HOUSE OF LORDS
European Union Committee

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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 January – 30 July 2018

ENERGY AND ENVIRONMENT SUB-COMMITTEE

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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 an update on progress with the negotiations on these Commission proposals.

The issue and the proposals

Endocrine disruptors are chemicals that may cause harm to people or the environment through effects on the hormone systems. The legislative proposals accompanying the Commission Communication related to two types of chemicals - plant protection products (PPPs) and biocidal products (BPs). For both of these types of chemical, the existing framework regulations included a requirement that (with certain exceptions which are very narrow for PPPs and somewhat broader for BPs) endocrine disruptors cannot be used. However, in both cases the definition of an endocrine disruptor was set on an interim basis with the European Commission being charged with setting the final definition. The framework legislation in these areas is explained in more detail at paragraphs 2 to 5 of the EM.

The Commission made two proposals to set down the process for identifying endocrine disruptors for the purpose of the PPP and BP legislation respectively. The proposal for PPPs would also have allowed use of endocrine disruptors assessed as posing negligible risk, broadening the exemption for negligible exposure that is currently written into the legislation. The same issue did not arise for BP since the Regulation already allowed approval of endocrine disruptors where risk is negligible, and in certain other circumstances.

The Government was not supportive of the provisions for endocrine disruptors in the framework legislation for PPPs. The interim criteria for identifying endocrine disruptors were not scientifically rigorous and the lack of any provision to allow the use of an endocrine disruptor even when this would pose a low risk was disproportionate. The Government therefore regarded the Commission's original proposals as acceptable because the proposed criteria for identifying endocrine disruptors were scientifically sound and we agreed with the proposal to allow the use of endocrine disruptors posing negligible risk. In the case of BPs the same considerations applied to the setting of criteria.

The progress of the negotiations for PPPs

During discussions in technical working groups, the Commission made a number of minor changes to the criteria for identifying endocrine disruptors, which did not greatly change the impact of the proposals. More importantly, they put the negligible risk exemption for PPPs into a separate proposal which they intend to bring forward once the criteria have been agreed.

The Commission took a vote on the proposed criteria on 4 July. At that meeting of the Standing Committee on Plants, Animals, Food and Feed, the Commission obtained a Qualified Majority. The UK abstained because, although we regarded the criteria as scientifically sound and reasonable in themselves, we did not agree that PPPs should be banned if they pose negligible risk in use.

The proposal was sent for the required Scrutiny by the Council of Ministers and the European Parliament. The European Parliament rejected the proposals on 4 October on the grounds that the draft regulation exceeded the Commission's implementing powers. Specifically, they objected to a provision enabling PPP active substances such as insect growth regulators to be approved where their intended mode of action is via the endocrine system of the organism.

The Commission put a revised proposal, omitting the provision opposed by the European Parliament, to the Standing Committee on 13 December. The proposal was agreed by a qualified majority with the UK again abstaining. It will now go for Scrutiny by the Council of Ministers and the European Parliament.

The progress of the negotiations for BPs

Technical working group meetings between June 2016 and July 2017 led to a number of changes to the proposed criteria. The most significant of these were an extension of the criteria to apply to co-formulants (non-active ingredients in biocidal products such as solvents, fragrances or pigments) as well as active substances, and a provision relating to active substances whose intended mode of action is via the endocrine system, similar to PPPs.

The UK opposed applying the criteria co-formulants as it was a substantial increase in scope that could have increased costs to businesses, without commensurate benefits to human health or the environment. However, only one other Member State expressed similar concerns. Guidance recently produced by the Commission following UK interventions has provided some reassurance that the impact will be more limited as most co-formulants will not require additional assessment. UK officials will, however, continue to press strongly at working level that these measures must be proportionate and workable.

The Government gave qualified support to the Commission's proposals as the framework offers greater scope for risk-based decision making than PPPs, and to prevent any further moves towards greater hazard-based restrictions. The Commission submitted the proposals to Council and the European Parliament (EP) on 4 September 2017 for consideration under the Delegated Act procedure and neither institution objected (despite the fact that the proposal includes the provision that the European Parliament found unacceptable for PPPs). The Commission adopted the criteria and they were published in the Official Journal of the European Union on 17 November 2017 (OJ L301 pages 1 to 5).

