Lithuania, Poland and Sweden) that were initially calling for its retention. However the Presidency were not prepared to compromise on this and sought the support of individual Member States through quota increases or other compromises for their key products. This ultimately left the UK alone in calling for its reinstatement and the safeguard measure will not be retained for the new ATQ regime.

However, whilst they would have preferred the retention of the safeguard measure, the UK processing sector has confirmed that they can accept the quotas in the latest Presidency Compromise document of 13 November, which I attach for your information. The compromise text will now be put forward at the December Council for adoption.

The Government is committed to securing the best trade deal for the fishery sector, whilst ensuring that consumers continue to have a wide range of choice of high-quality food products at affordable prices. The UK is engaging with partner countries to transition existing EU-third country FTAs, which are also an important source of tariff free fish for the UK market. We have had positive discussions with our trading partners on these agreements and we are working to achieve a smooth transition for businesses and consumers. We will also consider mechanisms such as a UK ATQ regime to ensure there is no disruption to supply chains.

30 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter on the above Proposal, dated 28 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 December.

Thank you for providing an update on the negotiations, and for explaining that the Presidency has produced compromise texts that would see quotas set at a level the industry have said they can accept. Thank you for explaining that your argument for retaining the '20% safeguard measure' was not, in the end, supported and that you accept this will not now be retained.

Thank you for explaining that your preparations for Brexit include seeking to transition existing EU free trade agreements, and considering a UK tariff quota regime, to ensure continued tariff-free access to products for the fish processing sector. We note that it seems unlikely these measures could be in place by March, to mitigate the impact of a 'no deal' Brexit.

We are now content to release this Proposal from scrutiny. Please provide an update when the text is adopted, detailing any final changes agreed and the UK's position on them.

12 December 2018

PROPOSAL FOR A COUNCIL DECISION ON THE POSITION TO BE TAKEN ON BEHALF OF THE EUROPEAN UNION AT THE SECOND MEETING OF THE CONFERENCE OF THE PARTIES TO THE MINAMATA CONVENTION ON MERCURY WITH REGARD TO THE ADOPTION OF GUIDELINES ON THE ENVIRONMENTALLY SOUND INTERIM STORAGE OF MERCURY, OTHER THAN WASTE MERCURY, REFERRED TO IN ITS ARTICLE 10, PARAGRAPHS 2 AND 3 (12561/18)

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 our Energy and Environment Sub-Committee.

We note that you support the approach set out in the Proposal, to adopt the guidelines due to be discussed at the Conference of the Parties to the Minamata Convention on Mercury. We also note, however, your concern of the use of a Council decision, as the outcome of the Conference will not be the adoption of an act with legal effect (which is part of the criteria set out in Article 218 of the Treaty on the Functioning of the European Union for when decisions can be used). Your Explanatory Memorandum states that you will be raising your concerns “through the appropriate channels”. What response have you received as a result?

We note that this Proposal needs to be agreed in advance of the Conference and so have decided to release this Proposal from scrutiny. We look forward to a reply to this letter within 10 working days

2 November 2018

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

Thank you for your letter of 2 November 2018 and for your interest in the response we have had to our raising of procedural concerns.

We approached other Member States who had entered scrutiny reserves on the decision in an effort to garner support for raising the issue. Those states have, however, since lifted their scrutiny reserves because their concerns, which related to the language used in the decision, have been addressed. In particular, we had detailed discussion with representatives from Belgium and forwarded to them more information about our concerns over the use of the 218 (9) procedure. We received no response.

We did not formally raise our concerns given the importance of managing our relationship with Member States supporting what is in substance, a positive proposal and sending a clear message that environmental protection remains a priority for the UK.

You will have seen from my letter to Sir William Cash MP, copied to you, that I have decided, on balance, to override Parliamentary scrutiny (for the House of Commons) on this matter and vote in favour of the Commission’s proposal.

12 November 2018

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

Thank you for your letter, dated 12 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 21 November.

Thank you for explaining that you did discuss your concerns about the use of a Council decision, as the mechanism for agreeing the position to be taken, with other Member States. We note that you did not find any support for your position, however, and therefore did not raise the matter formally as you did support the substance of the Proposal.

We are now content to close correspondence on this matter.

22 November 2018

PROPOSAL FOR A COUNCIL REGULATION FIXING FOR 2019 AND 2020 THE
FISHING OPPORTUNITIES FOR UNION FISHING VESSELS FOR CERTAIN DEEP-SEA
FISH STOCKS (12841/18)

**Letter from the Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 November.

We note that you have sought the views of industry and environmental NGOs on this Proposal. Have they raised any concerns with you?

We note your concern that the Commission is proposing the Total Allowable Catch (TAC) for Black Scabbardfish in subareas 1-4 is removed, without having received advice from the International Council for the Exploration of the Sea (ICES) that its removal will not threaten the sustainability of the stock. We share your view that scientific advice is crucial in agreeing approaches to shared stocks. Have you now received an explanation from the Commission on why they have made this proposal without ICES advice?

We note that the proposals for Deep Sea Shark have yet to be published. Please provide your assessment of these proposals when available.

Thank you for explaining that you support the proposal to remove TACs for Roundnose Grenadier in subareas 1, 2 and 4, and Greater Forkbeard in subareas 1-10, 12 and 14 on the basis of scientific advice.

We note that you are seeking clarity on whether the proposed TAC for Roundnose Grenadier in subareas 6 and 7 and Divisions 5.b and 12.b should be rolled over, as the advice has not changed. Have you now received an explanation from the Commission on this point?

We note that you are also seeking clarity on why the Commission's proposal for Black Scabbardfish in subareas 5, 6, 7 and 12 is below ICES advice. Have you now received that clarification?

We have decided to retain the Proposal under scrutiny. We note, however, that the Proposal is scheduled to go to the Agriculture and Fisheries Council for agreement on 19 November and so are willing to grant a one-off scrutiny waiver to allow you to participate in any votes that may be held. We look forward to a reply to this letter within 10 working days.

14 November 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 14 November 2018 about proposals for deep-sea fish stocks in 2019 and 2020 and for the waiver which you kindly provided. The November AgriFish Council concluded in the evening of Monday 19 November with an agreement on the total allowable catch (TACs) and quotas for deep-sea stocks over the next two years. My colleague, Lord Gardiner, represented the UK. A summary of the TACs and quotas which were agreed is set out at Annex A.

I have responded below to the points that you raised in your letter.

We did not receive any specific response from industry or environmental NGOs (eNGOs) explicitly about the draft deep-sea regulation, although recent engagement has shown that eNGOs are concerned about the condition of vulnerable deep sea sharks in particular.

Before Council, officials received clarification from the Commission about the proposal to remove the TAC for Black Scabbardfish in subareas 1-4 without advice from the International Council for the Exploration of the Sea (ICES) that its removal will not threaten the sustainability of the stock. The Commission explained that an ICES working group (WGDEEP) did consider it, and concluded that that the stock is distributed to the West of the UK and Ireland, while the North Sea is included as 'other areas', where there is a low occurrence of the stock. This is in line with the FAO assessment of its occurrence that shows no occurrence in the North Sea. Black Scabbardfish was not included in the recent "TACMAN" report from ICES because evidence about this species had not been requested. Our scientists at CEFAS are satisfied with the explanation now provided by the Commission. In light

of this we did not challenge the removal of the TAC for Black Scabbardfish in the North Sea and Skagerrak.

The Commission published their proposals for deep sea shark TACs and quotas in a non-paper on 24 October. They proposed to reduce the TAC for bycatches of shark from 10t to 7t in the following areas:

- Deep-sea shark in Union and international waters of 5, 6, 7, 8 and 9
- Deep-sea shark in Union and international waters of 10
- Deep-sea shark in Union waters of CECAF 34.1.1, 34.1.2 and 34.2.

The final compromise set a TAC of 10t (a rollover) for 2019 and 2020 for bycatches only. Our scientists have no concerns about this bycatch limit. The Commission also proposed to remove the bycatch TAC for deep-sea shark in Union and international waters of 12 because no artisanal fleets operate in ICES subarea 12. Instead the restriction on their catch will be covered by a prohibition on deep-water sharks being fished, retained or landed for that area (bullet 1.2 in the proposal).

We did not receive clarification about the proposal for Roundnose Grenadier 5b, 6 & 7. However, the final compromise resulted in a TAC of 2,558t which is a -18% cut in the TAC. This will generate an opening quota for the UK of 124t. In 2017 the UK's uptake was 9.4t. The reduction will have no impact on the UK because this stock is only taken as a bycatch of other fisheries.

We did not receive clarification about the proposal for Black Scabbardfish 5, 6, 7 and 12. However, the final compromise is for a TAC of 2,470t for 2019 and 2020 which is a -5% cut in the TAC. This will generate an opening quota for the UK of 141t. In 2017 the UK's uptake was 101t. We expect this cut to have little impact on UK fishers.

An ICES map is attached which provides details of the geographical sea areas covered by the deep-stocks TACs discussed in this letter.

26 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL REGULATION (EC) NO 1100/2007 ESTABLISHING MEASURES FOR THE RECOVERY OF THE STOCK OF EUROPEAN EEL (12989/12)

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs

I write to you, following my letters of 13 February, 9 July and 23 August 2015, with regard to the recovery measures for European eel. When your committee cleared this dossier, you asked to be kept informed of any further developments.

As you may recall, in 2012 the European Commission published a proposal to align Council Regulation 1100/2007, establishing measures for the recovery of the stock of European eel, with new rules in the Lisbon Treaty on delegated and implementing acts. This proposal progressed to the trilogue discussion stage in 2015.

The Commission has recently published an evaluation and assessment roadmap to review Council Regulation 1100/2007. The Commission is contracting an external organisation to evaluate the regulations and aims to hold a public consultation exercise later this year. All Member States were asked to complete a questionnaire on their management of eels in April this year.

The Commission will use the information in the 2018 triennial reports from Member States as part of the review. The UK submitted its report to the Commission in June this year and a copy is enclosed for your information.

The report concludes that whilst progress has been made in removing barriers to migration, there has been little change in adult eel production since the last triennial report. Due to the long life cycle of European eel, protection measures implemented during this cycle will take some time to produce results in terms of adult eels returning to spawn (15-20 years), and so the management targets should be viewed as long term objectives. A variety of actions such as installing further eel passes, screening

water intakes at pumping stations, abstraction points and power plant intakes and also habitat restoration are taking place throughout the UK.

We continue to liaise closely with colleagues in Northern Ireland and other Devolved Administrations, as well as with key contacts in the Commission, to ensure we remain abreast of and can effectively influence developments in this area. We will, of course, keep you informed as matters progress.

24 October 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter, dated 24 October, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 November.

Thank you for informing us that the Commission has recently published a roadmap to review Council Regulation 1100/2007. We understand that a new legislative proposal is likely to arise from this review, which would supersede the Proposal that we have been corresponding about (EM 12989/12).

Given this, and that no progress has been made on EM12989/12 since 2015, we are now content to close correspondence on this dossier.

14 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE MANUFACTURE, PLACING ON THE MARKET AND USE OF MEDICATED FEED AND REPEALING COUNCIL DIRECTIVE 90/167/EEC (13196/14)

Letter from Chairman to Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Rural Affairs and Biosecurity, Department for Environment, Food and Rural Affairs

Thank you for your letter of 16 July 2018, which were considered by the EU Energy and Environment Sub-Committee at its meeting on 12 September 2018.

We note that negotiations on this dossier have now been completed, subject to a plenary vote in the Parliament. Are you content with the agreement that was reached?

Please inform us when the legislative process has been completed.

We look forward to receiving your response in due course.

12 September 2018

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

Thank you for your letter of 12 September 2018 where you asked whether I was content with the agreement reached.

I believe that the final text broadly meets the objectives set out by the Commission for the review of the EU legislation on veterinary medicines and medicated feed. It provides an updated, robust and proportionate regulatory framework for the production, supply and use of medicated feed.

The text is currently going through the Jurist Linguist review process and as I previously advised, we expect the agreed text to go to a plenary vote in the Parliament by the end of October. I will write again to inform you when the regulation has been formally adopted and published in the official Journal.

10 October 2018

PROPOSAL FOR A COUNCIL DECISION ON THE POSITION TO BE TAKEN ON
BEHALF OF THE EUROPEAN UNION IN THE COUNCIL OF MEMBERS OF THE
INTERNATIONAL OLIVE COUNCIL (IOC) (13245/18)

**Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food,
Department for Environment, Food and Rural Affairs**

The proposal concerns the position to be taken on the European Union's behalf in the Council of Members of the International Olive Council (IOC) concerning a request by Syria to re-join the IOC.

Syria is the third largest producer of olive oil outside the European Union and its membership of the IOC would, under normal circumstances, be considered to be in the interest of the wider objectives of the organisation.

On 16 April 2018 the European Union agreed that a decision on Syrian accession to the IOC should be deferred due to the ongoing crisis in Syria. This proposal in effect extends that deferral.

IOC matters fall within Defra's remit but given the foreign policy implications we sought the advice of the FCO who concurred that the Council proposal should again be supported and as a result Syrian accession to the IOC deferred.

The Commission submitted a proposal to postpone the decision on Syrian accession at the IOC council of member's session on 19 – 23 November, however it was unclear if the IOC secretariat was intending to include this item on the agenda meaning the position of the European Union may not even be required.

29 November 2018

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 Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 December.

Thank you for setting out your negotiating principles, and for providing substantial detail on your view of the Proposal put forward by the Commission. We note that there are a number of areas in which you intend to propose a different approach in negotiations, including:

- The use of proxy data rather than the precautionary approach for stocks where data is limited such as anglerfish and pollack (EM paragraphs 17-18)
- The use of discard rates rather than relative stability to set shares of cross-EU TACs to help manage bycatch difficulties relating to cod, plaice and haddock (EM paragraphs 22-26)
- Removing the TAC for whiting in both the Irish Sea and the West of Scotland, and for cod in the West of Scotland, and instead applying "a package of measures aimed at improving selectivity and rebuilding the stock" (EM paragraphs 29-30, 33 and 35)
- A smaller reduction to the North Sea cod TAC given the choke risk (EM paragraphs 39-41)
- A larger reduction to the North Sea herring TAC, and not allowing increased access for Norway to fish the stock (EM paragraphs 45-46); and
- A larger reduction to the nephrops TAC (EM paragraphs 47-8).

Please update us on the position that was reached regarding the Proposal in general, and regarding the points noted above in particular, after the Council has taken place.

We note that many aspects of this Proposal relate to the challenges of fully implementing the landing obligation from 1 January 2019. As you will be aware, we are examining this issue through our inquiry on the implementation and enforcement of the landing obligation, and we may return to some of the flexibility and mitigation measures put forward in this Proposal as part of that inquiry.

Thank you for confirming that the TACs agreed at the December Council will apply to the UK throughout 2019 under any Brexit scenario.

We are content to release this Proposal from scrutiny, but look forward to a reply to this letter in due course.

6 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2012/27/EU ON ENERGY EFFICIENCY (15091/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE GOVERNANCE OF THE ENERGY UNION, AMENDING DIRECTIVE 94/22/EC, DIRECTIVE 98/70/EC, DIRECTIVE 2009/31/EC, REGULATION (EC) NO 663/2009, REGULATION (EC) NO 715/2009, DIRECTIVE 2009/73/EC, COUNCIL DIRECTIVE 2009/119/EC, DIRECTIVE 2010/31/EU, DIRECTIVE 2012/27/EU, DIRECTIVE 2013/30/EU AND COUNCIL DIRECTIVE (EU) 2015/652 AND REPEALING REGULATION (EU) NO 525/2013 (15090/16)

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE PROMOTION OF THE USE OF ENERGY FROM RENEWABLE SOURCES (RECAST) (15120/16)

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 letter of 12 July 2018, which were considered by the EU Energy and Environment Sub-Committee at its meeting on 5 September 2018.

EM 15090/16: Energy Union Governance and EM 15120/16: Renewable Energy Directive

Thank you for providing an update on these dossiers. We note that agreement was reached on both at COREPER on 27 and 29 June, and that you supported the positions reached on the ground that they limited overall costs to the UK and avoided nationally binding targets.

We note that the headline EU renewables target for 2030 increased from “at least 27%” to 32%. Although we acknowledge the absence of a legal mechanism to oblige specific contributions from Member States, what is the UK’s intended contribution towards that target? Has there been discussion of whether the UK’s progress will contribute towards this target after Brexit?

We note your explanation that the Commission has not specified the impact of the 1.1% per annum increase in renewable heat on meeting the EU’s renewable energy target. We remain of the view that setting such a target when it is plainly not consistently applicable across the EU is of little use, but recognise that you have secured the necessary flexibility to ensure the UK is not required to implement an inefficient measure.

We welcome the replacement of the requirement for a “three-year forward look of expected public support for renewable energy” with one for a “long-term schedule anticipating the expected allocation of support”.

We also note that you reached acceptable compromises regarding grid fee exemption for small self-consumers of renewable energy, and regarding the sustainability criteria for biofuels. Please explain the compromises that were reached, and the Government’s view on the issues involved. Please also clarify

your “objective on palm oil” which was met by not specifically removing it from the list of ‘renewable’ fuel sources.

EM 15090/16: Energy Efficiency Directive

We note that the EP, Commission and Presidency have agreed on an indicative target of reducing energy consumption by 32.5% by 2030. Again, although we acknowledge the absence of a legal mechanism to oblige specific contributions from Member States, what is the UK’s intended contribution towards that target? Has there been discussion of whether the UK’s progress will contribute towards this target after Brexit?

We also note that you have resolved your concerns regarding the calculation of the 2020 targets, and that the legal risk to the UK is now significantly reduced.

We are now content to release this Proposal from scrutiny.

Please provide an update on these dossiers once the final votes have taken place, in addition to answering the questions above. We look forward to hearing from you in due course.

6 September 2018

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

I am writing to respond to your questions on the above files contained in your letter of 6 September. The dossiers were formally voted on and adopted by the European Parliament on 13 November and by the Council on 3 December. I will answer your questions in turn.

You asked about the UK’s intended contribution towards the headline EU renewable energy and energy consumption targets for 2030 and about any discussion of whether the UK’s progress will contribute towards these targets after Brexit. The extent of our longer term relationship with the EU on renewable energy and energy efficiency (including targets) will be determined as part of the wider EU Exit negotiations on our future economic partnership. The Committee should note, however, that in its 2019 workplan the Commission has proposed legislation to amend the EU’s energy consumption targets to take account of the UK leaving the EU. In negotiating the 2030 Clean Energy Package one of the UK’s main objectives was to ensure that the EU renewables and energy consumption targets reflected the significant role that renewables and energy efficiency will play in the coming decade, while ensuring that the UK (and indeed other Member States) retained maximum flexibility to meet our ambitious and stretching climate targets in the most cost-effective way.

You noted that the UK reached acceptable compromises regarding grid free exemptions for small renewable self-consumers and the sustainability criteria for biofuels and asked about the compromises that were reached and the Government’s view on the issues involved. On small renewable self-consumers, the Government’s aim was the continued promotion of this sector, whilst also ensuring that it would contribute in an adequate and balanced way to any costs arising. The revised Renewable Energy Directive continues to provide for cost reflective network charges to be applied to electricity fed into the grid from renewable self-consumers, and provides a limited degree of flexibility to Member States on charging for self-generated renewable electricity remaining within their premises. These provisions are consistent with our existing network charging arrangements, which are a matter for Ofgem as the independent energy regulator.

Regarding your question on the sustainability criteria for biofuels, the existing criteria have been maintained, and in parts further strengthened. This has been in line with the Government’s aim to maintain the ambition in this area. The more controversial issue related to the sustainability criteria of so-called “biomass fuels” (solid and gaseous fuels from biomass; not biofuels). The revised Renewable Energy Directive introduces mandatory sustainability criteria for biomass fuels for the first time. The UK has already introduced sustainability criteria for biomass fuels and has been one of the first countries to do so. The Government’s aim during negotiations was therefore to agree a provision that would allow Member States to set additional sustainability criteria enabling more ambitious countries to go beyond the sustainability criteria in the Directive. This provision was agreed.

Turning to your question about the UK’s objective on palm oil, the compromise reached at EU level was not specifically to exclude biofuels produced from palm oil from counting towards to the renewable energy targets, as had been proposed by the European Parliament during the negotiations.

Instead, the revised Renewable Energy Directive limits and ultimately excludes all biofuels with a high risk of causing indirect land use change (ILUC) from counting towards EU targets. Details of these provisions are still to be adopted by the Commission as part of a delegated act to be agreed by February 2019. The Government's objective in this policy area was to achieve a WTO-compatible solution which would not single out one feedstock but set objective criteria that would help ensure that biofuels deliver genuine greenhouse gas emission reductions compared with fossil fuels.

6 December 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON COMMON RULES FOR THE INTERNAL MARKET IN ELECTRICITY (RECAST) (15150/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE INTERNAL MARKET FOR ELECTRICITY (RECAST) (15135/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS (RECAST) (15149/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON RISK-PREPAREDNESS IN THE ELECTRICITY SECTOR AND REPEALING DIRECTIVE 2005/89/EC (15151/16)

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

I am writing to update the Committee on the progress of negotiations on each of the elements which comprise the EU Electricity Market Design proposals, and to seek scrutiny clearance for them. We expect that agreement on the Electricity Market Design proposals will be reached within the next two weeks. I set out below the status of each file.

15150/16: Proposal for a revised Electricity Directive

We were able to support the Council's General Approach on the Electricity Regulation of 18 December 2017 as it was consistent with the UK's policy objectives for electricity markets, particularly on price intervention in the retail market. Although the European Parliament supports interventions to protect vulnerable consumers, it is keen to limit general caps on retail prices. However, there is a blocking minority of Member States supporting the wider market intervention that would permit the GB price cap to be implemented and for Northern Ireland to continue to apply its regulated tariff, and we are working closely with like-minded Member States to maintain this. We are therefore confident that there will be a favourable outcome for the UK on this issue.

On other important policy areas covered by the Directive, including smart metering, electricity storage and demand-side response, we expect the agreed text to be consistent with UK policy.

15135/16: Proposal for a revised Electricity Regulation

We were also able to support the General Approach on the Electricity Regulation as it was in close alignment with the UK policy approach. Again, we have succeeded in defending UK interests in discussions with the European Parliament since then. The provisions on capacity mechanisms have been the main issue for us, specifically the ability of Member States to be able to determine, through their own national resource adequacy assessments, whether they have a resource adequacy concern to justify putting a capacity mechanism in place. Member States will be required to produce and apply an implementation plan to demonstrate that the resource concern can only be addressed by introducing a capacity mechanism and ACER will give an opinion on this plan. However, it will be for Member States to decide whether a capacity mechanism is needed, after giving due account to the ACER opinion.

As there is a blocking minority of Member States who favour maintaining the General Approach position on adequacy assessment and capacity mechanisms, we are confident that there will be a favourable outcome for the UK on these issues.