26 January 2018

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

Thank you for your letter of 26 January on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 28 February.

Thank you for providing an update on the progress of negotiations on legislative proposals for Plant Protection Products (PPPs) and Biocidal Products (BPs).

We note that the UK Government abstained on the proposal for PPPs, due to the Commission putting the negligible risk exemption into a separate proposal and your concern that PPPs that pose a negligible risk may be banned. The Committee will have the opportunity to consider this issue when that proposal is deposited for scrutiny.

We note that the proposal was agreed by qualified majority at the Standing Committee and will now be scrutinised by the Council of Ministers and European Parliament. Please provide us with an update in due course.

As regards the BP proposal, we note that you opposed the extension of the criteria to include co-formulants but that this criteria has now been adopted. We note that your objection was due to the increased costs to business. What assessment have you made of the additional costs that UK businesses will incur as a result? We note that you intend to continue to press for the implementation of the proposals to be proportionate and workable.

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

9 March 2018

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

The revised proposal for plant protection products (PPPs) has now been deposited and an Explanatory Memorandum submitted (EM 5365/18, submitted on 12 April 2018). Both the Council of Ministers and the European Parliament have now decided not to object to the proposal. It has therefore been formally adopted by the Commission and published in the Official Journal on 20 April http://eur-lex.europa.eu/eli/reg/2018/605/oj.

In respect of the proposal on biocidal products (BPs), you asked about the Government's assessment of the additional costs to UK businesses as a result of the extension of the criteria to include co-formulants. The Health and Safety Executive (HSE) leads on BPs. I understand that they are not able to estimate the total cost to businesses of including co-formulants in the criteria as the number of co-formulants for which data on endocrine disrupting (ED) properties would be requested is not known. However, it is estimated that costs to test whether a single co-formulant has ED properties will be of the order of £500,000. Fees would also have to be paid to HSE to assess the data, which could be in the region of £10,000 to £15,000.

If a co-formulant does have ED properties, a BP containing it could only be authorised if a socioeconomic case was made that the disadvantages of not authorising the product would outweigh the risks arising from its use. The applicant would therefore either incur costs in assembling such a case (estimated to be between £50,000 and £100,000 per product) or in reformulating the product without the co-formulant in question (which might or might not be possible). In total, authorising a product where a co-formulant has ED properties could cost an applicant company in the region of £600,000 over and above costs that would normally be incurred.

To put this in perspective, the total average cost of preparing a data package to authorise a BP is estimated to be in the region of £42,000 to £182,000. Hence the costs of testing a single co-formulant in a product would be several times greater than the total cost of authorising the product would otherwise have been. Such costs may be prohibitive for many of the SMEs that make up around 90% of the UK biocides market. The more complex products can contain as many as 15 co-formulants, which would further increase the costs if ED data was routinely requested.

For these reasons, the UK has continued to argue strongly that requests for additional data on co-formulants should not be made routinely and are justified only where there is clear evidence of a potential risk to humans or the environment.

27 April 2018

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

Thank you for your letter of 27 April on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 9 May.

Thank you for depositing the Regulation setting the criteria for determining endocrine disrupting properties for substances used in plant protection products (PPPs), which the Committee has noted.

We note your estimates of the costs associated with extending the criteria in the biocidal products (BPs) legislation to include co-formulants, and note that you have continued to argue this is only justified when there is clear evidence of risk.

As the criteria for both PPPs and BPs have now been adopted, we have decided to release the Communication from scrutiny and close correspondence.

9 May 2018

PROPOSAL FOR A COUNCIL REGULATION AMENDING REGULATION (EU) 2017/127 AS REGARDS CERTAIN FISHING OPPORTUNITIES (10741/17)

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

I am writing to explain my decision to over-ride Parliamentary scrutiny of the Commission's proposal for the second amendment to the TAC and Quota regulation for 2017 which was agreed by written procedure on 25 July.