I should mention that with regard to the recent state aid judgment against the European Commission on the Tempus case, the judgment related to matters of procedure and was not a challenge to the nature of the Capacity Market itself. We are actively working with the Commission to reinstate the Capacity Market as soon as possible. We do not expect that the judgment will have any implications for the negotiations on the provisions on resource adequacy and capacity mechanisms in the Electricity Regulation.

15149/16: Proposal for a revised Regulation on a European Agency for the Cooperation of Energy Regulators (ACER)

A consensus has been reached on the ACER Regulation that is acceptable to the UK, in particular by achieving the right balance of power between the Agency Director and the Board of Regulators. ACER will not be able to take enforcement action against Transmission System Operators, which we thought would have been inappropriate, and we are satisfied that ACER's political neutrality will be preserved.

15151/16: Proposal for a Regulation of the European Parliament and of the Council on risk preparedness in the electricity sector and repealing Directive 2005/89/EC

Agreement has been reached between the European Parliament and the Council on the Regulation on risk preparedness in the electricity sector. The agreement is consistent with the UK's objectives and we can therefore support it. The framework for risk preparedness that it will put in place across the EU is broadly similar to our own resilience arrangements and will reinforce UK energy security by reducing the potential for incidents in mainland Europe to affect the UK as we increase our level of interconnection.

6 December 2018

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

Thank you for your letter of 6 December 2018, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 12 December 2018.

15150/16: Proposal for a revised Electricity Directive

We note that you expect the agreed text to be consistent with UK policy regarding smart metering, electricity storage and demand-side response.

We also note your assessment that enough Member States support market intervention of the type that would allow the GB price cap and the regulated tariff in Northern Ireland to be maintained. Please confirm after the fact whether these negotiations resulted in the outcome you anticipate.

15135/16: Proposal for a revised Electricity Regulation

We note that you also anticipate a final text that supports the UK's position on capacity mechanisms, and the associated adequacy assessment being within the gift of Member States.

Again, please confirm after the fact whether these negotiations resulted in the outcome you anticipate.

Thank you for explaining that you do not expect the judgment of the Court of Justice of the European Union in relation to Tempus' objection to the UK's Capacity Market to affect these negotiations, and that you are working with the Commission to reinstate the Capacity Market as soon as possible.

15149/16: Proposal for a revised Regulation on a European Agency for the Cooperation of Energy Regulators (ACER)

We note that you are content with the position that has been reached regarding the balance of power between ACER and the Board of Regulators, and with the powers that are proposed for ACER.

15151/16: Proposal for a Regulation of the European Parliament and of the Council on risk preparedness in the electricity sector and repealing Directive 2005/89/EC

We note that the agreement that has been reached regarding risk preparedness in the electricity sector is consistent with the UK's objectives, is similar to the UK's current resilience arrangements and will reinforce the UK's energy security.

We are therefore content to release these four Proposals from scrutiny, and look forward to a reply to this letter in due course.

12 December 2018

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

Thank you for your letter on the above Proposal, dated 10 July, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 September.

Thank you for providing an update on the negotiations, and on the UK Government's negotiating principles.

We note that you are still developing your outline impact assessment of the potential costs of the Proposal and look forward to receiving your summary once it has been completed.

We note discussions are ongoing as to the parameters that should be set by the Proposal. Please keep the Committee updated as these discussions progress.

We note that you continue to raise concerns about subsidiarity in relation to this Proposal and that the Presidency has proposed revised text in an attempt to address these concerns. What changes have been proposed and are you satisfied that these are adequate?

In our last letter, we asked to be updated once you had taken a view on two aspects of the Proposal: the requirement for additional risk assessments and the requirement to provide additional information to consumers and the public. Have you now formed a view on these aspects of the Proposal?

We have decided to retain the Proposal under scrutiny and look forward to a response within 10 working days.

6 September 2018

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

Thank you for your letter dated 6 September 2018. I acknowledge your request to be updated on discussions on drinking water quality parameters as they progress.

The UK continues to make clear its negotiation principles during Working Parties but, to make you aware, the pace of negotiations has decreased compared to earlier in the year. The Austrian Presidency does not regard the Drinking Water Directive recast as a priority, so it now seems unlikely that a general approach will be achieved this year.

In response to the specific questions you raise:

What changes have been proposed to address concerns about subsidiarity and are you satisfied that these are adequate?

The changes that have been proposed by the Presidency so far relate to the definition of 'vulnerable and marginalised groups', which is one aspect Member States have raised concerns about. The Presidency proposes changing it to:

“‘vulnerable and marginalised groups' shall mean people who are potentially more vulnerable and/or are more exposed to water related health risks, compared to the rest of society due to a continuous lack of access to safe water intended for human consumption.”

The UK welcomes this change, however, the wording in Article 13 (Access to Water) remains the same so our concerns have only been partially addressed. The Presidency is currently considering whether to move the access to water provisions into the recitals and/or suggest rewording. We await a revised compromise text.

Have we formed a view on the requirement for additional risk assessments and the requirement to provide additional information to consumers and the public?

As previously noted, the UK has already adopted a water safety plan approach to water quality and as such already conducts the majority of hazard and supply risk assessments. It is the monitoring of new parameters and the length of time they need to be monitored for before qualifying for a monitoring variation that concerns us most. We are still working with relevant stakeholders to understand the financial impacts this would have and our findings will be included in the impact assessment. In the interim, we have written to the Presidency to request that, where there is little or no risk of a parameter being present in a water supply, it can be removed from monitoring without the need to gather three years' worth of monitoring data.

With regard to domestic distribution risk assessments, the Presidency has listened to Member States' concerns and drafted text that focuses these assessments solely on 'priority premises' that supply water to the public. The definition of 'priority premises' has then been amended to mean 'large premises for public use'. This closely aligns with the assessments water companies currently undertake but we will still assess if this would create any additional burden, along with assessing the full numerical and financial impact if the compromise text were not accepted.

Moving on to providing additional information to consumers and the public, we support transparency and the provision of information to consumers where it has an impact on human health. However, some of the information that needed to be provided could harm consumer confidence in water supplies by sharing the standards achieved on parameters that do not pose a risk to human health, for example, odour, taste and colour. This, along with some other aspects Member States raised concerns about (for example the management and governance of the water supplier and the financial investment to sustain the provision of water services), have therefore been addressed in the Presidency's compromise text.

We are still assessing the full extent of the Presidency's changes to Annex IV - Information to the public, with our cross Government Project Board and external stakeholders. This will inform our position in due course.

26 September 2018

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

Thank you for your letter on the above Proposal, dated 26 September, which was considered by our Energy and Environment Sub-Committee at its meeting on 17 October.

In our last letter, we requested a summary of your outline impact assessment of the potential costs of the Proposal. We restate that request.

We also restate our request to be kept updated on discussions over the parameters that should be set by the Proposal.

Thank you for providing us with an update on the changes proposed by the Presidency to address subsidiarity concerns. We note that you welcome the changes, but that your concerns have been only partially addressed and so you await a revised compromise text. Please keep us updated on this issue.

We note that, in relation to risk assessments, your main concerns relate to the monitoring of new parameters and that you have written to the Presidency to request that the need to monitor is removed when there is little or no risk of a parameter being present. Have you received a reply?

We note that the requirement for domestic distribution risk assessments has been amended so that it only applies to large premises for public use and that this closely aligns with what water companies do currently.

We note that you are still considering the changes that the Presidency has put forward in relation to providing information to consumers and the public and look forward to receiving your assessment once completed.

We have decided to retain the Proposal under scrutiny and look forward to a response within 10 working days.

19 October 2018

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

Thank you for your letter dated 19 October. I acknowledge your request to be kept updated on discussions on drinking water quality parameters and subsidiarity. I also acknowledge that you are awaiting our assessment of the changes relating to providing information to consumers and the public as well as an outline of the potential costs of the Commission's proposal.

We are still considering the impacts of the proposal and will aim to provide our assessments before the end of March next year.

We await a revised compromise text from the Presidency to see if outstanding issues have been resolved, which includes our request on amending risk assessments so that new parameters can be removed from monitoring without the need to gather three years' worth of data. There has been no indication from the Presidency about when to expect this but we will provide an update once received.

We also want to inform you that, on 22 October during a plenary session, European Parliament agreed a compromise text for the Drinking Water Directive recast. Pressure is therefore mounting on the Presidency to agree a Council position to be able to move onto the next stage. However, the Austrian Presidency still do not regard the file as a priority and Romania, who take over the Presidency in January, are still deliberating their priorities. The timing of a general approach is therefore unclear and may not be reached before we leave the EU.

1 November 2018

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

Thank you for your letter on the above Proposal, dated 1 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 November.

We note that you are still considering the potential impact of the Proposal and expect to have completed your assessment before the end of March next year. We look forward to receiving a summary of this assessment when completed.

We note that you are currently awaiting revised wording from the Presidency which will enable you to assess whether your concerns relating to the parameters set by the Proposal (and how they will be monitored), and your subsidiarity concerns, have been addressed. Please update us once you have received the revised text.

Thank you for explaining that the timings for taking this Proposal forward are still unclear. Please keep us updated on any progress.

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

14 November 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL AND THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE
COMMISSION GENERAL REPORT ON THE OPERATION OF REACH AND REVIEW OF CERTAIN ELEMENTS CONCLUSIONS AND ACTIONS (AND ADD I-7) (6916/18)

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 23 October.

We have decided to release the Communication from scrutiny.

As you are aware, the Sub-Committee has taken a keen interest in the future of REACH post-Brexit; it will shortly be publishing a report on its findings.

23 October 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE CONSERVATION OF FISHERY RESOURCES AND THE PROTECTION OF MARINE ECOSYSTEMS THROUGH TECHNICAL MEASURES, AMENDING COUNCIL REGULATIONS (EC) NO.1967/2006, (EC) NO.1098/2007, (EC) NO.1224/2009 AND REGULATIONS (EU) NO.1343/2011 AND (EU) NO.1380/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, AND REPEALING COUNCIL REGULATIONS (EC) NO.894/97, (EC) NO.850/98, (EC) NO.2549/2000, (EC) NO.254/2002, (EC) NO.812/2004 AND (EC) NO.2187/2005. (6993/16)

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs

I am writing to provide the Committee with an update on progress of the above dossier.

After the Council successfully adopted its General Approach position in May 2017, there was a pause in legislative development during the following months. This year, on 16 January, the European Parliament (EP) voted at their plenary meeting to adopt the amendments to its first reading position.

To enable this dossier to proceed to trilogue negotiations, the Presidency developed a negotiating mandate in Council Working Group. This was agreed in the Committee of the Permanent Representatives (COREPER) on 7 March, with a UK abstention (see pulse trawl discussion below). The mandate adhered closely to the original Council General Approach meaning it offered very little flexibility for the Presidency to resolve areas where the Council view was not in alignment with the EP's first reading position. Whilst a range of issues in the opening trilogue meetings have been resolved, however, there remain three key headline areas outstanding, as follows.

Targets - Article 4 (1) (a). The Commission originally proposed a measurable target to ensure catches below the minimum conservation reference size (MCRS) do not exceed 5%. The targets all link to Article 34 on review and reporting, with the first report due at the end of 2020. This includes a requirement that any targets not met must have an action plan within a year to ensure they would be met.

Both Member States and European Parliament could not agree to a flat rate percentage target for all fisheries in all regions. However, the Commission were firmly of the view that an outputs approach requires a measurable target, so could not accept the Council's preferred 'reduced as far as possible' amendment against the selectivity target.

In response to co-legislators' concerns, therefore, the Commission, working with the Austrian Presidency, has now suggested an alternative quantifiable metric in the form of selectivity performance indicators. The approach relates to identifying the optimal selectivity length of fish for catches of 'key indicator stocks' in a region enabling measuring progress towards that standard for each.

However, the 'optimal length' in most cases can be well above current average catch sizes and the MCRS for most 'indicator species'. We believe the standard also needs to take into account any mixed fishery context the indicator species is caught in. If this is accounted for, whilst achieving the optimal length in catches would be ambitious as a timed target, we felt it viable as a way to cover this aspect of the overhaul exercise, provided it is treated as a selectivity performance indicator.

We believe amendments now on the table (section 2.3 of the attached Presidency working paper) will establish this as a concept in the framework regulation, to help resolve this for the co-legislators, and enable progress on this dossier. Member States and the European Parliament (EP) are currently assessing this update of the Commission proposal.

Electric Pulse Beam trawls

EU regulations prohibit a number of unconventional fishing methods, including the use of electric current. An EU derogation from this has been in place since 2006 to permit pulse trawling in the specified area of the southern North Sea, subject to certain conditions. This derogation became a key public focus on this overhaul, attracting some media attention. This focus was primarily due to an effective campaign led by the Bloom Association (a French-based e-NGO) in alliance with a number of NGOs and North Sea inshore fishing interests, to influence the EP 1st Reading position against the use of this technology. That resulted in an EP amendment advocating a removal of the derogation permitting pulse beam trawls.

The UK suggested a suspension of the current derogation by way of compromise, rather than the deletion suggested by the EP, until such time as there has been positive confirmation from the STECF that the scientific evidence supports resumption of the use of this technology. We also advocated protective coastal buffer zones outside affected Member State 12 mile limits where pulse would not operate. This would help ensure inshore fleet access to fish resources on their traditional fishing grounds, by generally redistributing beam trawl effort back to areas further out where Dutch conventional beam trawls had operated before the advent of pulse technology. I attach further detail on the UK suggestions and handling in paragraphs 1-4 of the annex below.

The UK position has been clear – we consider a precautionary approach would support filling the evidence gaps on the potential effects of the pulse technology on the marine ecosystem, in addition to a need to address the gear competition issues that affect our inshore fleet. I anticipate those factors will characterise any compromise sought between EP and Council positions.

Mesh sizes (Part B of Annexes V to XI)

One of the most fundamental aspects of the overhaul has been how to regulate fishing activity to ensure a reasonable proportion of target species in a catch using particular mesh, in a way that is compatible with the landing obligation.

From the outset the proposal has been based upon a default 120mm mesh size, which is appropriate for the larger gadoid species – e.g. cod, haddock, saithe – while allowing for derogations for smaller mesh, subject to the right selectivity conditions, when fishing for smaller species. The Council has applied specific target species percentages to each directed fishery using the derogated mesh size, as reflected in the General Approach. This included a caveat that unintended catches above those percentages must be landed and counted against quota. The industry, both here and at EU level, have not been supportive of the addition of percentage criteria, however. Similar concerns were raised by some MEPs during the European Parliament's considerations.

A new approach has now been proposed by the Austrian Presidency reflecting a Commission initiative to address the above concerns. This is more simplistic and requires that directed fisheries using the derogated mesh sizes can do so, provided they do not exceed 10% of cod, haddock, and saithe as a proportion of the total catch on board upon landing. Being unable to avoid exceeding that by-catch criterion would require compliance with the default 120mm mesh size. The UK is currently considering the implications of this, see paragraphs 5-7 of the Annex below for further detail.

Progress of the overhaul proposal

Clearly we are almost at the end of this overhaul process, and the above factors cover the three key factors remaining for resolution. We have a clear UK policy view on how they should be developed. There are also other elements to note contained in the latest working paper from the Presidency (ref.

WK 8905/2018 INIT) as attached for reference, but these are relatively uncontroversial and should only require minimal negotiation and alignment to agree. A Council vote to agree an updated negotiating Presidency mandate will take place soon after the summer recess. I would be grateful if at your Committee meeting on 5 September you could consider providing clearance from further scrutiny on the overhaul dossier at this late stage, or providing a waiver to facilitate a UK vote during September.

In terms of the significance of this technical measures overhaul in the context of our EU exit process, we are keen for the trilogue updates to be agreed promptly, of course, as this will help finalise our EU exit legislation which has been provisionally drafted to reflect the Council General Approach position, awaiting the confirmation of final adjustments from co-legislative agreement.

Annex

Electric Pulse Beam trawl

1. While significant questions remain about the effects of electric pulse in the marine environment, advocates of the method draw attention to the potential of pulse trawls, being lighter than conventional beam trawls, and less penetrative of the seabed benthos. This enables slower haul speeds, bring significant fuel savings (with Co2 reduction) and means that they are able to operate in softer sediment. The latter point, however, has had the effect of an effort shift of beam trawl effort on sole closer to coastal zones in the EU derogation area, bringing pulse trawls into areas that are traditionally fished by inshore fleets, particularly for the UK on our east coast (albeit outside our 12 mile zone) which has raised competition issues and increased local hostility to the method. This is due to reduced access to fish resources (primarily for sole) for inshore vessels operating within their range on traditional fishing grounds, but in addition to their genuine concerns about the potential ecosystem effects of the method itself.
2. Most Member States, in addition to the European Commission, have a positive perception of the pulse method, however, and there was a vote with all in favour of the overall Council trilogue negotiating mandate (including even France, despite their strong specific opposition to pulse) which did not feature any change to the current pulse derogation; all, that is, except the UK. While being generally supportive of the wider substance of the mandate we registered an abstention to cover our position on pulse trawls, and as we do not yet have Parliamentary scrutiny clearance on this dossier. While recording the abstention, therefore, we offered options aimed at helping to avoid an impasse on this topic between EP and Council.
3. Our own scientists at the Centre for Environment, Fisheries and Aquaculture Science (Cefas) have completed a desk study of the current state of scientific assessment of the pulse trawl methodology, including identifying data gaps and areas for research. They will now embark upon a study including comparative assessments of pulse and conventional beam trawl and respective ecosystem effects to help address those evidence gaps. They also now have representation on the international ICES expert group working on this issue (WGELECTRA). Our aim in commissioning this work is to be able to contribute to the EU considerations, but also of course, to have an evidence base to help inform our own UK approach on this technology in our waters as we leave the EU and the Common Fisheries Policy.
4. Meanwhile at the June meeting of the EU Agriculture and Fisheries Council, I emphasised a particular UK interest in this issue and signposted the original research being carried out by our own scientists on this technology which is due to report in 2019.

Mesh sizes (Part B of Annexes V to XI)

5. Advice from our own enforcement experts suggests further development of the new Presidency approach is required. For example, the requirement to move to the larger mesh wouldn't be enforceable as the by-catch for following trips after triggering the 10% by-catch specification could not be predicted.
6. Furthermore, the only option in the regulation is for suspension or withdrawal of fishing authorisations for non-compliance – but the broader range of enforcement options available in the Control Regulation would enable a proportionate enforcement approach, particularly as fishermen will be operating in compliance with the landing obligation, so may well occasionally trigger the 10% by-catch rule.

7. The full range of enforcement options would enable warnings and penalty points to be applied before suspending or removing authorisations, i.e. taking into account any pattern of ongoing non-compliance and being able to address that, rather than reacting to sporadic unavoidable events. We are suggesting ways of developing the proposed arrangements accordingly.

14 August 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Further to my update letter of 14 August, I have further information on the likely developments on this dossier during September, which may affect your immediate scheduling priorities for consideration of my update after the summer recess. We understand the Austrian Presidency is hoping it might reach a new Council mandate position for negotiations with the Parliament during the course of September. If all goes to plan, that suggests an approach to COREPER for approval of that updated mandate may take place towards the end of September. That negotiating mandate for the Presidency will facilitate further negotiations in trilogue with the European Parliament rapporteur in subsequent weeks from October, towards reaching a compromise position for agreement and final adoption by both Council and Parliament.

3 September 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letters of 14 August and 3 September, which were considered by our Energy and Environment Sub-Committee at its meeting on 17 October.

Thank you for providing an update on the progress of the above dossier. We note that three outstanding issues remain.

On targets, we note that (as binding targets could not be agreed) the Commission and the Presidency have suggested developing indicators for key fish stock that state the optimum fish length at capture for encouraging growth of the stock, and that these could then be compared to the actual average length of fish caught in order to measure progress towards the standard set by the indicator. We note your concerns that this optimal length could be well above current average catch sizes and that the indicators would need to take mixed fisheries into account but that, if these concerns are taken into account and if it is presented as an indicator and not a target, you would be supportive. Has any further progress been made in negotiations on this issue, and have your concerns been addressed?

On the use of electric current, we note that you oppose the European Parliament's amendment to remove the derogation that allows pulse beam trawls and have instead proposed a suspension of the derogation until scientific evidence supports the resumption of the use of this technology. We note you have also advocated protective buffer zones around Member States' exclusive fishing zones, where pulse could not be used. What support have you received for your suggestions? Has any progress been made on negotiations on this issue?

On mesh sizes, we note that the original proposal was for a 120mm mesh size, with derogations when fishing for smaller species, and any unintended catches above a set percentage would have to be landed and counted against quota. Given the fishing industry's concerns, we note the Presidency has now proposed those using derogated mesh sizes would have to ensure their by-catch of certain species was no higher than 10%. We note that you are considering the implications of this proposal, but are concerned over how this would be enforced and that you would like a wider range of penalty options for non-compliance. Please share your assessment of the impact of the Presidency's approach, when complete. Has any progress been made in negotiations?

Please also provide an update on overall progress on agreeing the Proposal.

We note your request for the Proposal to be released from scrutiny, with the expectation that votes in Council are expected shortly. We are content to grant a one-off waiver to allow you to vote, but retain the Proposal under scrutiny and look forward to your response in 10 working days.

19 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 19 October.

You made some pertinent observations on the issues I had identified in my update as the remaining three key areas to resolve, and requested updates on them, as well as an overview on overall progress.

Targets

I can confirm that the Presidency's mandate features the same intention to maintain the relevant target described in the Council General Approach, which is to reduce undersized catches "as far as possible". The key focus in the mandate is on the review and reporting features in Article 34. There, under the current compromise being considered, the length of optimal size selectivity for key indicator species in a region is now nominated as a candidate selectivity indicator to monitor progress related to this target over time. The wording reflects that this indicator may be used as an option 'amongst others'. If agreed, this means there would be both a specified performance indicator identified in the legislation as a quantifiable means of monitoring progress, and the possibility of using other indicators that may be recommended in scientific advice.

Our UK position is that we consider these adjustments will ensure fishing fleets in a region are not tied to a specific size selectivity standard to achieve in a fixed timeframe, or a single means of measuring progress towards the target, and we have been able to support this element of the mandate on that basis. It is also worth observing that the implementation of the landing obligation means incentivising selectivity improvements for fishermen to make the most of their available catch, where achievable, rather than being driven by another legislative target (which would reflect an 'inputs' type approach). The latest performance indicator options approach under consideration in the overhaul exercise is in line with the overall concept of this proposal to achieve a more outputs based approach. Improving size selectivity must also of course be considered alongside improved species selectivity, which in the context of the landing obligation, as we have seen, is particularly important in order to be able to optimise exploitation patterns in mixed fisheries.