The Commission brought forward its proposal for a second in-year amendment on 4 July. Defra submitted an explanatory memorandum (EM 10741-17) to Parliament on 12 July. While I understand that your committee have now considered this, it will not be seen by the House of Commons scrutiny committee until September.

The amendment is relevant to our fishermen given that in relation to the sea bass regulations, it clarifies that if a vessel is replaced the related bass catch eligibility may be transferred to the replacement vessel, while ensuring the number of qualifying fishing vessels and their overall fishing capacity does not increase. The amendment also includes a proposal relating to fishing opportunities for the seasonal North Sea sandeel fishery, which is important to Denmark. The proposal was discussed at European Council Working Group on 5 and 12 July and at Coreper on 19 July, before going forward for agreement by written procedure on 25 July. The UK voted in favour of the proposed amendment. Over-riding the scrutiny of proposals from the European Commission is not an action that I take lightly, however I believe it was in the best interests of the UK to support the proposal.

16 August 2017

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

Thank you for your letter of 16 November 2017 which released the above proposal from scrutiny.

You requested further details on the European Commission's audit of the UK's implementation of the landing obligation, once its report was finalised. This report has now been forwarded to Defra and I have enclosed a copy for your information.

The Commission concludes that the UK has introduced measures to facilitate the implementation of the landing obligation. It states that the UK has developed "appropriate measures" to effectively control and enforce the landing obligation at sea through the UK's work on Remote Electronic Monitoring (REM), but states that these measures have not been applied across the UK fleet. It acknowledges the UK's support for the wider roll out of REM and the concern that there should be a level playing field across Member States to enable this.

We understand that the Commission will use the evidence from this audit, and from other audits on Member States, to inform the development of future measures to support the implementation of the landing obligation. We also understand, from our work in the regional groups, that other Member States are facing similar implementation challenges to those described in this report.

As I have mentioned in previous correspondence, we are examining how REM could be introduced for fleets operating in UK waters following the UK's departure from the EU. We are developing detailed plans for implementation of the landing obligation in 2019.

30 January 2018

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

Thank you for your letter of 30 January 2018, which was considered by our Energy and Environment Sub-Committee at its meeting on 7 March.

Thank you for sending us the Commission's audit of the UK's implementation of the landing obligation. We note that the Commission recognises the measures introduced by the UK to facilitate the application of the landing obligation (LO). We also note, however, that it states that "the majority of UK registered vessels are not subject to controls that effectively enforce the LO at sea", and that "there are indications that the LO is not respected by UK fishermen at sea". These findings are very concerning. In light of the Commission's audit, please clarify the steps you intend to take to ensure effective enforcement of the landing obligation at sea in 2018.

We also have concerns regarding the UK's aerial surveillance of fishing activities, given the following account: "On 3 February 2016 a Marine Scotland aircraft detected a vessel discarding a large quantity of what appeared to be pelagic fish. However, the camera footage was unable to confirm the species

and consequently no infringement proceedings were initiated." How much does the UK spend on aerial enforcement of the landing obligation, and what assurances can you provide that such expenditure increases compliance?

You requested that reference be made in the report to the choke risks likely to occur in relation to North Sea hake and Irish Sea whiting in 2019, and state that this "will require a response". Please clarify what action will be necessary.

Furthermore, we note that the Commission's audit has revealed important information about the UK's implementation of the landing obligation, and put this information in the public domain. What body will be responsible for the transparent audit of the UK's implementation of fisheries legislation post-Brexit?

We look forward to a reply to this letter in 10 working days.

9 March 2018

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

Thank you for your letter of 9 March 2018 on the Commission's audit of the UK's implementation of the landing obligation.

The UK's approach to enforcement of the landing obligation in 2018 will be similar to the one taken in 2017, as outlined to the Commission during its audit visit. This involves the application of existing control methods and inspections at sea which now take account of the landing obligation. The use of Remote Electronic Monitoring (REM) will continue on those vessels participating in Fully Documented Fisheries schemes. We are clear that REM is the most effective method of monitoring and controlling the landing obligation and will pursue progress on this while the UK remains a member of the EU. As I mentioned in my letter of 30 January 2018 we are also examining how REM could be implemented following the UK's departure from the EU.