Mesh sizes

Further Council working group consideration was given to the suggested 10% by-catch tolerance of larger gadoid species cod, haddock, and saithe in fisheries using derogated mesh sizes before having to default to 120mm mesh. This resulted in the mandate moving to a 20% margin of tolerance to address Member State concerns. The UK has cautiously accepted that increased by-catch percentage, but warned against any moves towards a higher figure, which we believe would not be sufficiently precautionary.

Our enforcement advisers did warn that directed fisheries would need to be defined to enable effective enforcement of appropriate mesh size use. The compromise now features an undertaking to do so by setting percentages for the target species in directed fisheries regionally, by means of joint recommendations to inform the use of Commission delegated powers. Concerns that only one enforcement penalty featured in the technical measures regulation – i.e. to suspend or withdraw authorisations – were addressed by assurances that the reference in the text to this being without prejudice to the Control Regulation means that access to the full range of enforcement options in that legislation is unaffected. The UK was able to accept that assurance.

Electric pulse beam trawl

To clarify our position in relation to the European Parliament amendments to remove the pulse trawl derogation, in offering an alternative to suspend rather than remove the derogation pending further science, we were not opposing the European Parliament position for an outright ban. In fact we were looking for a compromise which would be more likely to succeed in avoiding an impasse on resolving this issue (and by extension the overall progress of the dossier itself) but one which would also serve our objectives, given the Council position to maintain the pulse derogation. The UK's two priorities here are to see a precautionary approach applied (which would be consistent with a suspension of the derogation) as we believe there are still evidence gaps on the potential effects of the pulse technology on the marine ecosystem; and agreeing a way of addressing the gear competition issues that will continue to affect our inshore fleet if pulse trawling is in use on any level under EU rules.

The Presidency did not seek a new view on pulse from the Council in order to update the negotiating mandate as they prepared for the latest trilogue that took place on 4 October. On the day there was an attempted compromise on the table that featured:

- A phase out of pulse trawl use by 31 December 2021;
- No new pulse permits to be issued in the interim;
- The ability for Member States to take 'non-discriminatory' steps to limit or prohibit pulse use within their 12 mile zone;
- The requirement that vessels using pulse technology as part of a scientific study must follow a scientific protocol as part of a research plan reviewed or validated by the International Council for the Exploration of the Sea (ICES).

The compromise also featured a provision for the Commission to request ICES advice on the impact of pulse trawl on marine ecosystems, in order to inform a report on the topic to be produced by them by 1 July 2020. On the basis of that report, if positive in favour of pulse, the Commission had a provision to bring forward a legislative proposal, which by implication would negate the phase-out process.

In summary – our analysis of the features of this attempted compromise was that it did little to address current UK problems with pulse trawl issues (where, for example, there is no related access within our 12 mile zone). As it turned out, however, the attempted compromise failed on the day, as the details were learned by European Parliament MEPs opposed to pulse use, which led to a complete blocking of any potential deal. I suspect that the mere suggestion of any continued use of this technology for three years to those diametrically opposed to it being accepted as a permitted fishing method was the key factor that prompted this opposition.

The failed compromise deal on pulse has persuaded the Austrian Presidency that at this stage of their tenure they do not want to expend further effort on this dossier, as they cannot see there is sufficient scope to reach a compromise on the pulse issue. Most interested Member States, including the UK, have encouraged them to keep trying. In practical terms, priorities for their Presidency now will inevitably need to primarily focus on agreeing fishing opportunities for 2019 and related matters. At this stage all the indications are that we are now likely to have to await new trilogues to progress this dossier in the New Year. We are therefore also considering the handling implications for our related EU exit legislation in the light of these developments.

1 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter, dated 1 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 November.

Thank you for explaining that the current wording being discussed includes a general target (to reduce undersized catches as far as possible), a suggested performance indicator that could be used to measure progress towards this target and the option of using other indicators to measure progress. We note that you would support this wording.

We note that the current compromise on mesh sizes would allow a 20 per cent by-catch tolerance for larger species, before vessels are obliged to use reduced mesh sizes, which you are willing to accept. This appears to us to be a very low bar, inconsistent with the commitment set out in the Government's fisheries White Paper to reduce by-catch.

Thank you for explaining that your concerns over enforcement have now been addressed, as you have received assurances that the full range of enforcement options included in the Control Regulation will apply and that the catch percentages that will dictate the mesh size requirements will be clearly defined by regional groups.

We note that there was an attempt at the latest trilogue to find a compromise on the use of pulse trawls, but that this was unsuccessful. Thank you for explaining that the Presidency is therefore minded not to pursue this dossier further, and that their time will likely be occupied with agreeing fishing

opportunities for 2019, and so there is unlikely to be any further progress until the New Year. Please update us on developments in trilogue, including negotiations on the pulse trawl issue, when discussions resume.

We note that you are “considering the handling implications for our related EU exit legislation in the light of these developments.” Please explain what the implications are.

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

14 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING A MULTIANNUAL PLAN FOR FISH STOCKS IN THE WESTERN WATERS AND ADJACENT WATERS, AND FOR FISHERIES EXPLOITING THOSE STOCKS, AMENDING REGULATION (EU) 2016/1139 ESTABLISHING A MULTIANNUAL PLAN FOR THE BALTIC SEA, AND REPEALING REGULATIONS (EC) NO 811/2004, (EC) NO 2166/2005, (EC) NO 388/2006, (EC) 509/2007 AND (EC) 1300/2008 (7245/18)

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs

Thank you for your letter of 11 July.

A Council position for the Western Waters MAP has now been finalised. Overall, the proposed MAP will be effective and will help deliver UK policy objectives for sustainable fisheries and a viable profitable fishing. We were not able to persuade EU Member States to agree to all of our suggested amendments; for example, seabass will not be retained within the plan. EU Member States considered there is no directed fishery and hence seabass should not be classified as a target species. Nevertheless, we have highlighted the need for a robust management strategy to recover the stock and to maintain it thereafter at sustainable levels, which is positive. Conversely we are surprised that West of Scotland pollack has been included because it is not targeted. The argument put forward is that it is the same biological stock as Area 7 pollack which is targeted in the Channel. However, because there is no MSY assessment for the stock, Area 6 pollack will continue to be managed as a bycatch which works in the UK's favour. EU Member States did however adopt the UK's rationale for including 7 nephrops outside functional units in the plan and retaining capacity ceilings that are currently in the Western Channel (7e) sole plan and we are pleased these were accepted.

As agreement has now been achieved on the Council position for negotiations in trilogue with the Parliament and Commission, progress towards adoption of the proposal in January 2019 remains positive. The PECH Committee has started to examine the proposal and plan to vote on their amendments in Committee in October, opening the way for a trilogue to begin shortly after that. Should the proposal be adopted in January 2019, we would expect a binding regulation to be published roughly within eight weeks. Whilst adoption in January will depend on early agreement between the Parliament and Council, the EU recognises that it is in their interest to reach agreement before March 2019 and we are pleased with the progress made so far.

With regards the differing views of some non-EU countries on the approach taken, this is in relation to the use of MSY ranges in the MAP as opposed to MSY point values in mixed fisheries.

We are not aware of a fixed timetable for outreach by the Commission, rather that opportunities to promote and discuss the MAP with third countries are taken as they present themselves. These opportunities allow for a degree of input by third countries, as the development of the MAP is progressed. As the MAP will provide an important tool for delivering science-based bilateral cooperation, it will remain advantageous to the EU to engage proactively with the UK. In our engagement so far we are pleased to note that Commission and other Member States recognise that it is in their interests to reach an agreement within the timescale described in the paragraphs above. We will become an important coastal state in Western Waters and so we expect to have an active role in the management of this areas during and after the implementation period.

With regard to your final question, once we have left the EU we may want to adopt alternative management measures which are compatible with the objectives of the MAP if they are better for delivery of sustainable fisheries within UK waters. The UK will have the legislative independence to do so, following the implementation period.

7 August 2018

**Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food,
Department for Environment, Food and Rural Affairs**

Thank you for your request for an update on the above Regulation.

The Council has agreed its position, and discussions are underway with the European Parliament's Committee on Fisheries (PECH) to progress towards an agreed position for trilogue. Below is an update on the current Council and PECH positions on the Western Waters Multi Annual Plan (MAP).

Protecting vulnerable stocks

- Whilst the UK had pushed for the inclusion of seabass in the proposed MAP, other Member States disagreed. As a result, the agreed Council Position currently supports its removal from the plan. However, as PECH propose including sea bass, my officials will brief MEPs to continue to support this. The issue will be resolved at trilogue.
- PECH has proposed the inclusion of pollack in area 6 in the MAP. The UK does not consider this inclusion necessary because pollack in area 6 is only taken as a bycatch.
- PECH has proposed the inclusion of 7hjk sole. The UK opposes the inclusion because sole is not targeted in this area. My officials will encourage MEPs to support its exclusion.
- PECH has proposed closed seasons/areas for the fishing of sea bass and pollack. The UK could support this proposal in relation to seabass if accompanied by the inclusion of a delegated act which made provision for an adjustment of the proposed
- closed seasons/areas and/or the retention of by-catch, depending on the scientific advice received. The UK would also prefer that recreational fishing for seabass was permitted on a catch and release basis during the closed season. The UK is minded to oppose a closed season for pollack, although further assessment of this is required.
- The Commission has proposed an exception to the repeal of previous single-species MAPs. The UK will support this proposal as it would enable retaining the capacity cap on the number of beam trawl vessels able to fish for sole in the Western Channel, which currently ensures the stock levels remain sustainable.

MSY

- PECH has proposed that if a stock cannot be exploited to its Maximum Sustainable Yield (MSY), the target fishing mortality may be achieved in stages, over a period of maximum three years, if this is necessary in light of economic and social impacts of a limit in fishing opportunities. The Commission has expressed its disagreement on this proposal, as it questions key aspects of Baltic and North Sea plans.
- The Commission has proposed an amendment stating that where there is limited scientific information, a stock will be managed following the precautionary approach. As the UK considers that it is more scientifically robust to use proxy data rather than the precautionary approach in such situations, my officials will brief MEPs to push for an amendment which permits the use of proxy points.

Scientific data

- PECH has proposed to amend the text which refers to ICES as the source of fisheries data, to allow for consultation with any other independent scientific body recognised at EU or international level. The Commission agree, and note that the issue was already debated during the North Sea trilogues and included in the North Sea MAP. However, shadow rapporteurs have pointed out that no other equivalent organisations to ICES exist at the moment.

Recreational fisheries

- PECH has proposed including recreational fisheries in the scope of the MAP, which would entail additional monitoring and other data requirements on recreational fisheries. The UK is considering the implications of these proposals, which may require modification.
- PECH propose that the landing obligation does not apply to recreational fishing.

The landing obligation and choke

- PECH has proposed that the Council may establish individual fishing opportunities for vessels from certain choke fisheries in view of the particular socio-economic importance of these fisheries. This provision would establish that the landing obligation apply to vessels that have been granted an 'individual quota' that is an exception to a ban on fishing, and to these vessels only (i.e. without this species being considered a choke species for other fisheries). The UK may have concerns with this and is considering the implications further.

Other issues

- PECH has requested that the Commission should involve the European Parliament as a co-legislator on the MAP, and has proposed that this be done by preparing an
- Annual report on the scientific advice used for the determination of fishing opportunities and by notifying the European Parliament of significant variations.
- PECH has proposed that the MAP Regulation should only be applicable for seven years. This has raised questions amongst shadow rapporteurs, which have enquired as to the reasoning for the seven year duration. The Commission has commented that while evaluation of plans is important, there are risks attached to proposed approach, as it could lead to a situation where the plan is no longer applicable or implementable.

The UK has considered these proposals, and whilst several are either concurrent with UK views or do not have implications for the UK, there are a number on which we will be engaging with MEPs. In particular, I have some concerns with the following:

- The PECH proposal on individual fishing rights seems to be allowing for exemptions from the landing obligation for choke species. The implications of this for the UK are under consideration to determine the impacts of this proposal.
- The PECH proposal for a seven year time limit would mean that the Regulation will have to be re-negotiated when the term expires. As the UK will not be in a position to engage in the same way with the EU at that point in time, this requires consideration.
- There are some stock specific proposals in the rapporteur's report that would appear not appropriate in UK waters, which my officials are currently examining.

My officials will draft a briefing for the MEPs to express our views on the existing proposals.

The next PECH meeting will take place on the 24th of September. The following dates are on the 8th and 9th of October. There remain also other possibilities to affect the result of the discussions ahead of trilogue, before which the Council Working Group will meet to finalise a Council position. The EP indicative plenary sitting date forecast at the moment is for the single reading to take place on the 11th of March 2019.

1 September 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Further to my previous update letter, the following information provides further detail on the process so far with regard to this proposal.

The Council position on this dossier was not formally adopted at Council by Ministers, but provisionally via COREPER. During that process the UK entered an abstention as the proposal remains under Parliamentary scrutiny, while indicating general support for the broad substance of the position.

That Council position is intended to serve as the initial negotiating mandate for the purposes of trilogue when the European Parliament has adopted its 1st reading position, based on the PECH report. The Presidency mandate as it stands now will be adjusted to respond to any new amendments as required before being finalised.

I will continue to report on the progress of this dossier.

17 September 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letters of 7 August, 1 September and 17 September 2018 on the above Proposal, which were considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

Thank you for your update regarding the Council position on this Proposal, and your explanation of which stocks were subject to particular discussion. We note your assessment that overall the proposed multi-annual plan (MAP) would be effective.

We note your explanation that the Council position on the dossier was adopted provisionally via COREPER, and that the UK abstained on the grounds that the Proposal remains under Parliamentary scrutiny.

We note your explanation that some non-EU countries prefer to use maximum sustainable yield (MSY) point values rather than MSY ranges in mixed fisheries. This appears to be a fundamental disagreement, as the use of MSY ranges is one of the central pillars of this Proposal. Do you expect disagreements regarding this approach to be a point of contention when the UK is conducting its own fisheries negotiations post-Brexit?

We note your expectation that the UK will have “an active role” in managing the Western Waters after leaving the EU, and that discussions regarding the MAP with third countries do not take place on a fixed timetable but rather as opportunities arise. This, however, significantly reduces the UK’s influence over the process, and we therefore welcome efforts to secure swift agreement on the Proposal while the UK is still a Member State.

Thank you for clarifying that the UK could choose to adopt alternative management measures that are compatible with the MAP’s objectives after it leaves the EU.

We note your outline of the position taken by the European Parliament’s Committee on Fisheries (PECH) as of early September, and your intention to ask MEPs to support certain positions so they can be reconsidered in trilogue, including the inclusion of seabass in the Multiannual Plan (MAP), and the use of proxy data rather than the precautionary approach where there is limited scientific information regarding the state of a particular stock. Please keep us updated on the development of these issues as negotiations progress.

You stated that PECH has proposed including recreational fisheries in the scope of the MAP, and that you were considering the implications of this proposal. What assessment have you now made of the impact this would have on the UK, and what view have you reached on whether to support the proposal?

You also outlined PECH’s proposal to establish ‘individual quota’ for specific vessels, that would be an exception to a ban on fishing in certain choke fisheries. What assessment have you now made of the implications of this proposal, and what view have you reached on whether to support it?

Thank you for your update regarding the expected timeline for the Proposal. We note your view that it is still feasible for the Regulation to be agreed by January 2019, and that the binding Regulation would then be published within approximately eight weeks. Please keep us informed regarding the likely timescale as negotiations progress, particularly in relation to any developments which could mean agreement is not reached by 29 March 2019.

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

31 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 31 October 2018.

I note your question on maximum sustainable yield (MSY) ranges, and I would like to reassure you that these are firmly enshrined in the multiannual plan (MAP), in the same way as they are for the agreed North Sea MAP. I do not think that the application of MSY ranges in fisheries negotiations will be contentious, especially as a form of flexibility to comply with the landing obligation based on best available scientific evidence.

I note your concerns over the UK's role and influence over the MAP agreement process. The UK has been forthright in expressing our view that early agreement and adoption of a Western Waters MAP is crucial for the UK, so that we can influence its development. We will continue to advocate for this and also to seek to facilitate consensus where possible.

There have been no further updates on the issues you inquired about, namely the inclusion of seabass, and the use of proxy data rather than the precautionary approach where there is limited scientific information regarding the state of a particular stock. These issues will be addressed in forthcoming trilogues.

Policy, science and management officials have been consulted on specific aspects of the Parliament's proposals on the inclusion of recreational fisheries in the scope of the MAP. The following views have been reached:

- The UK oppose the inclusion of fishing bans for pollack, as there is no evidence of the stock needing the same measures as sea bass.
- The UK would request clarification on the need for non-discriminatory opportunities for recreational fishing. The time period of the management measures should be driven by best available science, and should therefore not be set down as an arbitrary period, although the setting of measures for very short time periods should be avoided.
- The UK opposes the amendment setting up closed seasons/areas for seabass on the basis that it is preferable for specific management measures to be in a format more readily adjustable than fixed by co-decision in the MAP itself.
- The UK would like a clarification of what will classify as a 'significant' impact on the fishing mortality of a stock in the context of recreational fishing.
- The UK oppose the reference to environmental, social and economic criteria in the setting of fishing opportunities as we do not think that these criteria should apply to recreational fishing. Article 17 of the Common Fisheries Policy allows Member States to set transparent and objective criteria, not the Council. It is for Member States to do this given their particular domestic circumstances.
- The UK opposes the amendment on the marking of recreational catches as we consider it to be a disproportionate measure, and given the number of recreational anglers it is not realistically enforceable. We would request evidence that anglers are selling their catches at such a level that this measure is required.

The above statements were sent to the Council as part of a request for Member States to provide comments on the Parliament position.

The European Parliament Committee on Fisheries' proposal to establish 'individual quota' for specific vessels, which would be an exception to a ban on fishing in certain choke fisheries, did not pass in the Parliament plenary so that proposal is no longer active.

As an update on the proposal process, Parliament voted in plenary on 25 October 2018 on the Rapporteur's proposed amendments. At the end of the vote, the proposal was referred back to the Committee, thereby not yet bringing the Parliament's first reading to a close and opening the negotiations with the Council.

The negotiation has moved into trilogues, with the first trilogue having taken place on 12 November and the following technical trilogue scheduled for 16 November, however the nature of a technical trilogue is more about technical alignment of text on areas where the two positions are fairly close,

rather than the resolving of any substantial issues. The future timetable for trilogues still remains to be determined although I know that the Presidency would like to get the MAP agreed before the end of the year, which is an ambitious task.

Given that we have communicated the technical points we disagree with, we are otherwise happy with the progress of this file, and as stated above, we would like to push for an early agreement of the MAP and be in a position to support the Presidency on this. For these reasons, I would be grateful if this Committee would consider lifting this proposal from scrutiny.

18 November 2018

**Letter from the Chairman to George Eustice MP, Minister of State for Agriculture,
Fisheries and Food**

Thank you for your letter of 18 November 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 December.

Thank you for your reassurance that the application of maximum sustainable yield (MSY) ranges is unlikely to be contentious post-Brexit. However, we do have concerns about the broader principle of aiming to fish at MSY as it leaves no margin for error: any accidental overfishing would, by definition, entail fishing at unsustainable levels and thus deplete the stock in question. Do you intend to continue to rely on MSY as a benchmark for sustainable fishing in UK policy after Brexit?

We welcome your efforts to advocate for an early agreement on this Proposal to allow the UK to influence its development.

We note that there has not yet been further discussion of the inclusion of seabass in the Multiannual Plan (MAP) or of the use of proxy data rather than the precautionary approach where there is limited scientific information regarding the state of a particular stock. Please keep us updated on the development of these issues as negotiations progress. Please also provide your reasoning for supporting the use of proxy data in this situation.

In a previous letter, dated 1 September, you noted that the Commission had disagreed with the PECH Committee's proposal that a stock's MSY could be achieved over a period of three years if necessary as a result of economic and social conditions. We echo the Commission's resistance to this, on the grounds that exceeding a stock's MSY for any length of time risks its sustainability. Please update us on the position that has been reached in this regard.

We gather from your letter that you do not oppose the inclusion of recreational fisheries in the scope of the MAP, but do oppose certain aspects of the European Parliament's proposal, and that you have provided detail on your objections to the Council. If enacted, how would these measures compare to any controls on recreational fisheries that are currently in place, and how would they be enforced?

We note that the proposal to establish 'individual quota' for specific vessels is no longer active.

Thank you for your update regarding the progress of and expected timeline for this dossier. We note that you are broadly content with the Proposal and would be in a position to support it; we also note that the Presidency is keen to reach an agreement by the end of the year, and although you view this as ambitious we are keen to support a swift adoption of the MAP.

We are therefore content to release this Proposal from scrutiny. Please keep us informed regarding its progress and of any significant developments, particularly in relation to the inclusion of seabass, the use of proxy data and the inclusion of recreational fisheries. We look forward to a reply to this letter in due course.

5 December 2018

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

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 letter dated 23 July, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 September.

We note that you are continuing to argue for implementing, rather than delegating, acts to be used in relation to this Regulation, to allow Member States a vote on decisions to change how persistent organic pollutants can be used. Please keep us updated on any progress you are able to make on this issue.

We note that the role of the European Chemicals Agency (ECHA), and expert committees, in implementing the Regulation has now been clarified and that you are satisfied with how that process will work.

We note the Government's ambition to continue to participate in the ECHA, to enable to UK to retain access to their databases and allow UK businesses to register substances directly. What reaction have you had from the EU to this suggestion?

Thank you for informing us that there have been amendments to the list of restricted substances included within the draft Regulation. We look forward to receiving your assessment of these new proposals.

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

6 September 2018

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

Thank you for your letter of 6 September 2018.

UK officials continue to engage in regular Council Working Party meetings, most recently on 5 October. As noted, we have continued to press for the use of implementing acts in place of delegated acts using the examination procedure where appropriate and negotiations on these are ongoing. The next Council Working Party meeting is scheduled for 19 November.

With regards to the proposed amendments to the list of restricted substances, the draft Regulation includes updates to the annexes to reflect decisions taken at the most recent Conference of the Parties to the Stockholm Convention in May 2017. Within this recast the EU will set maximum concentration limits for these substances in articles and we are negotiating to make sure these limits are set at levels which facilitate industry, such as the recycling of plastics, whilst at the same time protecting the environment. The proposal also includes a deadline for the removal of Polychlorinated Biphenyls (PCBs) by 2025. The European Parliament has responded by proposing softer language concerning the target date and negotiations on this are also ongoing.

On the UK's continued participation in The European Chemicals Agency (ECHA), the Government's White Paper on the Future Relationship between the UK and the EU proposes that chemicals are part of a UK-EU free trade area on goods, with UK participation in ECHA underpinning this arrangement. This, along with all issues in the White Paper, continue to remain in discussion with the EU. Both sides remain committed to reaching a deal.

7 November 2018

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

Thank you for your letter dated 7 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 21 November.