You ask about the use of aerial surveillance and whether it increases compliance with the landing obligation. It is used to observe a range of fishing activities, which now include those related to the landing obligation. The UK administrations apply aerial surveillance according to the nature of their fisheries, as follows:

- In England the Marine Management Organisation (MMO) uses aerial surveillance in fisheries monitoring only where this is appropriate and only in a highly targeted way. Contractors are only paid for the actual use of flights deemed necessary. However, it is not a key tool for control and enforcement of the landing obligation in England given that mixed demersal fisheries predominate, with the associated limitations on resolution (for example, species recognition is not possible in this mixed demersal context). Given these factors it is unlikely that aerial surveillance would provide sufficient clarity for taking enforcement action on the landing obligation in England.

- Due to the nature of the offshore 'clean' pelagic fisheries in Scotland, aerial surveillance is applied there more frequently and provides a significant deterrent effect with regard to discarding. The Scottish Government spends £1.4 million on aerial surveillance in the waters under Scottish jurisdiction, a significant proportion of which is directly attributed to enforcing the landing obligation. In the recent mackerel fishery, involving a large multinational fishing fleet, Marine Scotland detected three cases of discarding in breach of the landing obligation. One UK vessel was issued with a fixed penalty notice which has been paid and two other EU vessels are currently under investigation. It is worth noting that the difficulty of identifying the species of fish solely from aerial surveillance footage remains. However, in these particular cases, a range of circumstantial evidence available points to the species of fish and Marine Scotland is willing to initiate infringement proceedings on that basis.

- Aerial surveillance is not currently used in Northern Ireland.

- Wales is currently between contracts for aerial surveillance and the Welsh Government is considering how it could be applied to the enforcement of the landing obligation in the future.

You ask about the choke risks highlighted to the Commission by the UK during the audit visit and what response will be necessary. The UK was keen to highlight the challenges the UK faces with the full implementation of the landing obligation from 2019, and that the most difficult choke risks are

likely to require solutions that are not in the current 'toolbox' provided by the Common Fisheries Policy basic regulation. We are currently working with Member States in the regional groups to develop proposals that will address these choke risks. Some measures will be included in Joint Recommendations to be submitted to the Commission by 1 June 2018, and other measures are likely to be included in the Total Allowable Catch and Quota Regulation to be negotiated at this year's December Council.

You ask what body will be responsible for the audit of the UK's implementation of fisheries legislation after the UK's departure from the EU. We are aiming to publish a fisheries White Paper shortly before the introduction of the Fisheries Bill. As well as preparing for the Bill, which will include provisions on access to waters and quota setting, the White Paper will set out our medium term vision for sustainable fisheries management.

20 March 2018

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

Thank you for your letter of 20 March 2018, which was considered by our Energy and Environment Sub-Committee at its meeting on 28 March.

We note your statement that the UK's approach to enforcing the landing obligation in 2018 will be similar to the one taken in 2017. Given the statement in the Commission's audit that current controls do not effectively enforce the landing obligation at sea, this approach appears to fall short of what is necessary. On what basis has the Government decided not to take steps to improve enforcement of the landing obligation?

Thank you for clarifying that aerial surveillance of fishing activities is used most frequently in Scotland, where Marine Scotland is willing to initiate infringement proceedings based on the surveillance evidence despite the difficulties of identifying fish species, and that it is used less in England where it is considered insufficient as a basis for enforcement action.

We note that you are developing additional solutions for managing the choke risks that the UK is likely to face in 2019, and that these will variously be included in Joint Recommendations to the Commission by June 2018, and in the Total Allowable Catch and Quota Regulation to be negotiated at the December Council. Please clarify what measures you are proposing and whether you expect these to be agreed amongst the members of the relevant regional groups.

We note your statement that the White Paper published before the introduction of the Fisheries Bill will set out your vision for sustainable fisheries management. We reiterate that it will be necessary for this to include provisions for the transparent audit of the UK's implementation of fisheries legislation.

We look forward to a reply to this letter in 10 working days.

29 March 2018

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

Thank you for your letter of 29 March 2018 on the Commission's audit of the UK's implementation of the landing obligation.

The UK will continue to apply existing control methods and inspections at sea in 2018, which take account of the landing obligation. It would be difficult for the UK alone to implement Remote Electronic Monitoring (REM) in 2018, given that the regional groups have not satisfactorily progressed work on this matter to date, and due to the fact there would not be a level playing field for UK vessels. As I mentioned in my letter of 20 March 2018, the UK continues to advocate the use of REM as the most effective method of monitoring and controlling the landing obligation, and will pursue progress on this while the UK remains a member of the EU. The UK is also examining how REM could be implemented following the UK's departure from the EU.

You asked about the additional solutions that the UK is developing for managing the choke risk that the UK is likely to face in 2019, and whether these solutions will be agreed amongst the members of the relevant regional groups. The contents of the North Sea and North Western Waters Joint

Recommendations are still under negotiation and there have been constructive discussions to date. The UK is working with other Member States in both regional groups on high survival exemptions for skates and rays, as well as plaice. At the 2017 December Council, the Member States in the North Western Waters regional group committed to including improved selectivity measures for vessels operating in the Celtic Sea in its Joint Recommendation. Member States have been discussing how these selectivity commitments can be met and what specific measures should be included. The

Joint Recommendations will be agreed by 1 June 2018, and following this I will write to you to outline what measures have been included and are expected to come into force through the new discard plans to be implemented from 1 January 2019. I will also outline what further work we expect will be necessary during our preparation for this year's December Council.

17 April 2018

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

Thank you for your letter of 17 April 2018, which was considered by our Energy and Environment Sub-Committee at its meeting on 6 June.

We note your explanation that you will not be taking steps to improve the at-sea enforcement of the landing obligation because of a lack of agreement regarding Remote Electronic Monitoring with regional groups. We understand this decision was taken to preserve a level playing field for UK vessels, but regret that it means a continuation of the current controls which the Commission has judged to be ineffective and encourage you to continue to work towards improved enforcement in both the UK and EU.

Thank you for outlining the discussions that are taking place to find solutions for managing the choke risks that the UK is likely to face in 2019. We look forward to receiving your update on the Joint Recommendations agreed earlier this month, and on your intended preparatory work ahead of the December Council.

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

6 June 2018

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

Thank you for your letter of 6 June 2018 on the implementation of the landing obligation. In my letter of 17 April 2018 I committed to writing to you with an update on the measures the UK is developing to address the choke risks faced by UK fleets in 2019, when the landing obligation will apply to all species subject to catch limits.

The UK contributed to the work of the North Sea and North Western Waters regional groups to produce joint recommendations to the Commission for discard plans that outline how the landing obligation will be implemented in 2019. These joint recommendations were submitted on 31 May 2018 and include new high survival and de minimis exemptions, as well as technical measures to improve selectivity in the Celtic and Irish Sea. The Scientific, Technical and Economic Committee for Fisheries (STECF) assessed the joint recommendations at meetings on 4-8 June and 2-6 July 2018. Following the publication of STECF's assessment, the Commission will transpose the content of the joint recommendations into delegated acts in the autumn.

The UK proposed the following new exemptions:

- High survival exemption for skates and rays caught by any gear in the North Sea and North Western Waters. This is a temporary exemption for three years that allows time for a long term management plan for skates and rays to be developed.

- High survival exemptions for plaice caught in the Bristol Channel and English Channel with otter trawls and trammel nets.

- High survival exemptions for Nephrops caught in otter trawls in the West of Scotland and in pots, traps and creels in the North Western Waters. In the North Sea the current high survival

exemptions for Nephrops caught in trawls have been combined into one exemption and extended to cover new fisheries.

• De minimis exemptions (granted where selectivity cannot be improved or due to the disproportionate cost of handling onshore) for undersized haddock and whiting in the irish sea.