We note that you are continuing to press for the use of implementing, rather than delegating, acts to be used in this Regulation, to allow Member States a vote on decisions to change how persistent organic pollutants can be used. Please keep us updated on negotiations.

We note that negotiations are on-going regarding the UK's continued participation in the European Chemical Agency post-Brexit, outside of discussions on this Proposal, as part of negotiations on the future UK-EU relationship.

Thank you for explaining that negotiations are also ongoing on the proposed amendments to the list of restricted substances. We note your aim of ensuring these are set at levels which facilitate industry, while at the same time protecting the environment. Please keep us updated on your progress in achieving this aim.

Thank you for explaining that the European Parliament is proposing "softer language" on the suggested target of 2025 for the removal from use of equipment containing Polychlorinated Biphenyls. What is the UK Government's position on this? Again, please keep us updated on negotiations on this matter.

Please also provide an update on discussions of this Proposal overall. Are the areas mentioned above the only remaining areas of concerns for the UK?

We understand that you are expecting discussions, and possibly votes, in Coreper shortly and we are therefore content to grant a one-off scrutiny waiver. We have decided to retain the Proposal under scrutiny, however, and look forward to a reply to this letter in due course.

22 November 2018

**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 Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries
and Food, Department for Environment, Food and Rural Affairs**

Thank you for your letter of 23 July 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 September.

We note your explanation that a minority of Member States share your view that the scope of operators subject to the Directive should be decided at national level, and are opposing proposals to widen the scope to include all actors involved in the agri-food supply chain. We also note your assessment that the broader scope would make the Directive less effective and increase the burden on the relevant enforcement authority. Please keep us informed regarding how this issue develops.

The European Parliament has published an appraisal of the Commission's Impact Assessment for this Proposal, which refers to the "limited evidence base" for the proposal. In your view, is the evidence which has been used to formulate the Proposal both sufficient and robust?

We note your view that it is "likely" that the Republic of Ireland shares the UK's concerns regarding broadening the activities of the Competition and Consumer Protection Commission to cover the entire supply chain; however, this does not address the question of how the UK's trade with the Republic of Ireland would be affected if the Directive were agreed in its current form, both with the UK as a member of the EU and as a third country. We therefore restate the question.

Thank you for clarifying how the proposed Directive would apply to both direct and indirect supply relationships.

Thank you too for clarifying that the deadline for transposing the directive is likely to fall after the end of the expected transition period. However, we note that this dossier is amongst the Austrian Presidency's priorities, and that they are "working to conclude" it during their term. Please keep us informed of any developments regarding the timeline of the proposal, particularly those which could affect whether the UK will be required to implement the Directive.

Finally, as per our previous letter, please update us on what bodies are being considered and consulted, and what the cost of establishing such a body would be, when the details of the proposed role of the enforcement body has become clearer.

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

12 September 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

I submitted an explanatory memorandum on the above document on 3 May 2018. Both committees have retained the issue under scrutiny. In accordance with the commitment to keep the scrutiny committee updated on the progress of the directive, I am writing to provide a short summary of the ongoing political discussions at the Special Committee on Agriculture (SCA).

The European Presidency remains eager to make timely progress, and formal adoption of a Council approach is expected at the AgriFish meeting on 15 and 16 October. Member States will be asked to accept the latest compromise text.

The latest draft sets the transposition deadline at 30 months and retains the original scope of coverage for operators (i.e. it only covers business relationships between SME sellers and non-SME buyers of agri-food goods). The UK has advised from the outset that a truncated transposition period would prove difficult to meet for a directive of this complexity, and that extending the scope of the directive any further would invite overly burdensome resource requirements for an enforcement authority, compromising effectiveness. Whilst we have some secondary concerns about the workability of the directive, the scope and transposition are the two main priorities for the UK, so we are content to support the progression of the draft into the next stage of discussions. I will keep you informed of the developments once trilogue negotiations are underway.

Thank you, also, for your letter of 12 September. I have answered the specific questions you raised below.

We note your explanation that a minority of Member States share your view that the scope of operators subject to the directive should be decided at national level, and are opposing proposals to widen the scope to include all actors involved in the agri-food supply chain. We also note your assessment that the broader scope would make the directive less effective and increase the burden on the relevant enforcement authority. Please keep us informed regarding how this issue develops.

Political discussions at the SCA meeting, held on 10 and 17 September, suggest that, although the issue is delicately balanced, the scope of the directive will not be widened. Whilst a number of Member States continue to support increasing the products or operators covered, our best estimates indicate that this will not be sufficient to secure the changes, given both the significant opposition and the desire of the Presidency for rapid progress. A further SCA meeting is scheduled for 1 October, and the position of other Member States is likely to become clearer.

The European Parliament has published an appraisal of the Commission's impact assessment for this proposal, which refers to the "limited evidence base" for the proposal. In your view, is the evidence which has been used to formulate the proposal both sufficient and robust?

The UK is aware that unfair trading practices (UTPs) in agri-food chains are widespread and action is required to address them. The evidence presented in the Commission's impact assessment to support this reveals a similar picture to that drawn from the responses to the UK's 2016 Groceries Code Adjudicator (GCA) call for evidence, which demonstrated that unethical business conduct was a problem in UK agri-food supply chains. In this respect, the information which underpins the basis for action to be taken on UTPs is considered sound.

However, the UK has maintained from the outset that action on UTPs should take place at a national level. We have pointed to the success of our highly regarded domestic regulator, the GCA, as an example of what can be achieved.

The UK felt that the Commission's impact assessment was limited with regard to its analysis of existing national schemes, such as the UK's GCA. We would have liked to see a more developed examination of the national-level picture, in order to justify action at community level.

We note your view that it is "likely" that the Republic of Ireland shares the UK's concerns regarding broadening the activities of the Competition and Consumer

Protection Commission to cover the entirely supply chain; however, this does not address the question of how the UK's trade with the Republic of Ireland would be affected if the directive were agreed in its current form, both with the UK as a member of the EU and as a third country. We therefore restate the question.

An analysis of how trade between the UK and the Republic of Ireland would be affected would require a high degree of speculation, as the behaviour of actors in the supply chain is difficult to predict.

26 September 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 26 September 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

You stated that formal adoption of the Council approach was expected at the AgriFish meeting on 15 and 16 October, which, in the absence of a scrutiny release or waiver, would have constituted an override of the Parliamentary scrutiny reserve. However, it is our understanding that such an adoption did not occur. Please confirm whether this is the case.

Turning to the content of the Proposal, we note your assessment that the scope of the proposed Directive will not be widened. You also noted that the position of other Member States on this issue was likely to become clearer after 1 October. Please inform us if, at any point in the negotiations, you believe the proposal of a broader scope has gained decisive support.

We note your assessment that the Commission's Impact Assessment for this Proposal did not include sufficient analysis of existing national schemes. We also note your assessment that, based on a similarity with the conclusions drawn from the UK's 2016 Groceries Code Adjudicator (GCA) call for evidence, the information which underpins the basis for action on unfair trading practices appears to be sound. We therefore encourage you to incorporate your own analysis of existing national schemes, including the GCA, into your own negotiating position.

We note your view that it is difficult to predict how the Proposals would affect the behaviour of actors in the food supply chain between the UK and the Republic of Ireland.

You noted that the Presidency remains eager to make timely progress. Please keep us informed of any developments regarding the timeline of the proposal, particularly those which could affect whether the UK will be required to implement the Directive. We note that the relevant parameters may have changed in this regard given recent discussion of the possibility of extending the Brexit transition period.

Finally, as per our previous letter, please update us on what bodies are being considered and consulted, and what the cost of establishing such a body would be, when the details of the proposed role of the enforcement body has become clearer.

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

31 October 2018

Letter from 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 31 October. I have responded to your points in turn below.

You stated that formal adoption of the Council approach was expected at the AgriFish meeting on 15 and 16 October, which, in the absence of a scrutiny release or waiver, would

have constituted an override of the Parliamentary scrutiny reserve. However, it is our understanding that such an adoption did not occur. Please confirm whether this is the case.

I can confirm that is the case, and that no override of Parliamentary scrutiny has occurred. There was no formal adoption of a position; the Special Committee on Agriculture simply agreed on an informal mandate to begin trilogue negotiations using the latest Presidency draft.

Please inform us if, at any point in the negotiations, you believe the proposal of a broader scope has gained decisive support.

I will keep you updated regarding the progress of negotiations on this issue. Feedback from the first trilogue negotiation suggests the Parliament is still eager to see an extension to the range of operators covered.

We note your assessment that the Commission's Impact Assessment for this Proposal did not include sufficient analysis of existing national schemes. We also note your assessment that, based on a similarity with the conclusions drawn from the UK's 2016 Groceries Code Adjudicator (GCA) call for evidence, the information which underpins the basis for action on unfair trading practices appears to be sound. We therefore encourage you to incorporate your own analysis of existing national schemes, including the GCA, into your own negotiating position.

The UK has maintained from the beginning of the negotiating process that action taken at a domestic level can be extremely effective. We have provided written evidence on numerous occasions to the Presidency highlighting the features of the GCA which have made it successful, and we will continue to do so.

You noted that the Presidency remains eager to make timely progress. Please keep us informed of any developments regarding the timeline of the proposal, particularly those which could affect whether the UK will be required to implement the Directive. We note that the relevant parameters may have changed in this regard given recent discussion of the possibility of extending the Brexit transition period.

The first round of trilogue negotiations was held on 25 October, followed by a second discussion held on 7 November. There is a Special Committee on Agriculture meeting on 12 November, where Member States will be asked for opinions on the revised text arising from trilogues.

Please note, the earliest a final political decision can be made is at the AgriFish Council on 17 and 18 December, hence this is the earliest a mandate will be sought for this.

14 November 2018

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

Thank you for your letter of 14 November 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 29 November.

We note your confirmation that there was no override of the Parliamentary scrutiny reserve.

Thank you for your explanation that the European Parliament is still seeking to extend the range of operators covered by the Proposal.

We welcome your provision of evidence to the Presidency regarding the effectiveness of the Groceries Code Adjudicator and action taken at a domestic level.

You stated that a decision on this dossier may be made at a Council meeting on 17-18 December. We note that there are a number of significant outstanding uncertainties related to this dossier, so in order to consider a request for a scrutiny waiver that would allow you to vote in favour of the Proposal we would need you to clarify the following:

- Whether the scope of the Proposal has been extended to include all businesses (not just SMEs) in the food supply chain, and what the implications of that extension would be for the UK as both a Member State and a third country;

- What UK bodies have been considered and consulted regarding the enforcement of the proposed Directive, and what the enforcement costs would be (both if the scope were as originally proposed and if it were extended); and
- The date by which Member States will be required to implement the Directive, and therefore whether it could apply to the UK given the potential for a transition period lasting until the end of 2020 or beyond.

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

28 November 2018

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

Thank you for your letter of 28 November.

We are writing up to update you on the outstanding issues in the ongoing and fast moving negotiations on the proposed EU Directive covering Unfair Trading Practices, and request clearance of this proposal from scrutiny.

The Presidency remains committed to an ambitious timetable, and may seek Council approval on a finalised text of the directive at the AgriFish Council on 17 and 18 December. We are requesting clearance from scrutiny to enable the UK to vote in favour of the proposal which is put to Council, providing that it secures the UK's interests in the areas which remain outstanding, and which we set out in what follows.

As mentioned above, negotiations will continue intensely over the coming two weeks, and my officials will provide a further update to your committee on relevant developments in these.

Outstanding issues:

Transposition timeline

The UK has consistently and firmly argued in negotiations for a significantly lengthened timeline for the implementation of this directive, which in the original Commission proposal stood at 6 months for transposition and 12 months for application.

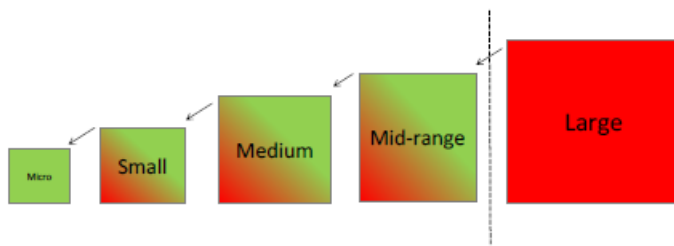
We were able to secure a substantial increase in this period, which we have defended with the support of other member states during negotiations, such that the latest Council text maintains a period of 24 months for adoption and publication of laws, regulations and administrative provisions necessary for compliance with the directive, and 30 months for the application of these laws.

This timeline allows sufficient time for national legislative processes should those be necessary, and also avoids the transposition deadline falling within the Implementation Period as foreseen in the Withdrawal Agreement.

The UK would not vote for a proposal where the timeline for adoption and publication of laws falls below 24 months.

Scope of the proposed directive:

Negotiations in Council on this point have shifted substantially in the face of European Parliament demands to cover the entire supply chain. The Presidency have introduced and gained support for a new 'dynamic' approach to determine the size of operators covered by the proposal (see illustration below). The UK has supported this compromise approach as it delivers protection for smaller suppliers in the chain, while preventing suppliers claiming against buyers of a similar or lower size.



The cost implications of implementing this change for the United Kingdom will not be clear until the parameters of this model have been finalised and agreed. The principal remaining discussion point is the upper limit of the mid-range size category, represented by the dotted line in the diagram below. Suppliers above this threshold would not be able to eligible for protection by this proposal.

The UK would not vote for a proposal should this threshold separating ‘mid-range’ and ‘large’ buyers exceed €1 billion.

Discussion also continues on whether the proposal should also offer protection to operators outside the European Union, where they are either supplying or buying from operators inside the EU. The UK has voiced concerns about this, as we have some concerns regarding the burden and efficacy of such an extension of coverage, which are shared by a number of other member states. However, our view is that the burden of compliance for third country coverage as proposed is manageable, and indeed third party suppliers are already able to lodge complaints against those buyers covered by the UK’s Groceries Code Adjudicator. We also note that the inclusion of such a provision in this directive would provide protection for suppliers in the UK when it becomes a third country, who could claim against buyers based in EU member states covered by the directive.

Thus while we will continue to argue against the extension of scope to third countries in negotiations, we do not propose that this should prevent the UK voting for this proposal.

Prospective timetable for finalising the Directive

The Presidency may draft a final text following the next trilogue on 6 December, in which case we may expect a vote on this text at AgriFish Council of 17 and 18 December. In light of this upcoming meeting, we would appreciate the Committee’s response by 14 December.

6 December 2018

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

Thank you for your letter of 6 December 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 December.

In our last letter, we informed you that in order to consider a request for a scrutiny waiver we would need you to clarify any amendments to the size of businesses affected by the Proposal, and the impact that would have on the UK; how you envisaged the Directive being enforced, and what the cost of that would be; and whether it is likely that the UK would have to implement the Directive, given the transposition timeline.

Thank you for clarifying that the current Council text allows 24 months for the adoption of the Directive, which would both provide sufficient time for national legislative processes, and avoid the transposition deadline falling within the Brexit transition period forseen in the Withdrawal Agreement. However, we note that it is possible that the UK would be required to implement this Directive, either if it were agreed with a shorter transposition window than that put forward by the Council or due to an extension of the transition period. As such, our scrutiny consideration and your negotiations must allow for that possibility.

We note your explanation of the Presidency’s proposed ‘dynamic’ approach to the size of operators that would be covered by the Directive, and your position that you support this approach as long as businesses with a turnover that exceeds €1 billion would not be eligible for protection. However, we

also note your statement that “the cost implications of implementing this change for the United Kingdom will not be clear until the parameters of this model have been finalised and agreed”.

We also note that you have not been able to clarify your intended approach to or the cost of enforcement.

We note that you have requested clearance from scrutiny to vote in favour of the Proposal, providing it secures the UK’s interests as per the conditions set out in your letter. However, it seems that negotiations have been progressing at such a pace that you have been unable to fully assess the impact of the Proposal on the UK. Furthermore, we are concerned that you have not set out even a high-level approach to its enforcement. We are therefore not willing to clear the Proposal from scrutiny or grant a scrutiny waiver.

Please provide an update after the AgriFish Council of 17/18 December. We look forward to a reply to this letter within 10 working days.

12 December 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - REVIEWING THE DECISION-MAKING PROCESS ON GENETICALLY MODIFIED ORGANISMS (GMOs). (8344/15)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EC) NO.1829/2003 AS REGARDS THE POSSIBILITY FOR THE MEMBER STATES TO RESTRICT OR PROHIBIT THE USE OF GENETICALLY MODIFIED FOOD AND FEED ON THEIR TERRITORY. (8356/15)

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food, Department for Environment, Food and Rural Affairs

As an update for the Committee, I am writing to confirm that there have been no developments on the above proposal since our exchange of letters last summer.

The proposal has not been discussed in any EU fora for over two years now, after having been rejected by the European Parliament. It therefore remains that there is no likelihood of the proposal being adopted, although for its own reasons the Commission is choosing to leave the matter dormant rather than move to formally rescind the proposal. If there were to be any further activity on this proposal we would of course inform the Committee accordingly.

1 October 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 1 October, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 31 October.

We note that there have been no developments on these dossiers since your last update and that the expectation is that they will simply remain dormant, not adopted but not formally rescinded either.

We will retain the documents under scrutiny, to allow for the unlikely eventuality that negotiations restart at some future point. Please write to inform us if this is the case; otherwise an update in 12 months’ time to confirm there has been no progress will be sufficient.

31 October 2018

COMMISSION DELEGATED REGULATION (EU) .../... OF 26.4.2018 AMENDING
DELEGATED REGULATION (EU) NO 907/2014 AS REGARDS NONCOMPLIANCE
WITH PAYMENT DEADLINES AND AS REGARDS APPLICABLE EXCHANGE RATE FOR
DRAWING UP DECLARATIONS OF EXPENDITURE (8438/18)

**Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food,
Department for Environment, Food and Rural Affairs**

Thank you for your letter of the 18 July 2018. I have answered your questions below.

“You state that it is not yet possible to assess the possible financial implications of the Regulation. Based on data from the latest payment year, what percentage of payments were made after the deadline? What reduction, if any, would there be in Union payments for the latest payment year if the Regulation were in force now?”

If this was in force in 2018, then the amendment to Regulation (EU) No 907/2014 would allow the Commission to impose a penalty of 25% as we have not made all payments by 30 June.

55.5% of final payments to agri-environment and forestry claimants had not been made by the 30 June deadline. So, if the amendment were in force now, for the 2017 claim year, this would lead to a 25% penalty being levied on the total EU funding we would expect to reclaim from the European Commission. This would mean a penalty of between £70m and £75m.

Defra is committed to getting things back on track for the next cycle of payments. Land managers have just put in their claims for payment for 2018. A key step we will be taking is bringing in additional staff to get these payments out more quickly and significantly earlier than they have been. I expect to see significant improvements as a result.

“You state that Defra, the Rural Payments Agency and Natural England are committed to speeding up payments, and that this Regulation will act as an incentive to Defra to avoid making late payments. Please explain the steps you are taking to ensure recipients are paid more speedily, and by the deadline set out in the Regulation”.

Additionally, moving the administration of Countryside Stewardship and Environmental Stewardship to the Rural Payments Agency will also improve capability and, importantly, customer service. This will happen in the next few months. The RPA is committed to providing a more reliable and improved customer experience.

Defra aims to improve delivery for our customers, and is on track to do so. This regulation change is a mandatory EU requirement, so unfortunately there is no flexibility in how we implement, or in timings for us. The regulation will come into force for 2019 payments, so the first date at which we would be liable to this fine would be June 2020.

15 August 2018

**Letter from the Chairman to George Eustice MP, Minister of State for Agriculture,
Fisheries and Food**

Thank you for your letter, dated 15 August, on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 September.

We note that, this year, 55.5% of payments to agri-environment and forestry claimants had not been made by the 30 June deadline and so if the Regulation was in force now there would be a penalty of £70-75m. It is deeply concerning to note that so many payments are made late. Can you provide an explanation for why this is the case? Do these figures apply to England only or to the whole of the UK? Please provide figures on a nation by nation basis.

How would any penalty imposed in future as a result of this Regulation be distributed between the four nations of the UK?

We note that plans are in place in England to speed up payments, including through the recruitment of new staff and by moving the administration to the Rural Payments Agency (RPA). Given there have been

problems in the past with the RPA's ability to deliver CAP payments, what steps have you taken to ensure this move will result in improved payment timeframes?

You state that "unfortunately there is no flexibility in how we implement [the Regulation], or in timings". Why is that unfortunate? How and when would you have preferred to implement it?

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

6 September 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 6 September 2018. I have answered your questions below.

It is deeply concerning to note that so many payments are made late. Can you provide an explanation for why this is the case?

I agree that the level of late payments is concerning.

The Secretary of State has also been clear that the current delivery of Countryside Stewardship and Environmental Stewardship is not good enough. EU rules and requirements make the administration of the schemes needlessly complicated, and does not work for us or our farmers.

2017/18 saw introduction of mapping changes to meet EU requirements and increase the level of accuracy of land on our Rural Payments system. This has impacted on administration of the scheme and meant farmers and land managers have needed to check and confirm land data to support both BPS and Countryside Stewardship and Environmental Stewardship claims and agreements.

EU requirements have also meant we have had to start all agreements from 1 January each year, and process new agreements and payments at the same time, where in earlier years we had been able to offer monthly start dates. The level of checks required to confirm payments has also increased. The EU regulations now require annual submission of claims for customers.

Do these figures apply to England only or to the whole of the UK? Please provide figures on a nation by nation basis.

The 55.5% figure applies to England only. The position in the other nations is as follows

Northern Ireland	98.6% paid by 30 June
Scotland	Awaiting figures
Wales	95.66% paid by 30 June

How would any penalty imposed in future as a result of this Regulation be distributed between the four nations of the UK?

The Commission would cancel part of its contribution to the affected rural development programme. Although the UK, as the Member State, would be responsible for making repayments, the practical effect would be that less money would be available for the English rural development programme if it does not meet the 95% level.

We note that plans are in place in England to speed up payments, including through the recruitment of new staff and by moving the administration to the Rural Payments Agency (RPA). Given there have been problems in the past with the RPA's ability to deliver CAP payments, what steps have you taken to ensure this move will result in improved payment timeframes?

As we said when we made the announcement earlier this year the delivery of CAP scheme under one organisation will provide the opportunity for a more joined up service for our customers and staff.

The RPA has acknowledged that there have been challenges in the implementation of CAP schemes but have worked hard to stabilise the performance of the Basic Payment Scheme which has seen around 90% of farmers receiving their payment in the first month of the payment window while maintaining a strong performance in the others schemes it delivers.

Under the guidance of the RPA there is a programme of measures designed to maximise the payment performance while continuing to protect the taxpayer from disallowance and preserving the desired environmental outcomes.

These measures include:

- Bringing in new staff to get 2018 payments out more quickly and significantly earlier than they have been. This will allow existing staff to concentrate on getting remaining payments out from the current round and on processing next year's agreements.
- Making resources available for necessary IT changes to improve processing times. This includes the introduction of a simpler method for making amendments to claims will help improve processing of claims by NE and RPA.
- Mapping changes in 2018/19 should be of a significantly smaller magnitude and I have asked officials to look at how this might be rolled out more clearly in its next iteration.

The Secretary of State and I continue to have regular discussions with the Chief Executives of RPA and NE to closely monitor progress.

You state that “unfortunately there is no flexibility in how we implement [the Regulation], or in timings”. Why is that unfortunate? How and when would you have preferred to implement it?

We don't want to be in the position of making late payments to agreement holders, but at the same time, applying a financial penalty for not meeting these deadlines is unhelpful and is an extra cost to the taxpayer.

20 September 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter, dated 20 September, on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

We note that you agree with our assessment that the level of late payments is concerning. Thank you for explaining that delays have been caused by changes in EU requirements this year, resulting in extra information needing to be submitted and extra checks needing to be carried out as part of applicants' payment claims.

Thank you for explaining that the 55.5% late payments figure applies only to England. We note that 98.6% of payments in Northern Ireland and 95.66% of payments in Wales were made on time. Given they would have been subject to the same changes in EU requirements, why were they still able to make timely payments when England was not? Please also provide the figures for Scotland.

Thank you for clarifying that if, under the Regulation, the Commission were to withhold part of its financial contribution to the UK because of levels of late payments, the cost would be met from the English Rural Development Programme budget and not distributed to the other UK nations. Is this because England is the only nation failing to meet the required timeline; if, for example, Scotland were to fail to make sufficient payments by the deadline in future would the UK Government pass the costs on to them?

Thank you for explaining the measures you have put in place to improve the timeliness of payments now that responsibility has moved to the Rural Payments Agency, including new staff and changes to IT systems.

We note your view that the Commission applying a financial penalty to Member States who do not meet payment deadlines is “unhelpful and ... an extra cost to the taxpayer”.

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

31 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 31 October 2018. I have answered your questions below

Thank you for explaining that the 55.5% late payments figure applies only to England. We note that 98.6% of payments in Northern Ireland and 95.66% of payments in Wales were made on time. Given they would have been subject to the same changes in EU requirements, why were they still able to make timely payments when England was not?

As the Basic Payment Scheme and some Agri-Environment Schemes are payable on the area and use of the land we are required by the EU to maintain current and accurate mapping data to check that the use of the land satisfies the relevant eligibility criteria of the scheme(s) and that the area is correct.

Our mapping systems have been criticised by EU audit bodies. If we had not taken a large-scale mapping exercise in 2017 the disallowance risk would have increased considerably, up to £100 million per annum in the first year and doubling in the second, under the guidance used by the Commission.

As a result of this, in England, mapping changes were needed on 2.2m parcels. These have needed to be worked through in detail and have affected our ability to process claims quickly.

In addition to the above, we had a high level of 5 and 10 year agreements that continued from the 2007-2013 Rural Development programming period - so a higher cohort than in the devolved administrations.

We have improved the way we handle mapping queries in 2018. A dedicated team has been set up to deal with queries over the phone, rather than farmers having to send in forms and sketch maps. We have also published simplified guidance to help farmers understand the best way of raising mapping queries.

Please also provide the figures for Scotland.

By 30 June the Scottish Government had paid 9.7% of all IACs Pillar Two claims. This covers Rural Priorities, Land Managers Options, the Agri-Environment Climate Scheme, the Forestry Grant Scheme, the Less Favoured Area Support Scheme (LFASS) and the Beef Efficiency Scheme.

By providing LFASS loans to customers at 90% of their anticipated final payment in May, the Scottish Government were able to prioritise other activity to ensure we met the target of paying 95% of Pillar One claims by 30 June without impacting on cash flow for our LFASS customers.

The Scottish Government is confident of being able to achieve the Pillar Two payment deadline when it comes into force from Scheme year 2019.

Thank you for clarifying that if, under the Regulation, the Commission were to withhold part of its financial contribution to the UK because of levels of late payments, the cost would be met from the English Rural Development Programme budget and not distributed to the other UK nations. Is this because England is the only nation failing to meet the required timeline; if, for example, Scotland were to fail to make sufficient payments by the deadline in future would the UK Government pass the costs on to them?

Under the cross-Whitehall Memorandum of Understanding on Devolution each administration is liable for any financial penalties applied to the UK as a result of them failing to meet EU obligations, and a discussion about how CAP penalties may need to be apportioned between administrations would take place on that basis.

12 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter, dated 12 November, on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 19 December.

Thank you for explaining the reason that more payments were made late in England than in the devolved administrations was as a result of the scale of changes that were required in England as a result of the mapping exercise you undertook in 2017.

Thank you for providing the figures for Scotland. We note that while only 9.7% of claims were paid by 30 June this year, the Scottish Government are confident that they will be able to meet the deadline when it becomes a requirement of the Regulation.

Thank you for explaining that any financial penalty that was applied to the UK as a result of this Regulation would be apportioned to devolved administrations based on the Memorandum of Understanding on Devolution.

We have decided to release the Regulation from scrutiny and are content to close correspondence on this issue.

19 December 2018

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 Steve Brine MP, Parliamentary Under Secretary of State for Public Health and Primary Care, Department of Health and Social Care

Thank you for your letter dated 11 July regarding EM 8518/18.

In your letter you asked whether our concerns for the proposals relating to the European Food Safety Authority (EFSA) Management Board are based on our experience of how other bodies operate. Our concerns are not directly related to these other bodies but relate to the founding principles of EFSA with its core remit to express independently its own conclusions and orientations on matters within its mission. In our view, the current Board is effective, and our concern is to ensure that any changes do not impact on this independence.

You asked what discussions we have had with the Commission to-date about our concerns, and what reassurances we have received. The European Council have convened the ad-hoc Working Party on General Food Law which has so far met seven times with two further meetings planned for October. The structure of the management board was discussed on the 16 July and the Commission provided reassurance that there is no intention to alter the core functions of EFSA.

You asked for further details of what specific aspects of the Proposal concern us and what we think the impacts may be. Our concerns are that providing the results of scientific studies as set out in the Proposal raises issues of undermining investment in innovation with the risk that an applicant's competitors may benefit from access to this data. This may deter applicants from submitting innovative products for EU approval and instead look to other markets. We are not convinced that the impact of placing all this information in the public domain at the time of submission is negligible, particularly given the timescale involved in, for example, GMO decision-making. Competitors will have these data a long time before any authorisation is given. The Proposal also potentially places a big burden on Member States in ensuring people and their employees are able to meet the requirements set out in nominating experts to EFSA scientific Panels. It is not obvious what powers or mechanisms exist to enable UK or other national authorities to fulfil these duties on experts' performance.

You asked whether the Government has decided to challenge the EU decision not to conduct an Impact Assessment and whether we have decided to conduct a UK Impact Assessment? At the first European Council Working Party meeting the UK, along with several other Member States, requested further assessment from the Commission on the anticipated impacts from this proposal. The Government will consider any further information provided in order to decide if a UK Impact Assessment is required.

You asked for an update on our assessment of the possible implications for EU Exit and any future relationship we may have with EU systems and agencies. Our future relationship with EFSA will be subject to Exit negotiations. Government Departments are currently working together to understand the impacts that withdrawal from the EU will have on our relationship with EFSA and other EU Agencies. We currently benefit from the exchange of information and scientific expertise in EFSA's various forums, and we would want to ensure that this continued, but this will be subject to Exit negotiations.

You asked if the Regulation is not adopted before the end of the transition period, whether the UK Government intend to mirror the changes set out in this Proposal (by publicising, and consulting on, the supporting studies submitted with authorisation applications, for example) and would we seek to establish a UK register of studies (and, if so, who would manage it), or contribute to the EU one? The Government is considering a range of options for the future of risk assessment and scientific advice in the UK after the UK has left the EU. The Food Standards Agency (FSA) currently undertakes a significant amount of risk assessment work and has a long-standing commitment to the openness and transparency of its decisions. Our planning includes strengthening this resource to meet any potential increased need for risk assessments in the future.

28 September 2018

Letter from the Chairman to Steve Brine MP, Parliamentary Under Secretary of State for Public Health and Primary Care

Thank you for your letter on the above Proposal, dated 28 September, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

Thank you for explaining that your concerns over the proposed changes to the European Food Safety Authority (EFSA) Management Board relate to whether the changes might jeopardise the independence of the EFSA. We would share your view that EFSA's ability to express its own conclusions independently is extremely important. We note that this issue has been discussed in the Working Party on General Food Law. Was the reassurance you received from the Commission sufficient to address your concerns?

Thank you for explaining that you are also concerned that the Proposal would require companies to allow the EFSA to make public all the supporting data and information they have provided with an application for authorisation as you feel it may allow the applicant's competitors to benefit, and so companies may be dissuaded from applying. Do other Member States share your concerns? Please keep us updated on your negotiations with the Commission on this issue.

We note that you are also concerned that the suggestion in the Proposal that Member States are more involved in nominating experts for EFSA panels may not be achievable. Again, please keep us updated on the views of other Member States and your negotiations on this point. We would be concerned if any changes to how appointments were made resulted in reduced independence or expertise of the appointees.

Thank you for explaining that the UK, and several other Member States, have requested further details from the Commission on the potential impact of the Proposal. Please provide us with a summary of this information, and your response to it, once you have received it.

We note that the UK's future relationship with EFSA is subject to negotiations, as part of the wider Brexit negotiations.

We note that you are still considering a range of options for food safety risk assessments, post-Brexit. It is unclear from your response, however, whether you consider that there would be merit in the UK adopting some or all of the changes contained in the Proposal. Is there anything in the Proposal that you would like the UK to adopt, if it leaves the EU before it is obliged to adopt it?

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

31 October 2018

**REPORT FROM THE COMMISSION TO THE COUNCIL AND THE EUROPEAN
PARLIAMENT ON THE IMPLEMENTATION OF COUNCIL DIRECTIVE 91/676/EEC
CONCERNING THE PROTECTION OF WATERS AGAINST POLLUTION CAUSED BY
NITRATES FROM AGRICULTURAL SOURCES BASED ON MEMBER STATE REPORTS
FOR THE PERIOD 2012-2015 (8693/18)**

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

Thank you for attending the meeting of our Energy and Environment Sub-Committee on 10 October to discuss the above report.

We note that there has been progress in reducing the levels of nitrates in the UK's water courses over the past two decades, and that new rules for farmers and land managers aimed at preventing water pollution were introduced earlier this year. We remain concerned, however, that a significant number of monitoring stations across the UK (including around a quarter in England) reported increasing levels of nitrates for the last reporting period (201215). Please clarify what percentage of monitoring stations in each of the four nations of the UK you expect to report increasing trends in nitrate pollution at the end of the current four-year reporting period.

We note that, whilst there is a general, gradual, decreasing trend in nitrate levels, there are some parts of the UK where it could take 50 years to bring the levels below the recommended 50mg per litre limit. We note your explanation that the areas that are reporting increases are suffering from the impact of historic use of fertilisers working its way through the water table and that these increasing nitrate levels in the water are, therefore, inevitable. Please clarify if this explanation applies to the reported increases in nitrates in both groundwater and surface water.

Thank you for explaining that the UK's nitrate levels do not have a human health impact, as water companies are obliged to treat the water. We note that the cost of this water treatment, however, is likely to be borne by the consumer. Thank you also for explaining that any impact on fish stocks is likely to be minimal, given the other challenges they will experience and the low instance of eutrophication in the UK.

We were surprised that you did not seem to be aware of what concerns prompted the European Commission to address a Pilot investigation to the UK in 2016-17 and did not seem to know whether the Commission now considers those concerns to have been addressed. Why have you, or your officials, not discussed this issue with the Commission? We would urge you to contact them and seek clarity on whether any outstanding concerns remain.

We note that you believe the increasing levels of non-compliance by farmers is testament to your department's improved detection. Thank you for explaining that you believe the current measures to ensure compliance are sufficient, as where the right kind of advice and guidance is given there is evidence of improved farm practices and water quality.

Thank you for explaining that the current derogation from the Directive is needed to allow a small number of farmers to manage their farms effectively, but that there is no evidence in the monitoring data to suggest that water quality is affected as a result of the derogation.

We note that you believe that effective measures are in place to deliver the objectives of the Directive, but that you also believe there is more that could be done to reduce nitrate levels and that when the UK leaves the EU you intend, over time, to bring in a different approach.

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

23 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 23 October, following the EU Energy and Environment Sub-Committee meeting on 10 October where I, Helen Wakeham (Environment Agency) and Jan Dixon (Defra) gave evidence to the Committee. You requested further information about certain points. I have also provided some additional information from the Environment Agency about how nitrate moves through different geological formations in Annex A, which I hope is helpful to the Committee.

Please clarify what percentage of monitoring stations in each of the four nations of the UK you expect to report increasing trends in nitrate pollution at the end of the current four-year reporting period.

We expect that the proportion of monitoring stations with increasing trends (compared with the 2012-2015 average) will continue to reduce overtime.

Work by the British Geological Society shows that trends in groundwater will slowly decrease as high levels of nitrate pollution from previous decades move through the natural environment.

While it is not possible to be specific about the future results of individual monitoring stations the Environment Agency’s modelling indicates that, 64% of surface waters are estimated to have lower concentrations of nitrates by 2021 and 44% of ground waters are estimated to have lower concentrations of nitrates by 2027 than in 2009-2014. Geographically, it is a mixed picture, with marked local variations, for example caused by topography or external factors.

Tables 1 and 2 detail the mean nitrate concentrations across the United Kingdom for the reporting period 2012 – 2015.

Table 1. Mean nitrate concentrations (mg NO³/L) in rivers and lakes: 2012-2015 (per cent of monitoring points)

	Per cent of monitoring points (mg nitrate / L)					
	0 to 2	>2 to 10	10 to 25	>25 to 40	>40 to 50	> 50
England	6.0	22.0	36.0	24.0	6.0	6.0
Wales	23.0	54.0	20.0	2.0	0.7	0.3
Scotland	35.8	36.5	20.0	7.4	0.2	0.0
Northern Ireland	24.9	64.4	10.7	0.0	0.0	0.0

Table 2. Mean nitrate concentrations (mg NO₃/L) in groundwaters: 2012-2015 (per cent of monitoring points)

	Per cent of monitoring points mg nitrate / L			
	< 25	>= 25 to 40	>= 40 to 50	>50
England	59.00	19.00	8.00	14.00
Wales	84.00	8.00	3.00	5.00
Scotland	60.50	18.20	9.20	12.10

Northern Ireland	98.21	0.00	0.00	1.79
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We note your explanation that the areas that are reporting increases are suffering from the impact of historic use of fertilisers working its way through the water table and that these increasing nitrate levels in the water are, therefore, inevitable. Please clarify if this explanation applies to the reported increases in nitrates in both groundwater and surface water.

Yes, this is the case for groundwater, we see increasing levels mostly due to historic nitrate working its ways through the geology.

In general, surface waters are showing a steady decline in nitrate concentrations. However, where surface water is fed by groundwater we see fluctuations in nitrate. This is linked to the seasonal input of groundwater into surface water.

We were surprised that you did not seem to be aware of what concerns prompted the European Commission to address a Pilot investigation to the UK in 2016-17 and did not seem to know whether the Commission now considers those concerns to have been addressed. Why have you, or your officials, not discussed this issue with the Commission?

We wish to clarify that, as mentioned in the Explanatory Memorandum, we have been engaging with the Commission so as to assist their Pilot investigation.

As you know, the EU Pilot procedure is a pre-litigation process which enables the Commission to gather relevant information on the implementation of EU obligations by Member States. It also provides Member States with an opportunity to demonstrate compliance with these obligations and for both parties to avoid, where possible, the need for lengthy, complex infringement proceedings.

The Commission made brief reference to the Pilot investigation in its EU-wide report on the Nitrates Directive, which was published earlier this year. However, it did not disclose any details as to the content of this investigation in that report.

As noted above, whilst the pilot case remains open, we are continuing to work with the Commission to complete their investigation, including providing information to demonstrate the ways we have complied with our obligations.

Annex A: Select Committee on the European Union

Energy and Environment Sub Committee

The UK's implementation of the Nitrates Directive

Wednesday 10 October 2018

Additional information from the Environment Agency

Nitrate in different geologies

The committee asked a series of questions regarding the geology of the UK, its structure, its similarity to that of continental Europe and its effect on nitrate concentrations in our waters.

It is, of course, possible to find in Europe a range of geological formations like those that are found in the UK. Limestones, chalk, sandstones and igneous (volcanic) rocks can be found across many European nations. On the other hand, the extent and fate of nitrate pollution therein depends not only on the type of geology but also many other compounding influences such as the geographical, climatological and societal setting. For example, limestones in the far south of Europe will experience very different rainfall, vegetation and land use to, say, Derbyshire or Yorkshire in England.

It is correct that the Chalk is both fissured and porous. In contrast, shales are relatively impermeable. Water and hence nitrate is transported through the Chalk both through fracture/fissure structures and through the main matrix itself and travel times will be very different. Water in fractures can travel 10s to 100s of metres in a day in some circumstances. In contrast, a "rule of thumb" downward velocity through the matrix is 1 metre per year.

A further general point is that in the UK we generally use deep consolidated aquifers for groundwater supplies. In contrast, in continental Europe it is more common to use shallow, unconsolidated aquifers for supply. Shallow sand and gravel aquifers will both contaminate more quickly from activities on the land surface but also flush more quickly if land uses change.

For the south-east of England several factors combine:

- Fairly intense land use with substantial nitrate loadings
- Relatively low rainfall compared to say, the north-west (hence, lower dilution of the nitrate)
- Some areas of substantial unsaturated zones above the underlying aquifer mean that entrained nitrate can take decades to reach the groundwater in the aquifer.

We have worked with the British Geological Survey to aid our understanding of the time lag issue and the extent of the nitrate load in the subsurface. Approximately 70% of the estimated nitrate load in England is in the Chalk. Figure 1 indicates the travel time for nitrate through different geological formations across Great Britain, where the red areas have the shortest travel time (1 to 5 years) and blue areas have the longest travel time (50 years or more).

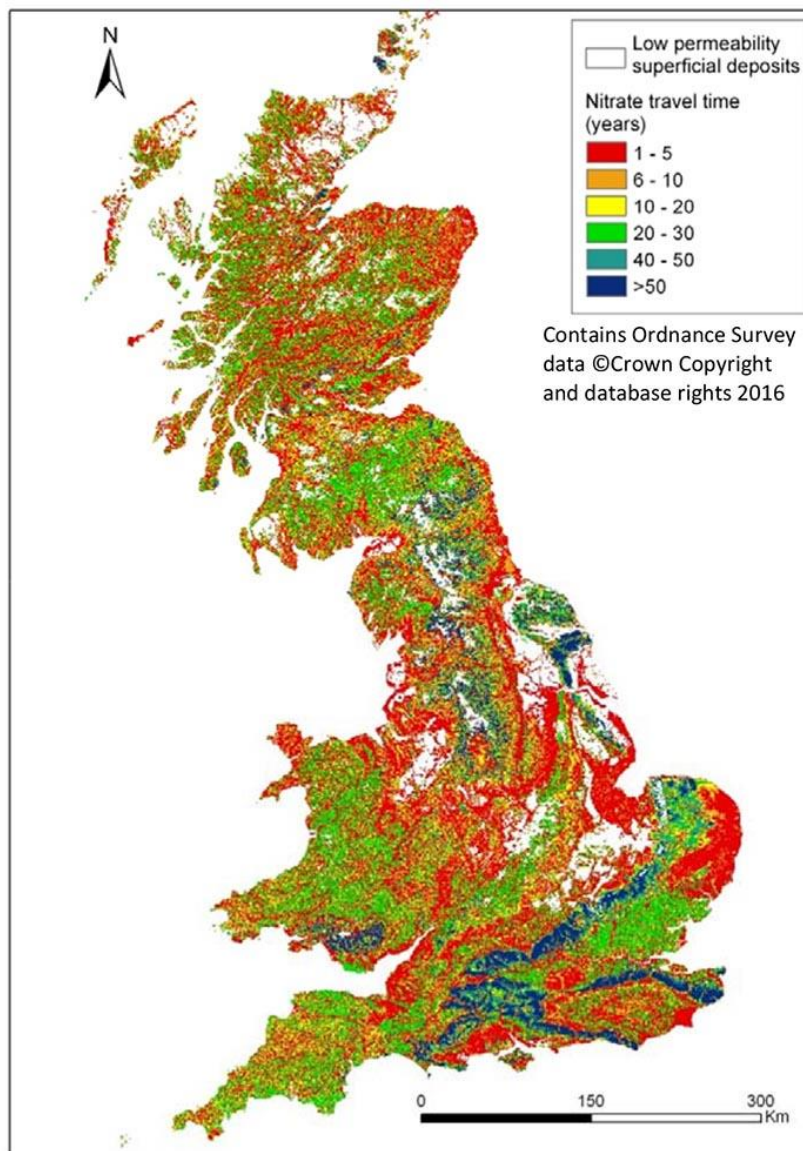


Figure 1: Nitrate travel times through geological formations in Great Britain

It is worth noting that although groundwater supplies approximately 30% of drinking water in England this is not evenly distributed across the country. So in some areas, particularly in the south-east, groundwater supplies much more than this and in some areas virtually all water supply is from groundwater sources.

6 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter, dated 6 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 21 November.

Thank you for explaining that, while you cannot provide a breakdown by nation, you estimate that 64% of surface waters are expected to have lower concentrations of nitrates by 2021 and 44% of ground waters to have lower concentrations by 2027, compared to 2009-2014. We note that this reflects our previously stated concerns that, in a significant number of cases, nitrate levels continue to rise.

Thank you for confirming that such increases in groundwater are inevitable, due to the impact of the historic use of fertilisers working its way through the water table. We note that this may also explain nitrate increases in surface water, as groundwater feeds into surface water.

Thank you for explaining that the EU pilot investigation into the UK's nitrate action programme is ongoing, and that you continue to work with the Commission on that investigation. Given the length of time that the EU has been investigating this we would, again, recommend that you ask the Commission to clarify exactly what remaining concerns they have.

Members also raised again their observation that the Directive can cause problems for farmers in periods of heavy rainfall as they are prohibited from spreading slurry on their land but their tanks can be at risk of overflowing into watercourses.

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

22 November 2018

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, (E) 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 Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 September.

We note that the measures outlined in the Proposal are not expected to be implemented until the end of 2021 at the earliest and so probably after any Brexit transition period. What impact, therefore, do you expect the Proposal to have on the UK and UK fishermen? Given that you state in your EM that coordination with the EU will be "critical to achieving effective control and enforcement of shared and adjacent waters" post-Brexit, do you expect the UK to adopt any of the measures set out in the Proposal?