Other Member States submitted exemption proposals covering Nephrops, plaice, whiting, cod, haddock, turbot and bycatches of pelagic and industrial species in demersal fisheries. These exemptions will all come into force from 1 January 2019.

The agreed technical measures will come into force from 1 July 2019 and will apply to vessels targeting gadoid species operating in the Celtic Sea Protection Zone and the Irish Sea. The measures specify gear modifications which will reduce the levels of unwanted catch in these fisheries.

The content of the joint recommendations goes some way to addressing the choke risks facing the UK fleet in 2019 by using the 'toolbox' of flexibilities available in the Common Fisheries Policy (CFP) basic regulation. However, additional choke mitigation measures will need to be found. We are holding discussions with the European Commission on what solutions can be included in the Total Allowable Catch and Quota Regulation to be agreed at December Council this year where the CFP flexibilities are not sufficient. We will also continue to work with other Member States in the regional groups to develop common approaches to different types of choke risk.

My officials are also working closely with industry to determine what measures can be implemented at a domestic level to mitigate choke risks, for example, exploring how quota swapping could be facilitated to direct quota to those fisheries with the greatest need.

23 July 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2003/87/EC TO ENHANCE COST-EFFECTIVE EMISSION REDUCTIONS AND LOW-CARBON INVESTMENTS (11065/15)

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

The House of Lords' European Union Committee officially lifted parliamentary scrutiny in December 2016, but asked to be updated regularly on the progress of EU Emission Trading System (ETS) Phase IV reform negotiations. Following the decisions of the European Parliament on the 6th February 2018 and European Council on the 27th February 2018, the reform negotiations for the EU ETS have now been concluded. Therefore, I thought it an appropriate time to provide a final update on the overall outcome of the negotiations.

Phase IV – Final Outcome

When I last updated you, in November 2017, I informed you that a provisional agreement had been achieved. This agreement has now been ratified by the European Parliament and by the Council of the European Union (with the support of the UK). This deal offers a good outcome for the UK, achieving our key objectives of increasing the strength of the carbon price signal, while ensuring industrial sectors are given adequate protection from the risk of carbon leakage. The key areas of the agreement are set out below.

• To strengthen the carbon price signal and incentivise greater investment in low carbon technologies both short term and long term measures were agreed:
  - Increasing, for five years, the rate at which surplus allowances are placed in the 'Market Stability Reserve' due to come into operation in 2019;
  - Permanently cancelling surplus allowances in the MSR above a certain threshold from 2023 onwards.

To provide additional safeguards to businesses operating in competitive international markets against the risk of carbon leakage, the following measures were agreed:

- A conditional increase to the percentage share of free allowances by up to 3%, if needed, to avoid the application of a cross sectoral correction factor that would otherwise uniformly reduce free allocation to industry as the cap declines.
- 75m allowances for the innovation fund (of the total 400m) will be sourced from the auction share, instead of the free allocation share, increasing the proportion of free allocation available to industry by an additional 0.5%.

From the middle of the phase (2026), as the risk of a correction factor increases, a reduction in free allowances for those sectors deemed not at risk of carbon leakage, allowing free allocation to be more focused.

Regarding the funds which will support the modernisation of lower income Member States' energy infrastructure, agreement was reached to rule out funding for projects using coal as a fuel, with the exception of district heating projects in Romania and Bulgaria.

Now that the agreement has been formalised, the European Commission has launched an implementation programme, and will be working with all Member States to agree the relevant implementing acts.

The Government is considering all factors for the UK's future participation, or otherwise, in the EU ETS after our exit from the EU. But as the Prime Minister has made clear, the UK will remain a full and engaged member of the EU up until the point of exit, and therefore we are continuing to engage in the preparations for Phase IV. This is without prejudice to any future decision on UK participation in the EU ETS.

As the process of reform of the EU ETS in preparation for Phase IV has now been completed, and parliamentary scrutiny has already been lifted, this will be the last update that I will send to the committee. However, I am happy to answer further questions you have.

29 March 2108

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 29 March on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 25 April.