We note that you have a number of concerns about the Proposal. You have included the proposal to track smaller vessels, and for smaller vessels to report their catches, in your list of concerns; please explain what your concerns are.

We note your concern that the requirement to submit all information electronically will have significant resource impact for the UK Fisheries Monitoring Centre and the UK Fishing Call Centre and is likely to be unpopular with small scale fishermen. You also state it could “have an impact on implementation and data systems and compliance with the Data Protection Act”. Please provide details of what this impact would be.

We note that you have raised concerns with the Commission that imposing penalty points for serious infringements may breach UK law in cases where fishermen have accepted administrative penalties rather than go to court. How has the Commission responded to this concern?

We note your strong objections to the aspects of the Proposal related to recreational fisheries. Do other Member States share your objections? We note that you support “the use of targeted effective management measures for recreational fisheries and appropriate levels of enforcement”. Could you provide more detail on how this is currently being undertaken and whether you believe additional measures are required to mitigate the potential impact of recreational fishing on fish stocks. We note that there are over 1 million sea anglers in the UK; what proportion of the UK’s catch are they responsible for?

We note that the obligation to share CCTV data with Union inspectors “could be problematic in terms of system specification and implications for policy on data sharing.” Please explain your concerns in more detail.

As regards traceability, we note that you do not think the proposed measures could be implemented without major investment. Have you made any assessment of the potential costs for the UK? You also state that the requirement to link catch certificates to the CATCH system, could be difficult as “the UK may not have access to [CATCH] once it has left the EU.” Does this mean you expect to implement this aspect of the Proposal even after the UK has left the EU?

We also note your concerns about the obligation for continuous engine power monitoring, and for logging and recovering lost fishing gear. Do other Member States share these concerns?

Please provide an update on negotiations regarding your concerns, and also on negotiations on the Proposal more broadly.

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

12 September 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 12 September 2018. I appreciate the consideration the Energy and Environment Sub-Committee has given to this matter. Please find responses to the questions you raise below, and please accept my apologies for the delay.

What impact do you expect the Proposal to have on the UK and UK fishermen?

The proposed amendments to Council Regulation (EC) 1224/2009 (‘the control regulation’) are not expected to be implemented by the EU until the end of 2021 by which point the UK will have left the EU. The amendments though are likely to be published in the Official Journal of the European Union in late 2019 therefore they will form part of the body of EU law which will be in force if the UK enters an implementation period (IP), as per the text of the EU withdrawal agreement. In the event of a no-deal scenario we would exit the EU prior to the amendments being published in the Official Journal, and therefore they would not be required to be rolled into UK law.

Following the UK’s exit from the EU, future UK fisheries policy may choose to adopt the proposals under either existing legislative powers, or use new powers that are proposed in the Fisheries Bill to legislate.

Do you expect the UK to adopt any of the measures set out in the Proposal?

We do potentially support some of the amendments to control regulation, for instance we are currently consulting on inshore vessel monitoring systems and support making greater use of remote electronic monitoring.

In the event that the UK enters an implementation period and the proposals fail to be rolled into UK law – albeit subject to a postponed commencement – we are assessing the nature of the proposal and its implications. It should be noted, however, that these assessments are without prejudice to future decisions on how we manage related fisheries control issues in our waters.

Both the UK and the EU recognise that small-scale fisheries play an important role from a biological, economic and social perspective. The impact of small-scale fisheries can, on a cumulative basis, be significant. It is important that the system of controls for such fisheries is able to give a true picture of the actions of the fleet and ensure compliance with all fisheries rules and regulations.

England is currently consulting on the introduction of inshore vessel monitoring systems (I-VMS) for the under 12m fleet which, if adopted, would enable the tracking of the inshore fleet as already happens for the 12m and over vessels. There are also proposals considering the introduction of electronic catch reporting for the under 10m vessels. These fisheries policy review proposals, which are already in train in the UK, will enable us to monitor fishing activity more effectively.

In the context of the Landing Obligation (LO), we have undertaken research projects that show that Remote Electronic Monitoring (REM), using CCTV, is one of the most effective means of enforcing the LO at sea when applied proportionately to those sections of the fleet that pose the highest risk.

What are your concerns regarding the proposal to track smaller vessels and for smaller vessels to report their catches?

Defra and the devolved administrations (the UK Fishing Authorities (UKFAs)) have a number of concerns with regards to catch reporting by smaller vessels. The declaration of catch prior to landing was one issue because many smaller vessels may land more than once per day. Furthermore, many of the smaller vessels which operate in the UK fleet do not have electronic systems on board. To address some of these concerns the UKFAs have catch reporting projects at various stages of development.

The proposal in the control regulation to reduce the threshold of the weight of fish required to be declared from 50kg to 5kg (for onward sales) could also have a more significant impact on the smaller scale fishers, especially those who sort their fish once ashore. Other issues include the reliability of signals in some remote areas which could prevent a fisher from supplying the catch record prior to landing. Again, UKFA projects are exploring ways to mitigate or remove these impacts.

Impacts of submitting electronic information?

The increased data collection requirements aim to provide information needed for onward sales and increase the traceability of catches. This includes additional information in the form of location, gear used, catch composition etc.

What was the Commission response to concerns raised about imposing penalty points?

The UK judicial system does not allow for penalty points to be applied to vessels unless the owner or master is found guilty in a court of law, therefore changes to serious infringements in line with the Commission's proposals should be a matter for national competence. Other EU Member States share this view. The point has been raised with the Commission and a response has yet to be received.

What are the current management measures of recreational fishing and do other MSs share our concerns?

There are over 1 million sea anglers in the UK. The proposals for registration or licensing systems for recreational fisheries is considered to be cost prohibitive, as is the likely cost of data collection and recording of catch data. It is expected that the lead-in time for information and communications technology (ICT) development and implementation to support such systems should be considered in terms of years not months. There is no current infrastructure for the systematic monitoring of recreational sea fishing. The enforcement of recreational fishing across the 12,429km of UK coastline is not practical. The tracking of vessels for recreational fisheries and control and marking of gear, taking into account the cost of equipment, installation and practicality of monitoring recreational vessels, and the risk of doing so, is felt to be excessive with limited perceived environmental, economic or social benefit.

Whilst there is no licence required for sea angling, recreational fishers are obliged to comply with fishing seasons, closed areas, bag-limits, and gear, bait, and species restrictions set for fisheries as a whole

under EU, national, and local byelaws, though they can fish for many species unrestricted. Inshore Fisheries Conservation Authorities (IFCAs) are critical in the management of our inshore fisheries. IFCAs do take measures to reduce the impact of fishing such as minimum landing sizes. They will continue to assess and take appropriate action.

Other Member States have expressed concerns about the proposed changes to recreational fishing, calling for more evidence and consideration of the impacts before such far reaching changes are introduced.

What proportion of UK catch are they responsible for?

Studies have been conducted across limited stocks within the UK waters that show significant variations of the impact of recreational fisheries. Where data indicates that recreational sea angling may have an impact on failing stocks the evidence will be considered at UK level to determine whether any further action needs to be taken.

How might the sharing of CCTV/ REM data with Union inspectors be problematic in terms of system specification and implications for policy on data sharing?

Implementing REM poses certain challenges in terms of consistency and sharing of information. For example, there is a need to ensure that vessels fishing in the same waters meet the same requirements and that access to data from different fleets is enabled. The potential variance in REM technology – number of cameras, sensory technology etc. – adds additional complexity in ensuring consistency in terms of data gathering. For REM monitoring to work effectively, a shared agreement on standards for audits and peer-review of data is required to ensure a level playing field.

Agreements on data sharing will also need to be reached. For example, data exchange should be an option to support investigations being carried out in coastal state waters where justified (e.g. through Data Protection Act 2018 consent). However, this does still present data protection issues and raises a number of questions, e.g. which platform the information would be shared through, how the data would be requested and how it would be used upon receipt.

Have you considered the potential cost for the UK in meeting the proposals for traceability?

The potential cost to the UK of meeting the traceability proposals has not been assessed. However, the proposals which are considering the introduction of I-VMS and electronic catch reporting will consider these in accordance with the Government's commitment to assessing the impact of regulations on businesses and other affected people.

Are you planning on linking of catch certificates to the EU CATCH system after we have left the EU?

In the event of a no-deal scenario, we have been informed by the Commission that we will not have access to the CATCH database on leaving the EU.

Do other member states share your concerns regarding continuous engine monitoring, and for logging and recovering lost gear?

Other Member States have concerns regarding the need for constant engine power recording as it is not seen as a limiting factor when utilising the fishery resources. 40% of the respondents to the consultation considered engine power not to be an effective tool for reducing fishing effort. Other Member States have raised issues regarding operability and enforcement of the logging and recovery of lost gear.

I hope this additional information provides you and the Sub-Committee with the answers you sought.

19 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter on the above Proposal, dated 19 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 19 December.

Thank you for explaining that the Proposal is likely to be adopted in time to become part of the body of EU law that will apply during the implementation (transition) period.

We note that in the event of a 'no deal' Brexit, or when the UK is no longer obliged to follow EU law, there may be elements of the Proposal that the UK would consider introducing.

Thank you for explaining that your concerns over the proposal to track smaller vessels and for smaller vessels to report their catches relate to the frequency smaller vessels land (often more than once a day), that smaller vessels do not have electronic systems on board, that signal (to enable fishers to supply information prior to landing) can be unreliable and that smaller scale fishers often only sort their catches once ashore. Do other Member States share your concerns? Are you seeking to amend the Proposal to reflect your concerns?

Thank you for explaining that the requirement to submit all information electronically includes information on location, gear used and catch compositions. In our last letter, we asked you to explain what impact you expected this to have on the UK Fisheries Monitoring Centre and the UK Fishing Call Centre, as well as on implementation and data systems and compliance with the Data Protection Act (all concerns you had raised in your Explanatory Memorandum). We restate that request.

Thank you for explaining you are awaiting the Commission's response to your concerns over the imposition of penalty points. Please let us know what response you receive.

We note other Member States share your concerns over the aspects of the Proposal related to recreational fisheries. We also note that there is no system in place currently in the UK to monitor recreational fisheries, or to enforce compliance with legislation, as you consider it to be impractical and without clear benefits. In our last letter we asked what proportion of the UK catch sea anglers are responsible for; we note you have not provided a response. Could you confirm whether or not that information is known?

Thank you for explaining that you believe the variations in the types of Remote Electronic Monitoring available could cause difficulties in being able to share data with inspectors and that you believe agreements on standards for audits and data sharing need to be reached. Do other Member States share your concerns? Is work currently being done to develop these agreements?

We note that, while you have concerns at the level of investment required to implement the proposed measures on traceability, you have not made any assessment of the potential cost. We would recommend you consider conducting such an assessment, in order to properly understand the potential impact of the Proposal.

We note that the UK would not have access to the CATCH system in a 'no deal' Brexit scenario, but observe this would only cause a problem if the UK decided to implement this aspect of the Proposal. Please could you confirm that if an implementation (transition) period is agreed there will be no difficulty in linking catch certificates to the CATCH system?

Thank you for explaining that other Member States share your concerns over the obligation for continuous engine power monitoring, and for logging and recording lost fishing gear. Please keep us updated on negotiations over these aspects of the Proposal.

Finally, please provide an update on progress of the Proposal overall and any additional concerns that have arisen.

We have decided to retain this Proposal under scrutiny and look forward to a reply to this letter within 10 working days. As you will be aware, we are currently conducting an inquiry into the implementation of the EU landing obligation, which will also include examination of some of these issues.

19 December 2018

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 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 our Energy and Environment Sub-Committee at its meeting on 12 September.

We note that, at the time of writing the EM, you were still in the process of considering the impact of the Proposal on the UK. Please provide an update on this work, including the potential financial implications of the Proposal on the UK.

You state in the EM that the actions set out in the Proposal are broadly consistent with Government policy. Do you therefore intend to support them all, or do any concerns arise?

We note that there is a possibility that HM Treasury's work on Single Use Plastics may result in a different definition than the one contained in the Proposal. Please let us know if that is the case and, if so, what the impact of the difference will be.

Finally, please provide an update on the negotiations that have taken place to date on this Proposal, and any amendments that have been agreed.

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

12 September 2018

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

Thank you for your letter dated 12th September 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 have provided a response to the questions you asked of Explanatory Memorandum 9465/18 below:

- 1) We note that, at the time of writing the EM, you were still in the process of considering the impact of the Proposal on the UK. Please provide an update on this work, including the potential financial implications of the Proposal on the UK.

During a series of Working Groups to agree direction with Member States, the UK has identified areas where we believe the EU's directive could be closer aligned to the UK's position. We will be negotiating on these points during the Working Groups to ensure any existing differences between the EU and UK direction of travel on the matter are either realigned or regulated appropriately to ensure our national interests are not damaged by the directive.

- 2) You state in the EM that the actions set out in the Proposal are broadly consistent with Government policy. Do you therefore intend to support them all, or do any concerns arise?

I wish to firstly emphasise the ambitious approach the UK are committed to taking in the negotiations with fellow EU Member States. During the recent working party, we made our support clear while asking for greater clarity on a number of issues.

We are supportive of EU proposals to enforce product requirements on single use plastic products that have caps and lids made with a significant amount of plastic. The article proposes such products are only placed on the market if the caps and lids remain attached to the container during the product's intended use stage, and we have pushed the EU to extend such requirements to include gel pouches which are currently not included in the Directive.

I would also like to draw your attention to our ambition to change references of awareness raising measures instead to wording focussed around behaviour change campaigns. This reflects our position that any campaigns designed will carry greater impact in preventing and reducing plastic marine litter if the goal of such campaigns

is to actively change consumer behaviour towards single use plastics, rather than simply providing information on the subject.

Finally, there has been great discussion on the Directive's Article 8 Extended Producer Responsibility. The UK have taken the position to support the ambition of the Article whilst seeking clarity on a number of more contentious points it raises, such as the scope and meaning of 'separate collection' for single use plastics waste. We are also negotiating to expand the Article to include options for alternative, equivalent measures that can still help achieve the main objectives of the Directive, recognising that ERP may not always be the best method of driving the desired outcomes for particular products.

- 3) We note that there is a possibility that HM Treasury's work on Single Use Plastics may result in a different definition than the one contained in the Proposal. Please let us know if that is the case and, if so, what the impact of the difference will be.

A number of working parties having now taken place since the EM was published, the most recent of which was on September 10th and the next scheduled for September 28th. As part of these negotiations, the UK have provided challenge to the EU's proposed definition of single use plastics. Findings from the call for evidence issued by Her Majesty's Treasury earlier this year suggested including a useful temporal element to the definition, something which is currently missing from the definition proposed by the Commission. In our written comments following the working Group on the 10th September, we suggested changes to the definition of Single Use Plastic in the Directive to bring this into line with that used by HMT. We continue to negotiate on this important definition.

- 4) Finally, please provide an update on the negotiations that have taken place to date on this Proposal, and any amendments that have been agreed.

The UK is making a conscious effort to be ambitious on this proposal, matching the EU proposition where appropriate and going further than these in a number of areas.

We will continue to negotiate with the EU in what we expect to comprise of two Working Groups per month in Brussels through to December 2018. I am confident the UK can continue with our ambitious approach to this Directive and continue to drive our position as a global leader in tackling environmental issues relating to plastics pollution.

26 September 2018

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

Thank you for your letter on the above Proposal, dated 26 September, which was considered by our Energy and Environment Sub-Committee at its meeting on 17 October.

In our last letter, we asked you to provide your assessment of the impact of the Proposal on the UK, including the potential financial implications. This does not appear to be contained in your letter, and so would ask again for it to be provided.

We note that you have identified areas where the EU's direction of travel differs from the one you wish to take in the UK. Please outline what these are, and how your negotiations on these issues have progressed.

We note your support for the proposal to ensure products are produced in such a way that caps and lids remain attached to containers whilst in use. We note that you would like to see this measure extended to include gel pouches. What support have you obtained for this position?

We note that you would like the Proposal to focus on behaviour change campaigns, rather than awareness raising. Please provide an update on discussions on this issue.

We note that you are seeking clarity on aspects of the Extended Producer Responsibility elements of the Proposal. Please explain your concerns in more detail.

We note that you have suggested changes to the definition of Single Use Plastics. Please provide more detail on the changes you have proposed. Has there been any progress in your negotiations on this point?

Finally, please provide an update on the negotiations on the Proposal overall.

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

19 October 2018

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

Thank you for your letter of 19 October with regards to 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 have provided a response to the further questions that you have raised on Explanatory Memorandum 9465/18 below.

Firstly and with regards to information on the impact of the Proposal on the UK (including the potential financial implications), the impact of the Directive on the UK marine environment will be positive by reducing the amount of plastic litter found on our beaches and in our coastal waters. In terms of financial implications, the Directive will be a significant driver in the promotion of a more efficient Circular Economy. We are ensuring the Directive gives industry suitable, yet ambitious, timeframes for implementation of new legislation. For example, in terms of items such as plastic cotton bud sticks and plastic straws the earliest an EU ban would be introduced is 2021. However, in England we are looking to act faster, with a ban on these items potentially introduced between October 2019 and October 2020, pending analysis on a public consultation published by Defra on 22 October.

The EU did publish an Impact Assessment for this Directive, which was assessed by Defra's Evidence and Analysis team. At the request of HMT officials, Defra's Waste and Resources Team are in regular contact with other Government Departments to keep them informed of the negotiations, with particular reference to the economic implications. The measures that the Directive proposes in respect of Extended Producer Responsibility schemes are a particularly important aspect for the UK and we are seeking the flexibility to use alternate methodologies to fund, as a minimum, the costs to clean up single-use plastics litter and the awareness-raising measures attached to the sale of such products.

On your second point, at times the EU's direction of travel has differed from that of the UK's preferred direction. As an example, I can point to the inclusion of glass/metal beverage containers with plastic lids/caps. At the Working Party held on 23 October, there was disagreement between Member States on whether beverage containers made out of glass/metal with plastic lids/caps should be included within the scope of the Directive. The UK supports the inclusion of such items and have made this clear to the Presidency.

Thirdly, whilst our policy teams suggested the inclusion of product tethering requirements for gel pouches, this suggestion has not been supported by the EU so far. We proposed this at a Working Party, as well as in a bilateral meeting with the Austrian presidency.

On the fourth point, regarding a focus should be given to behavioural change campaigns, rather than simply awareness raising, the UK has proposed wording on behavioural change to be included in the Directive in both working parties and the bilateral meeting. In our most recent Working Party, we were able to agree on the inclusion of 'as well as incentivise responsible consumer behaviour resulting in reduced littering', which we feel suitably addresses the importance of changing behaviours in regards to plastics consumption and waste.

On the fifth point, where we have previously stated that we are seeking clarity on aspects of the Extended Producer Responsibility (EPR) elements of the Proposal, this was in line with our concerns that EPR is not the best tool to be used for reducing marine litter from certain products, namely the non-packaging products the EPR article references (tobacco products, wet wipes, and balloons). Article 8 currently does not give Member States the degree of flexibility to use alternative schemes to EPR (such as a levy) that we would like. A number of other Member States (Denmark, Germany, Finland, and Croatia amongst others) would also like to see greater flexibility and both Denmark and Germany have submitted written alternatives for the text to address this matter. We await the Presidency's response in the next compromise text, but are confident they will make the necessary changes.

On your sixth point, the UK has continued to ask the presidency to amend the definition of Single-Use Plastic Products, including text that will give the definition a temporal element. We have therefore suggested the inclusion of 'to be used only once over a short time span before it is discarded', which we believe will improve the definition and give it a tighter meaning for what constitutes such type of

products. The European Parliament has proposed a very similar definition to ours and we await to see the response of the Austrian Presidency in the next compromise text.

Finally, on the general progress of negotiations for the Single-Use Plastics Directive, there have been a number of fast-paced Working Parties held throughout September and October, with four Working Parties and a bilateral meeting with the Austrian Presidency taking place. On Tuesday 23 October my officials attended the penultimate Working Party, at which a discussion of a further draft of the Presidency Compromise text was undertaken. An extra and last Working Party has now been scheduled for Monday 29 October where the Member States will discuss the European Parliament amendments. The EP voted on the Proposal in a plenary session on Wednesday 24 October, where the vote was 571 in favour, 53 against and 34 abstentions.

Following the final Working Party, the Directive will be going to Coreper discussions on 31 October, where the Presidency is aiming to gain a common position so that they can begin trilogue meetings with the Commission and the Parliament in the first week of November, (the provisional date is 6 November, but we await formal confirmation).

To summarise, the officials in my Department working on this Directive have ensured that the UK is vocal in taking an ambitious approach and is in a position that we can largely support what is currently being proposed by the Presidency.

30 October 2018

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

Thank you for your letter on the above Proposal, dated 30 October, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 November.

Thank you for explaining that your overall assessment of the Proposal is that it would be positive, both in terms of reducing plastic marine litter and supporting the circular economy. We note that your department has assessed the Commission's impact assessment. Did they identify any aspects of the Proposal likely to have a particularly positive, or challenging, impact on the UK?

Thank you for providing an example of where the UK's preferred direction has differed to that of the EU. In that case - whether beverage containers made out of glass or metal, but with plastic lids, should be within the scope of the Directive - what agreement was reached?

We note that you have not obtained support, so far, for your suggestion that gel pouches be included as part of the product tethering requirements. Please update us if this changes.

Thank you for explaining that you successfully proposed alternative wording that includes reference to behaviour change as well as awareness raising campaigns.

We note your concern that Extended Producer Responsibility is not the best tool to reduce marine litter from all products and that you would prefer the flexibility to use alternative methods (such as levies) for products such as wet wipes, balloons and tobacco products. We note a number of Member States share your concerns and your confidence that the Presidency will make the necessary changes in the text. Please keep us updated on this issue.

Thank you for sharing the alternative text you have suggested for the definition of 'single use plastics'. We note that the European Parliament has proposed a similar definition and that you are awaiting the Presidency's response. Again, please keep us updated on how this issue progresses.

Thank you for providing details of the Proposal's progress through Working Parties and the European Parliament. We note that trilogue discussions are due to begin in early November. Please keep us updated on how these progress.

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

14 November 2018

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

Thank you for your letter dated 14 November 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 have provided responses to the questions asked below, but can I ask whether scrutiny can be lifted before the final Trilogue meeting that is scheduled for 18 December?

My responses to your specific questions are as follows: -

1) Overall, my Department's policy officials felt that the Commission's impact assessment was useful. It incorporated studies and evidence from JRC reports, Eurobarometer surveys, open public consultation results and literature sources to identify the top 10 most common single-use plastic items found on EU beaches that are the focus of this Directive.

2) To date, it has been agreed that beverage containers made out of glass or metal, but with plastic lids, will remain out of scope for the Directive. However, as part of a review in 2027 of the single-use plastic items listed in the Annex of the Directive, the inclusion of such beverage containers will be reconsidered.

3) The UK's suggestion of including tethering requirements for gel pouches has not been adopted in the Directive.

4) In terms of Extended Producer Responsibility Schemes (EPR), the Presidency, Commission and Parliament have not agreed to insert flexibility for the use of alternative measures (such as levies) explicitly in the text. We do not expect any further movement in the negotiations on this.

5) Regarding the UK's suggested text on the definition of 'single-use plastic product', as you state, similar wording was initially proposed by the European Parliament but has subsequently been retracted. We will support the Presidency definition and this definition is highly unlikely to be changed.

6) Negotiations have continued to move at pace. The Sixth Working Party took place on 13 November and the Directive went to Coreper discussions on 31 October. The Coreper meeting gave the Presidency the necessary mandate to begin a series of Trilogue meetings to finalise an agreed text. The UK stressed the importance of ensuring an ambitious proposal, noting a willingness to explore ways in which we might achieve this.

The first Trilogue meeting on 6 November was both positive and constructive, although the parties did have differing positions on a number of issues for which common ground will need to be found. All parties were keen to reach an ambitious and swift agreement, with the aim to conclude discussions by the end of the year. The second Trilogue is scheduled for 28 November, and the final one, as I have said, on 18 December.

I hope these updates provide you with all information and detail you require at this stage. I want to underline the point that we have taken an ambitious approach to the negotiations on this Directive in line with our national ambitions, and we are now in a position where we can largely support what is currently being proposed by the Presidency.

29 November 2018

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

Thank you for your letter dated 14 November 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**. In addition to my letter of 29 November that responded to some specific questions regarding the proposal, I would like to take the opportunity to submit a further letter that I hope will provide some additional clarity on the agreed and expected positions of the key measures that are included in the Single-Use Plastics (SUP) Directive. I am asking the committee to consider clearing scrutiny in light of the further information provided in this letter.

Whilst the negotiations are still ongoing, my policy officials are confident that at this stage we can be certain on the direction of a number of key articles in the text, and I would like to provide you with an overview based on this below:

Article 4 – Consumption Reduction

- There will not be a quantitative reduction target in this Article, but rather the wording that has been adopted is that of ‘an ambitious and sustained reduction...leading to a substantial reversal of increasing consumption trends and leading to a measurable quantitative reduction over time.’
- Member States (MS) will report to the Commission on the national measures and programmes undertaken to achieve this reduction in the items listed under Part A of the Annex (e.g. food containers used for fast food or other meals ready for immediate consumption, cups for beverages, and paper plates with plastic linings) ‘with a view to the establishment of binding quantitative Union targets for the consumption reduction.’

Article 5 – Market Restrictions

- General agreement on the banning of items (e.g. plastic cutlery, plastic plates, and beverage stirrers), referred to in this Article. The scope has, however, now increased to include food containers, beverage containers and cups for beverages that are made of expanded polystyrene.
- It is worth noting that in terms of items such as plastic-stemmed cotton buds and plastic straws, the earliest an EU ban would be introduced is 2021. However, domestically we are looking to act faster, with a proposed ban on these items being introduced between October 2019 and October 2020, pending analysis on the public consultation we published on 22 October.

Article 6 – Product Requirements

- Whilst this Article is still causing tension in the negotiations, we expect that we will be required to adopt legislation which makes it mandatory for beverage containers that ‘have caps and lids made of plastic to be placed on the market only if the caps and lids remain attached to the container during the product’s intended use stage.’
- This tethering requirement will not apply to glass and metal beverage containers that have caps and lids made of plastic, but (as part of a review in 2027 of the single-use plastic items listed in the Annex of the Directive) the inclusion of such beverage containers will be reviewed.
- There has been much discussion on the inclusion of a 35% recycled content target for plastic bottles under Article 6. However, this has now been moved to recital 13 so it would not be legally binding. The UK has supported this target.
- A further matter to be resolved concerns the date of entry into force of Article 6. At present, this would take place 3 years after entry into force of the Directive, but in relation to beverage containers for carbonated drinks, it would be 5 years.

Article 7 – Marking Requirements

- Member States will be required to adhere to the following marking requirements on relevant items:
 - Labelling on products to provide information on the appropriate waste management options for the product, or waste management means to be avoided for that product;
 - Labelling on products to provide information on the negative environmental impacts of littering or other inappropriate waste disposal of the products due to the presence of plastics in the product.

Article 8 – Extended Producer Responsibility

- In terms of Extended Producer Responsibility Schemes (EPR), the Presidency, the European Commission and the European Parliament have not agreed to insert the requested flexibility for the use of alternative measures (such as levies) explicitly in the text. We do not expect any further movement in the negotiations on this.
- Items will be subject to the minimum requirements of EPR set out in the Waste Framework Directive, and the schemes will additionally cover ‘at least the costs to clean up litter and the costs of the awareness raising measures.’ The costs to clean up litter are to be ‘established in a proportionate way.’

- EPR for fishing gear containing plastic will be subject to the same minimum requirements as those set out in the Waste Framework Directive.
- In addition, Member States will be required to take measures aiming at achieving a minimum annual collection rate of waste fishing gear containing plastic for recycling.

Article 9 – Separate Collection

- Whilst not finalised, we expect to see the following separate collection targets for recycling introduced as part of the Directive:
 - No later than by 2025, an amount of waste single-use plastic beverage bottles equal to 75% of such single-use plastic products placed on the market in a given year by weight will be required, rising to 90% by 2030.
- In order to achieve these objectives, Member States may either:
 - Establish deposit-refund schemes, or
 - Establish separate collection targets for all relevant extended producer responsibility schemes.
- We expect any deposit-return scheme introduced in the UK to be designed in accordance with the details that will be set out in the Resource and Waste Strategy that we will be publishing later this month.

Article 10 – Awareness Raising Measures

- The Austrian Presidency has taken note of the UK’s call for direct reference to behavioural change measures that would support any awareness raising campaign: ‘Member States shall take measures to inform on as well as incentivise responsible consumer behaviour, resulting in reduced littering of products covered by this Directive.’
- The measures introduced by Member States will inform customers of:
 - The availability of reusable alternatives, re-use systems and waste management options;
 - The impact of littering and other inappropriate waste disposal of products; and
 - The impact on the sewer network of inappropriate waste disposal of those products.

Recital 11a – Tobacco Products

- All Member States are keen to reinforce the ambition on tackling waste caused by tobacco filters, and a new recital has been added to provide further information on this. This recital acknowledges the big share of tobacco product filters containing plastic among the most littered single-use plastic items and calls upon Member States to encourage and promote innovation in relation to alternatives and measures to reduce post-consumption waste of such products, citing EPR schemes as the primary tool to help achieving this.

The Commission, the Austrian Presidency and other Member States are keen to reach an ambitious and swift agreement on this Directive, with an aim of concluding discussions by the end of the year. The second Trilogue meeting took place on 28 November, and the final one is scheduled to take place on 18 December. We then expect the Directive to go to the Environment Council on 20 December where we hope to be in position to adopt a final text.

I hope that this information is sufficient and provides you with the required details at this stage. We have taken an ambitious approach to the negotiations on this Directive in line with our stated priorities and we are now in a position where we feel we can largely support what is currently being proposed.

5 December 2018

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

Thank you for your letters on the above Proposal, dated 29 November and 5 December, which were considered by our Energy and Environment Sub-Committee at its meeting on 12 December.

We note you considered the Commission's impact assessment to have been useful, although you make no comment on its findings in relation to what impact the Proposal might have on the UK. Did it provide any indication of impact?

Thank you for explaining that beverage containers made out of glass or metal, but with plastic lids, are likely to remain outside the scope of the Directive until at least 2027.

We note that the UK's suggestion of including tethering requirements for gel pouches has not been accepted.

We note that there has not been the agreement you expected on including a flexibility for alternatives to Extended Producer Responsibility (EPR). Given your view that EPR is not the best tool to reduce marine litter from certain products, and that you wanted to secure the flexibility to use alternative schemes such as levies, what challenges will this pose for your preferred direction of travel in the UK? What assessment have you made of the different outcomes likely to be generated by EPR and by a levy?

We note that the alternative definition you proposed for 'single use plastic' was not accepted, but that you are willing to support the Presidency definition.

We note that, at the time of writing, some issues remain unresolved. Please provide an update on the final outcome and the UK's view on the final text.

We note the final trilogue is expected on 18 December, before going to Environment Council on 20 December for adoption. Thank you for explaining that you are content to support the text as it stands. We are therefore content to release the Proposal from scrutiny and look forward to your response in due course.

12 December 2018

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 18 July 2018 about the above proposal.

You refer to the low rate of waste water reuse in the UK. While it is true that there is currently little or no planned reuse of waste water for crop irrigation purposes, treated waste water discharged from sewage treatment works can form a large part of the flow in certain rivers, particularly during the summer months. This is therefore not a wasted resource as it contributes to maintaining the flow of rivers and the provision of environmental benefits. Once blended with river water it can subsequently be abstracted downstream of the discharge, for various purposes, including for agriculture or for drinking water purposes, following appropriate treatment. Treated waste water therefore already helps to address the challenge of water scarcity which you describe, though not in the direct manner covered by the Commission proposal.

You may be interested to note that the recent National Infrastructure report 'Preparing for a drier future: England's water infrastructure needs', identified water reuse as an option that water companies should consider when identifying what mix of water resource options is the best approach. The Government expects water companies to consider all options, including water reuse, to make sure water supplies are secure in their long term water resources management plans. As part of their management plans, most water companies are considering the reuse of treated waste water for drinking water and non-potable purposes, drawing on European and global experiences of such schemes. Plans are produced every five years and set out how companies plan to maintain secure water supplies by balancing water supply and demand for at least the following 25 year period. Plans are informed by guidelines issued by Defra, Ofwat and the Environment Agency and include accounting for the impact

of climate change and population growth. Water companies consulted on their draft plans earlier this year and will submit revised draft plans to the Secretary of State early in the autumn.

With regard to the comment in the Explanatory Memorandum about drawing on the expertise of other Member States, this was made in the context of commenting on the inclusion in the proposal of powers available to the Commission to use a delegated act to lay down technical specifications, subject to consultation with Member States. We did not propose to object to this and commented that it would be useful to draw on the expertise of other Member States. Cyprus, Malta, Italy, Greece and Spain are the countries with the highest rate of waste water reuse and we would expect best practice in these countries to inform the development of the regulation and any underpinning guidance and subsequent use of delegated acts, if the proposal is adopted.

You ask if we have confirmation that it would be possible to charge reclamation plant operators to cover the increased resources to support permitting and monitoring. Our intention is that costs associated with permitting for waste water reuse should be recovered, in line with the principle established for other permitting schemes. Whether existing legislation and charging schemes could cover charging for the issuing of permits under this proposal would depend on whether we wish to incorporate the reclamation permit into existing environmental permitting procedures or consider a different route to achieve our policy aim (that is, of cost recovery). We will need to explore this issue further as we develop our understanding of the most effective means of implementing the proposal.

On the other points you have raised regarding the views of stakeholders on the impact of the proposal, I will update the Committee on this in due course, as requested.

I hope that this additional information is helpful to the Committee in its consideration of the proposal.

1 August 2018

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

Thank you for your letter, dated 1 August, on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 5 September.

We note your explanation that, whilst the UK has low rates of direct waste water reuse, treated waste water is discharged into rivers and therefore contributes to the volume available to be abstracted for use in agriculture and other purposes. We also note that the National Infrastructure Commission identified water reuse as an option that water companies should be considering. We look forward to receiving details of the feedback you get from stakeholders on whether this Proposal could increase water reuse in the UK.

We note that Cyprus, Malta, Italy, Greece and Spain have the highest rates of water reuse in the EU. Is there anything that the UK could learn from these countries in relation to increasing water reuse?

We note that you are still considering how best to reclaim the costs of the new permitting and monitoring requirements in this Proposal from reclamation plant operators.

We look forward to receiving an update on your stakeholder consultation, including on whether stakeholders share your concerns that the burden of risk management frameworks and issuing permits could discourage the uptake of reuse schemes. Have any other Member States expressed similar concerns?

Please also keep us updated on your discussions with the EU on this Proposal, and any changes that are suggested in the course of negotiations.

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

6 September 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE ALIGNMENT OF REPORTING OBLIGATIONS IN THE FIELD OF ENVIRONMENT POLICY (9617/18)

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 our Energy and Environment Sub-Committee at its meeting on 12 September.

We note that, while you welcome some aspects of the Proposal, you raise significant concerns about some of the proposed changes.

We note that you intend to discuss the proposed changes to the Sewage Sludge Directive with the devolved administrations and the water industry. Please provide an update on these discussions, and any concerns that arise, once this has taken place.

We note that you consider the proposed changes to reporting requirements in the Environmental Liability Directive to be disproportionate and impractical. Please provide examples of the type of information the Proposal would require, that you consider unobtainable, commercially confidential or having the potential to affect legal proceedings. Please also provide an update on the discussions you have had with the Commission about your concerns, and any explanation they have provided as to what they believe the benefits of this additional reporting would be. Do other Member States share your concerns about the lack of consultation and regulatory impact assessment? What alternative reporting mechanism would you propose, to enable the public to access information on instances involving environmental damage and the Commission to evaluate the implementation of the Directive?

In relation to the Proposal's changes to the Birds' Directive, we note your concern that they have the potential to introduce "disproportionately onerous" reporting requirements. Please specify the precise requirements you are concerned about. Please also provide an update on your discussions with the Commission about your concerns.

We note your concern that UK Competent Authorities may struggle to meet the shortened reporting timescale (from 15 months to nine months) proposed for the European Pollutant Release and Transfer Register Regulation. Please update us on your negotiations with the Commission on this point. In relation to the proposed changes to reporting requirements in the Convention on International Trade in Endangered Species (CITES) Regulation, you state that you want to ensure "the CITES reporting requirements remain aligned with other EU Member States, and with other Member States and the decisions arising from the CoP [Conference of the Parties]". Is this not achieved by the change that the Commission is proposing?

We note that you "are keen to ensure that reporting remains consistent for the FLEGT [Forest Law Enforcement, Governance and Trade] regulation going forward, to avoid administrative burden and avoid technical issues." In what way do you want the reporting to remain consistent and what technical issues do you envisage?

Finally, please provide an update on the discussions relating to this Proposal overall and any changes to the draft that have been proposed.

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

12 September 2018

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

Thank you for your letter of 12th September 2018 setting out the views of the Committee on the above Proposal.

There has been significant positive progress on this file since Minister Rutley's Explanatory Memorandum of 14th June 2018, better aligning it with UK objectives. Member States have worked together to ensure that the regulation now strikes the right balance between providing transparent and useful environmental reporting, whilst not being overly burdensome or disproportionate.

Taking your points in turn, on the proposals for the Sewage Sludge Directive, we held discussions with the devolved administrations and the water industry. During these discussions, concerns were expressed that the proposed amendments to Article 10 1(d) did not provide sufficient confidentiality with regard to the names and addresses of the recipients of the sludge, and the location of where the sludge is to be used. Alongside other Member States, the UK has voiced these concerns and we are confident that the amended proposal will fully address them.

Regarding the proposed changes to Annex VI to the Environmental Liability Directive (ELD), the overarching intent of the Commission's proposal is to improve transparency and quality of the evidence base. The UK believes that these are important objectives, but that they need to be weighed against the burden of collecting such information and the feasibility of doing so. To give one example, the costs of prevention and/or remediation might be unobtainable for regulators or commercially confidential and therefore difficult to make publicly accessible. Furthermore, there are concerns around the timing of publishing information about operators or sites which are under investigation, which could compromise legal proceedings. Alongside a number of other Member States, the UK also has concerns that this proposal is premature, with insufficient detail on the potential impacts of some proposals, as described above. Discussions continue to move forward addressing this key point of proportionality and we are increasingly confident that the concerns of the UK and a large number of Member States will be addressed. We are also, separately, investigating with regulators the feasibility of establishing a UK ELD online platform that would provide the public with information about ELD cases.

The amendment to the Birds Directive to align reporting requirements with those of the Habitats Directive was anticipated and the UK supports the proposal to align the reporting periods. We were initially concerned that the proposal legislated for more detailed reporting requirements than previously required. On balance, however, the UK can support this proposal as we already provide the information required to the Commission on an informal basis under Article 12 of the Birds Directive.

Alongside other Member States, the UK has voiced concerns about the proposed shortening of the reporting timescale for the European Pollutant Release and Transfer Register Regulation (EPRTR) from 15 months to nine months, making it challenging for competent authorities to provide all the information. This is due to the fact that PRTR reporting requires detailed analysis of a multitude of company data and other data sources, all of which takes a substantial time to gather and quality assure its accuracy. The UK is positive that we will reach an achievable compromise that will be deliverable for the relevant competent authorities.

Regarding the Convention on International Trade in Endangered Species (CITES) Regulation, we are supportive of the proposal which is designed to ensure that CITES reporting requirements remain aligned across EU Member States, and are in line with the decision taken by the Parties at the 17th CITES Conference of the Parties in 2016.

With regards to the Forest Law Enforcement, Governance and Trade (FLEGT) Regulation, we support the proposed changes and are keen to ensure that reporting remains consistent from now on for the FLEGT regulation, as this will avoid unnecessary administrative burdens and technical issues arising from potentially not being able to change our systems for data collection in line with changing requirements.

In summary, I hope the encouraging direction of travel for this negotiation serves to reassure the Sub-Committee. I am of course willing to provide further updates to you as the negotiations conclude if that would be helpful.

24 September 2018

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

Thank you for your letter on the above Proposal, dated 24 September, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

We were pleased to hear that progress has been made and that the Proposal is now better aligned with UK objectives.

We note that you are now confident that the amended proposal will address the concerns raised by the industry over the confidentiality of sludge recipients.

Thank you for clarifying your concerns regarding the proposed changes to the Environmental Liability Directive. We note that a number of Member States share your concerns about this aspect of the Proposal, and that discussions are ongoing. Please keep us updated on how these discussions progress.

We note that you are now content to support the proposed amendment to the Birds Directive, as the UK already provides the additional information that this amendment would require.

We note that a number of Member States share your concerns over the shortening of the reporting timescales for the European Pollutant Release and Transfer Register Regulation, and that you believe an achievable compromise will be reached. What is the minimum timescale you believe is achievable? Please keep us updated on negotiations on this point.

Thank you for clarifying that you support the proposed amendments to the Convention on International Trade in Endangered Species Regulation and the Forest Law Enforcement, Governance and Trade Regulation.

Please also keep us updated on negotiations on this Proposal overall, and any other concerns that may arise during the course of these discussions.

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

31 October 2018

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

Thank you for your letter of 31 October 2018.

Since my update of 24 September, we are now approaching the closing stages of the negotiations and are satisfied that a deliverable compromise will be reached which strikes the right balance between providing transparent and useful environmental reporting, whilst not being overly burdensome or disproportionate.

On the Environmental Liability Directive (ELD) we are now confident that either the Proposal will be deleted, or will be drafted in such a way as to satisfy our concerns around proportionality.

On the proposal to amend the reporting timescale for the European Pollutant Release and Transfer Register Regulation (E-PRTR), discussions are progressing in a positive direction and we are confident that an achievable compromise of around 11 months will be secured in the negotiations that would satisfy the UK competent authorities involved.

Given that we are now confident with the progress on this file on all fronts, 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.

6 November 2018

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

Thank you for your letter on the above Proposal, dated 6 November, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 November.

Thank you for explaining that you are confident that the suggested changes to the Environmental Liability Directive will now be removed from the text, or at least reworded to satisfy your concerns regarding proportionality.

We note that you are also confident that a compromise will be reached on the reporting timescales for the European Pollutant Release and Transfer Register Regulation that would satisfy UK authorities.

Given your assurance that all your concerns relating to the Proposal have been, or will be, addressed, we are now content to release this Proposal from scrutiny. Please write to us again when the Proposal is adopted, providing an update on the final outcome.

14 November 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE EUROPEAN MARITIME AND FISHERIES FUND AND REPEALING REGULATION (EU) NO 508/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL (9627/18)

Letter from the Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

We note that you do not intend to participate in the future European Maritime and Fisheries Fund (EMFF) scheme and that work is underway “to consider the longer-term future of all funding programmes that are currently managed by the EU”. When do you expect to make an announcement on what funding will be available, if any, to replace that provided by the EMFF?

We have already cleared this Proposal from scrutiny but look forward to a reply to this letter within 10 working days.

31 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 31 October 2018.

As you are aware the current EMFF scheme comes to an end in December 2020. The EU have announced plans for a replacement EMFF scheme that will run from 2021-2027. We advised in EM 9627/18 that the UK should not participate in the new EU scheme. Leaving the EU means we will want to take our own decisions about how to best deliver the policy objectives previously supported by EU programmes.

As you note in your letter, work to consider the longer-term future of all funding programmes that are currently managed by the EU is underway. It is expected that any decision on replacement domestic arrangements will be taken during the Spending Review 19 (SR19) alongside decisions on all other domestic spending priorities.

12 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter on the above Proposal, dated 12 November which was considered by our Energy and Environment Sub-Committee at its meeting on 21 November.

Thank you for explaining that any decision on a domestic replacement for the European Maritime and Fisheries Fund is likely to take place as part of the 2019 Spending Review.

We have already released this Proposal from scrutiny and are now content to close correspondence on this issue.

22 November 2018

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 Chairman to George Eustice 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 Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 21 November. We note that, of the

TACs set for 2018, 23 exceeded the maximum rate of fishing mortality, despite the Commission proposing TACs which would have been compliant. On what grounds were those TACs set? Do you anticipate a reduction in the figure of excessive TACs in 2019? We also note that the Communication highlights the Mediterranean Sea and Black Sea as areas which are over-fished, and that last year's review reached the same conclusion. We are concerned that little progress appears to be being made in this area. What volume of fish and fish products imported to the UK are ultimately sourced from the Mediterranean and Black Seas, and what assessment have you made of the price and availability of those products if the Seas continue to be over-exploited?

You and the Commission share the view that the full applicability of the landing obligation from 1 January 2019 poses challenges for the EU fishing fleet. We note your view that existing flexibilities will not be sufficient to mitigate those challenges. We will be considering this issue in greater detail through our inquiry on the implementation and enforcement of the landing obligation.

We welcome your agreement that fishing opportunities for 2019 should be set so that stocks achieve their Maximum Sustainable Yield (MSY) where possible. However, given your position that some TACs may need to be set at levels above MSY "to minimise discards of bycatches", have you provided the Commission with economic analysis of the impact that reaching MSY would have on the UK fleets about which you have concerns? We would also remind you that it is vital that, whatever other factors may also be considered, the 2019 TACs must be compliant with ICES' scientific advice; and that allowing TACs to be set at levels above MSY would become a short route to a major depletion of stocks, which is precisely what the CFP seeks to avoid.

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

22 November 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 22 November concerning the above Proposal. I have noted your observations from the 2018 Total Allowable Catch (TACs) set by the Commission and your concerns about fishing sustainability in 2019.

The Commission generally proposes TACs in line with scientific advice provided by the International Council for the Exploration of the Sea. The UK remains committed to the principle of MSY (Maximum Sustainable Yield) and to restoring and maintaining stocks to a healthy condition as quickly as possible. However, in some circumstances, in order to avoid the undesirable outcomes of either undeclared catch or the closure of key fisheries that are choked by insufficient quota for bycatch species, we will consider use of all flexibilities available under the Common Fisheries Policy. The number of stocks with MSY assessments and which are being fished within sustainable limits has been increasing 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. The full implementation of the landing obligation in 2019 poses a number of challenges, but we will continue to promote a MSY approach as far as possible, and continue to work in partnership to achieve sustainable levels of fishing in line with best available scientific evidence.

With regard to imports from the Mediterranean Sea and Black Sea, the Defra Group only has data on fish imports by country of import and not by area of capture. This means that information on fish caught from Mediterranean and Black Sea stocks and then imported to the UK is uncertain. An inability to trace origins of a fish stock once it has gone through a series of steps in the supply chain adds to the uncertainty.

The Commission invited Member States to provide an economic analysis in relation to the implementation of the landing obligation on all stocks in 2019. A preliminary analysis is currently being undertaken by officials in Defra.

4 December 2018

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)

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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)

Letter from the Chairman to George Eustice 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 Proposals, which was considered by our Energy and Environment Sub-Committee at its meeting on 12 September.

We note that the Common Agricultural Policy (CAP) reform is expected to take effect no earlier than 1 January 2021, and as such the details of how the Proposals would work in practice are not immediately relevant to the UK. However, as explored in our scrutiny of the Commission's Communication on the Future of Food and Farming (EM 14977/17), the UK imports 30% of its food from the EU, so UK consumers are inherently affected by its approach to agriculture; and the post-2020 CAP also has the potential to affect competition between UK and EU farmers. During our correspondence regarding that Communication you provided an initial view that the main areas of divergence between future UK and EU agricultural policy would be in relation to income support and direct payments, as well as the provision of new environmental land management schemes, funding for productivity schemes, and compliance and enforcement regimes, but also noted that at the time the Commission's proposals were at an early stage. Now that firm legislative Proposals have been put forward, what is your assessment of the main areas of divergence between future UK and EU agricultural policy? And what is your assessment of the potential effect of the proposals on the UK as a third country?

What progress have you made in securing carve-outs to ensure that the UK is not required to implement any individual Articles that take effect before the end of the expected transition period? In addition, please explain what the Articles in question would require of the UK if you are not successful in agreeing the necessary exemptions.

Please keep us informed regarding the negotiation of these Proposals, and provide an assessment of the impact on the UK of any substantive changes proposed.

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

12 September 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 12 September 2018, in relation to our Explanatory Memorandum on the above proposals.

I shall respond to each of your questions in turn.

Now that firm legislative Proposals have been put forward, what is your assessment of the main areas of divergence between future UK and EU agricultural policy?

The Agriculture Bill is part of the Government's programme of critical legislation to deliver a smooth Exit from the European Union and seize the opportunities of a green Brexit. It will allow us to break from the EU's Common Agricultural Policy (CAP).

Farmers will be supported over a seven year transition period as we leave the CAP. During that time, Direct Payments will be phased out gradually in England. This is a key area of divergence between future policy in England and the future CAP, which proposes that Direct Payments continue.

We will introduce a new environmental land management system, which will bring in a new era for English farming, providing an income stream for farmers and land managers who protect and preserve our natural environment. For the first time, farmers and land managers will be able to decide for themselves how they can deliver environmental benefits from their businesses and their land, and how they integrate this into their food, timber and other commercial activities.

The new system will involve spending public money on public goods, in particular protecting and enhancing our environment by improving air and water quality, improving soil health, increasing animal welfare standards, increasing public access to the countryside and creating measures to reduce flooding.

And what is your assessment of the potential effect of the proposals on the UK as a third country?

We have not conducted a full assessment at this stage of the potential impact of future EU support for agriculture and the environment on non-EU member states. Both the proposed new CAP and our own plans for future support in England are at early stages of the legislative process. The EU proposals in particular may be subject to change and even delay. In any case, my priority is to focus on introducing the best possible framework for our own farmers and agricultural environment. Specifically, we propose a UK-EU free trade area for goods, to ensure continued frictionless access at the border to each other's markets. This would be underpinned by a common rule book for goods, which, for agrifood, would cover only those rules necessary to provide for frictionless trade at the border.

Throughout all our policies we will maintain our standards on food safety, animal welfare and environmental protection as part of any future trade deals.

What progress have you made in securing carve-outs to ensure that the UK is not required to implement any individual Articles that take effect before the end of the expected transition period?

Carve-outs are not necessary. The CAP post-2020 proposals, and all relevant articles, are intended to come into force on 1 January 2021, by which time any Implementation Period will have ended. The UK will leave CFP and CAP and will be free to design agricultural support policies that deliver the outcomes most relevant to our markets within the confines of WTO rules.

The agreement for a time-limited implementation period is an important step towards finalising the Withdrawal Agreement, where the negotiating teams continue to make substantial progress.

21 September 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 21 September on the above Proposals, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

We note your assessment that a key area of divergence between these Proposals and the UK's future agricultural policy is in relation to Direct Payments, with the UK focusing on support for public goods rather than payments based on the area of farmed land. We also note that you have not yet conducted a full assessment of the potential impact of this divergence on the UK as a third country. We recognise that your priority is to introduce the best possible framework for UK farmers and the UK agricultural environment, but must once again remind you that diverging systems of support has the potential to affect the competitiveness of UK farmers in relation to their EU counterparts. We therefore urge you to assess what this impact may be, and request an update on your findings once you have done so.

In your letter you stated that "Carve-outs are not necessary. The CAP post-2020 proposals, and all relevant articles, are intended to come into force on 1 January 2021, by which time any Implementation Period will have ended." However, in your Explanatory Memorandum (EM), you stated: "It should be noted however that specified Articles of the new delivery model Regulation are proposed to apply from the beginning of the EU 2021 financial year (i.e. 16 October 2020). Moreover, certain Articles of the Regulation intended to amend, amongst others, Regulation 1308/2013 may also apply before January 2021 ... the UK would propose to secure a carve-out from any application of any such Article earlier than 1 January 2021." Which of these two statements is correct? If the latter, we restate our original questions: what progress have you made in securing such carve-outs, and what would the Articles in question require of the UK if you are not successful in agreeing the necessary exemptions?

Furthermore, there has recently been discussion of a potential extension to the Brexit transition period, beyond the end of 2020. If this were to take place, and if the Proposals were agreed by the date indicated, the UK would be bound by the Regulations. What would be the impact of this on the UK, and has the possibility of an extended transition period affected your approach to negotiations on this dossier?

In addition, please keep us informed regarding the negotiation of these Proposals, and provide an assessment of the impact on the UK of any substantive changes proposed.

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

31 October 2018

Letter from George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 31 October 2018, in relation to our Explanatory Memorandum (EM) on the above proposals.

I shall respond to each of your comments in turn.

We recognise that your priority is to introduce the best possible framework for UK farmers and the UK agricultural environment, but must once again remind you that diverging systems of support has the potential to affect the competitiveness of UK farmers in relation to their EU counterparts. We therefore urge you to assess what this impact may be, and request an update on your findings once you have done so.

The Common Agricultural Policy (CAP) reform is still in the early stages of negotiation, and we cannot predict at this stage the scale of amendments to the text which could take place before it is ratified. I don't believe that it would be an appropriate use of the Department's energies to undertake a speculative assessment of the impact of the Commission's provisional proposal for the next CAP round. The proposals as currently drafted do not reflect any of the feedback from EU Member States, nor has the European Parliament established its negotiating position. As the CAP Reform moves through the legislative processes of Presidency amendments, European Parliament amendments and trilogue discussions, the regulation finally agreed is likely to be substantially different to the current proposal.

Having said that, DEFRA officials have been attending all Commission meetings and Council Working Parties to discuss CAP 2020 and keep a close eye on developments, continually assessing, at a high level, whether there are impacts for us in the future. I will therefore keep under review whether any more detailed analysis might be needed as proposals reach a later stage of development.

As part of our publication of the Agriculture Bill, which outlined the Government's ambitions for future agricultural policy, the Department published extensive analysis of the effect of moving away from Direct Payments, alongside an analysis of Government intervention in agriculture more broadly and the economic rationale for our future policy. These documents provide the most substantive analysis of the implications of UK agriculture's divergence from the CAP model that can be produced under current circumstances.

What progress have you made in securing... carve-outs [if necessary], and what would the Articles in question require of the UK if you are not successful in agreeing the necessary exemptions?

To clarify, no carve-outs will be necessary as the draft Withdrawal Agreement confirms - the United Kingdom shall be considered as a third country for the purposes of the implementation of the Union programmes and activities committed under the multiannual financial framework applying as from the year 2021.

There has recently been discussion of a potential extension to the Brexit transition period, beyond the end of 2020. If this were to take place, and if the Proposals were agreed by the date indicated, the UK would be bound by the Regulations. What would be the impact of this on the UK, and has the possibility of an extended transition period affected your approach to negotiations on this dossier?

The Withdrawal Agreement that has been agreed in principle ensures that the UK can choose to request an extension of the implementation period, or enter into a backstop arrangement with the EU, if the future relationship with the EU is not ready by 1 January 2021.

If we were to make use of either option the UK would not be in the CAP. We would be free to introduce a new agricultural policy providing the payments remain within certain agreed limits. As a result, this possibility has not led to any revision of our negotiations approach on this dossier. We are firmly committed to delivering on our ambitious agriculture policy, and we will not be seeking to influence the future CAP.

It is worth noting that the Commission's proposal to bring the new CAP into force from January 2021 is, at the time of writing, only a Commission proposal; several Member States have requested a transition period between the current CAP round and the next to prepare for the reforms, which could see the current CAP rolled over until 2022 or 2023. In summary, we still intend not to apply the next CAP and therefore will not be negotiating to influence its direction.

In addition, please keep us informed regarding the negotiation of these Proposals, and provide an assessment of the impact on the UK of any substantive changes proposed.

Negotiations on the CAP Reform proposals are ongoing, with the Austrian Presidency doing a good job of driving discussion and highlighting those aspects of the proposals where compromise can be secured. The Commission's proposals for the next CAP are ambitious, and working-level discussion has been detailed and thoughtful. We continue to attend all CAP reform meetings and observe the negotiations with interest. We have not identified any substantive changes which would impact on the UK.

18 November 2018

Letter from the Chairman to George Eustice MP, Minister of State for Agriculture, Fisheries and Food

Thank you for your letter of 18 November on the above Proposals, which was considered by our Energy and Environment Sub-Committee at its meeting on 19 December.

We note your view that it would not be an appropriate use of Defra's resources to assess the impact on the UK of the Commission's proposals for the Common Agricultural Policy (CAP) post-2020, given the changes that are likely to arise during the negotiations. We would counter that, without carrying

out some degree of assessment, you cannot know on what issues it may be appropriate to intervene, and thus lose a valuable influencing opportunity whilst still a Member State with full access to discussions. However, we note your statement that Defra officials have been closely monitoring developments at Commission meetings and Council Working Parties, and welcome your commitment to continue to consider whether more detailed analysis might be needed later in the process. If you conduct such analysis, please keep us informed regarding your conclusions.

Thank you for clarifying that the UK will not need exemptions from the Articles that are proposed to apply before January 2021 because Article 132 2(a) for the draft Withdrawal Agreement clarifies that the UK will be considered a third country for those purposes.

We note your clarification that the draft Withdrawal Agreement states that the UK would not be part of the CAP during any extension of the transition period. We also note that some Member States have requested an extended introduction of the next CAP which could mean it does not take effect until 2022 or 2023.

Thank you for your observations on the progress of negotiations on this dossier so far. Please keep us informed on any substantive changes as negotiations progress, and provide a highlevel view on whether those changes would have an impact on the UK as a third country.

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

19 December 2018

**PROPOSAL FOR A COUNCIL DECISION AMENDING DECISION 2007/198/EURATOM
ESTABLISHING THE EUROPEAN JOINT UNDERTAKING FOR ITER AND THE
DEVELOPMENT OF FUSION ENERGY AND CONFERRING ADVANTAGES UPON IT
(9868/18)**

**Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities,
Science, Research and Innovation, Department for Business, Energy and Industrial
Strategy**

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

We note that you are seeking “close association” with the ITER project. Please explain in more detail what role you would like the UK to have in the project once the UK has left the EU, how negotiations to achieve that are progressing, and what assessment has been made of the financial contribution this would require.

We have decided to release this Proposal from scrutiny. We look forward to a reply to this letter within 10 working days.

12 September 2018

**Letter from Sam Gyimah MP, Minister of State for Universities, Science, Research and
Innovation**

Thank you for your letters dated 12 September 2018, in which you asked a number of questions relating to the proposed regulation for the 2021-2025 Euratom Research and Training Programme, and enquired about the ITER project. I have provided answers to the questions raised in both letters below.

On the subject of the UK’s future relationship with ITER, you asked:

- 1) We note that you are seeking “close association” with the ITER project. Please explain in more detail what role you would like the UK to have in the project once the UK has left the EU, how negotiations to achieve that are progressing, and what assessment has been made of the financial contribution this would require.**

ITER is a potentially transformative initiative, and it is in the best interests of the UK to ensure that we remain at the heart of the project. The Government wishes to explore association to the Euratom

Research & Training Programme, including continued membership of the EU's Joint Undertaking for ITER – known as Fusion for Energy. This outcome would be similar to the arrangements that Switzerland currently has in place with Euratom, and would allow UK researchers, industry, and institutions continued and uninterrupted access to ITER following the UK's exit from the EU. On 23 May, the Government published its vision for a far-reaching UK-EU Science and Innovation Accord. Association to the Euratom Research & Training Programme – including membership of Fusion for Energy – is anticipated to form a key part of this.

UK officials held preliminary discussions on our future S&I relationship, including on Euratom Research & Training and Fusion for Energy, with the EU's Taskforce 50 over the Summer. These discussions were constructive, and the mutual benefits of continued collaboration in this area were acknowledged. Further detailed discussions on association cannot begin until the regulation for the 2021-2025 Euratom Research & Training programme is finalised. EU Council Working Group discussions on the regulation will not begin until the new year and are expected to end in the spring.

The nature of any future UK financial contribution will be subject to parameters set out in the new regulation, as well as the outcome of future negotiations. The Government is assessing the potential impact of different funding scenarios, but a standard GDP ratio-based mechanism, as used in precedent agreements, is the starting point for this analysis.

Regarding the UK's future relationship with the European Atomic Energy Community Framework Programme for Research and Innovation, you asked:

2) Have negotiations on the UK's association with the Programme begun?

As referenced above, UK officials held early discussions about the future framework of a UK-EU science and innovation partnership,¹ including on Euratom Research & Training, with the EU's Taskforce 50 on 22 May and 7 June 2018.

3) We note that, while you support the changes in the Proposal to increase efficiency and collaboration, you want to ensure this does not result in reductions to funding existing Programme priorities or for the Programme overall. What reassurance have you received from the Commission on this matter? We note your specific concern about the reduction in the fusion budget and that you will be seeking clarity on how that aspect will function. Please provide us with an update on that discussion.

The nature of the funding for the 2021-2025 Euratom Research and Training Programme will be subject to parameters set out in the programme regulation, which is yet to be finalised. Discussions on the regulation are expected to begin in January. We intend to engage fully and constructively in the design of the future programme and will take all opportunities to discuss these specific arrangements.

4) We note that you also wish to explore the “consequences of the addition of ‘innovation and market deployment actions’ to the Programme”. Please explain what your concerns are in relation to this.

Our priorities for the 2021-25 Euratom Research & Training Programme are that it remains focused on excellence, EU-added value, and the best possible research outcomes for the Joint European Torus (JET), for ITER, and for the programme as a whole. This is a new addition to the programme and we consequently require more information on what innovation and market deployment actions would mean in practice and we will be monitoring this closely.

5) Please also provide an update on the discussions that have taken place to-date on this Proposal overall.

Discussions on this proposal have not yet commenced. EU Council Working Group discussions on the regulation will not begin until the new year and are expected to end in the Spring. We intend to engage fully and constructively with this process to help ensure the programme remains aligned with the interests of the UK.

25 September 2018

¹ <https://www.gov.uk/government/publications/framework-for-the-uk-eu-partnership-science-research-and-innovation>

**Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities,
Science, Research and Innovation**

Thank you for your letter on the above Proposal, dated 25 September, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

We note that you are seeking continued membership of the EU's Joint Undertaking for ITER, following a similar model to the relationship that Switzerland has with the project, and that you held preliminary discussions with the EU's Taskforce 50 over the summer. We note that detailed discussions cannot begin until the 2021-25 Euratom Research and Training Programme is finalised, and that any future financial contribution from the UK to the project is subject to negotiations.

This is an issue that the Sub-Committee will continue to follow with interest, but we are now content to close correspondence on the Commission Proposal.

31 October 2018

**PROPOSAL FOR A COUNCIL REGULATION ESTABLISHING THE RESEARCH AND
TRAINING PROGRAMME OF THE EUROPEAN ATOMIC ENERGY COMMUNITY FOR
THE PERIOD 2021-2025 COMPLEMENTING HORIZON EUROPE – THE FRAMEWORK
PROGRAMME FOR RESEARCH AND INNOVATION (9871/18)**

**Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities,
Science, Research and Innovation, Department for Business, Energy and Industrial
Strategy**

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

We note that you believe the Proposal would allow for the UK to continue to participate in the Programme as a third country, providing a suitable level of financial contribution can be agreed. Have negotiations on the UK's association with the Programme begun?

We note that, while you support the changes in the Proposal to increase efficiency and collaboration, you want to ensure this does not result in reductions to funding existing Programme priorities or for the Programme overall. What reassurance have you received from the Commission on this matter? We note your specific concern about the reduction in the fusion budget and that you will be seeking clarity on how that aspect will function. Please provide us with an update on that discussion.

We note that you also wish to explore the "consequences of the addition of 'innovation and market deployment actions' to the Programme". Please explain what your concerns are in relation to this.

Please also provide an update on the discussions that have taken place to-date on this Proposal overall.

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

12 September 2018

**Letter from Sam Gyimah MP, Minister of State for Universities, Science, Research and
Innovation**

Thank you for your letters dated 12 September 2018, in which you asked a number of questions relating to the proposed regulation for the 2021-2025 Euratom Research and Training Programme, and enquired about the ITER project. I have provided answers to the questions raised in both letters below.

On the subject of the UK's future relationship with ITER, you asked:

- 1) We note that you are seeking "close association" with the ITER project. Please explain in more detail what role you would like the UK to have in the project once the UK has left the EU, how negotiations to achieve that are progressing, and what assessment has been made of the financial contribution this would require.**

ITER is a potentially transformative initiative, and it is in the best interests of the UK to ensure that we remain at the heart of the project. The Government wishes to explore association to the Euratom Research & Training Programme, including continued membership of the EU's Joint Undertaking for ITER – known as Fusion for Energy. This outcome would be similar to the arrangements that Switzerland currently has in place with Euratom, and would allow UK researchers, industry, and institutions continued and uninterrupted access to ITER following the UK's exit from the EU. On 23 May, the Government published its vision for a far-reaching UK-EU Science and Innovation Accord. Association to the Euratom Research & Training Programme – including membership of Fusion for Energy – is anticipated to form a key part of this.

UK officials held preliminary discussions on our future S&I relationship, including on Euratom Research & Training and Fusion for Energy, with the EU's Taskforce 50 over the Summer. These discussions were constructive, and the mutual benefits of continued collaboration in this area were acknowledged. Further detailed discussions on association cannot begin until the regulation for the 2021-2025 Euratom Research & Training programme is finalised. EU Council Working Group discussions on the regulation will not begin until the new year and are expected to end in the spring.

The nature of any future UK financial contribution will be subject to parameters set out in the new regulation, as well as the outcome of future negotiations. The Government is assessing the potential impact of different funding scenarios, but a standard GDP ratio-based mechanism, as used in precedent agreements, is the starting point for this analysis.

Regarding the UK's future relationship with the European Atomic Energy Community Framework Programme for Research and Innovation, you asked:

2) Have negotiations on the UK's association with the Programme begun?

As referenced above, UK officials held early discussions about the future framework of a UK-EU science and innovation partnership,² including on Euratom Research & Training, with the EU's Taskforce 50 on 22 May and 7 June 2018.

3) We note that, while you support the changes in the Proposal to increase efficiency and collaboration, you want to ensure this does not result in reductions to funding existing Programme priorities or for the Programme overall. What reassurance have you received from the Commission on this matter? We note your specific concern about the reduction in the fusion budget and that you will be seeking clarity on how that aspect will function. Please provide us with an update on that discussion.

The nature of the funding for the 2021-2025 Euratom Research and Training Programme will be subject to parameters set out in the programme regulation, which is yet to be finalised. Discussions on the regulation are expected to begin in January. We intend to engage fully and constructively in the design of the future programme and will take all opportunities to discuss these specific arrangements.

4) We note that you also wish to explore the “consequences of the addition of ‘innovation and market deployment actions’ to the Programme”. Please explain what your concerns are in relation to this.

Our priorities for the 2021-25 Euratom Research & Training Programme are that it remains focused on excellence, EU-added value, and the best possible research outcomes for the Joint European Torus (JET), for ITER, and for the programme as a whole. This is a new addition to the programme and we consequently require more information on what innovation and market deployment actions would mean in practice and we will be monitoring this closely.

5) Please also provide an update on the discussions that have taken place to-date on this Proposal overall.

Discussions on this proposal have not yet commenced. EU Council Working Group discussions on the regulation will not begin until the new year and are expected to end in the Spring. We intend to engage fully and constructively with this process to help ensure the programme remains aligned with the interests of the UK.

² <https://www.gov.uk/government/publications/framework-for-the-uk-eu-partnership-science-research-and-innovation>

25 September 2018

**Letter from the Chairman to Sam Gyimah MP, Minister of State for Universities,
Science, Research and Innovation**

Thank you for your letter on the above Proposal, dated 25 September, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 October.

We note that discussions were held in May and June 2018 with the EU's Taskforce 50 on the potential for continued UK participation in the Euratom Research and Training Programme, but that they cannot progress until the Regulation is finalised.

We note that, in relation to your concerns that there may be reductions to existing Programme budgets (particularly the fusion budget), the details are yet to be finalised and are not expected to be discussed until January. Please keep us updated on what parameters are proposed, and your response to them.

We note that you are also awaiting more detail on the intention to add 'innovation and market deployment actions' to the Programme. Again, please keep us updated on what parameters are proposed, and your response to them.

Please also keep us updated on discussions on the Proposal overall, which we note are due to begin in the new year.

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

31 October 2018