Thank you for updating us on the progress of the EU Emissions Trading Scheme (EU ETS) reform negotiations. We were pleased to note that the reform negotiations have been concluded, and that you are satisfied that the outcome is positive for the UK. We also welcome your continued engagement in preparations for Phase IV.

We are now content to close this correspondence.

25 April 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON BINDING ANNUAL GREENHOUSE GAS EMISSION REDUCTIONS BY MEMBER STATES FROM 2021 TO 2030 FOR A RESILIENT ENERGY UNION AND TO MEET COMMITMENTS UNDER THE PARIS AGREEMENT AND AMENDING REGULATION NO.525/2013 OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON A MECHANISM FOR MONITORING AND REPORTING GREENHOUSE GAS EMISSIONS AND OTHER INFORMATION RELEVANT TO CLIMATE CHANGE (11483/16)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE INCLUSION OF GREENHOUSE GAS EMISSIONS AND REMOVALS FROM LAND USE, LAND USE CHANGE AND FORESTRY INTO THE 2030 CLIMATE AND ENERGY FRAMEWORK AND AMENDING REGULATION NO.525/2013 OF THE EUROPEAN PARLIAMENT AND THE COUNCIL ON A MECHANISM FOR MONITORING AND REPORTING GREENHOUSE GAS EMISSIONS AND OTHER INFORMATION RELEVANT TO CLIMATE CHANGE (11494/16)

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

I am writing to update you on the negotiations of the above proposals as requested in your letter of 20 July 2017. Proposal 11483/16, known as the Effort Sharing Regulation ("ESR"), and proposal 11494/16, known as the Land Use, Land Use Change and Forestry ("LULUCF") Regulation are two of the three pieces of legislation forming the EU's 2030 climate package. The third is Phase IV of the EU Emissions Trading System ("ETS"). Together they implement the EU's commitment to reduce domestic emissions by at least 40% on 1990 levels by 2030. This target also forms the EU's current contribution under the Paris Agreement.

I am pleased to inform you that since your letter of 20 July 2017, the negotiations on the ESR and LULUCF proposals progressed rapidly under the Estonian Presidency. A General Approach, supported by the UK, was agreed on both files at the Environment Council meeting on 13 October 2017. The trilogue negotiations with the European Parliament ("EP") commenced soon after and a provisional agreement was reached on both files in December 2017. The final texts have been agreed by COREPER, with the UK voting in favour, and are now subject to a final vote in the EP.

The Effort Sharing Regulation (ESR)

The key issue in the negotiations on ESR has been the starting point for the emission reduction trajectory to 2030 as this affects the emissions budgets for Member States.

In the General Approach text agreed at the Environment Council on 13 October 2017, the UK and other like-minded Member States succeeded in defending the environmental integrity of the ESR proposal by retaining the starting point as originally proposed by the Commission. This kept the starting point for emissions reductions in 2020 based on actual emissions (which will actually be Member States' average emissions over 2016 to 2018, given the two year time lag with emissions data) rather than on Member States' 2020 targets which would have significantly increased the total EU emissions budget (by between 500-600Mt). However, in return it was agreed a safety reserve of 115Mt be established to help Member States with a lower than average GDP to comply with the legislation if required. The availability of the safety reserve was made conditional on the EU meeting its 2030 ESR target to help preserve the environmental integrity of the proposals.

In the trilogue negotiations, the EP was pushing for more ambition e.g. through an earlier starting point of 2018. However this proved too ambitious for many Member States. The compromise adopted was a slightly earlier start date of "…five twelfths of the distance from 2019 to 2020 or in 2020, whichever results in a lower [emissions] allocation for that Member State" increasing EU ambition by between 115-125Mt (0.5%) relative to the Commission's original proposal. The size of the safety reserve was also reduced from 115Mt to 105Mt. There were also some other changes e.g. for inclusion of managed forest land and wetlands in the LULUCF flexibility mechanism which Member States can use to offset ESR emissions where they have a surplus of LULUCF credits.

The UK, like most Member States, supported the ESR package agreed.

The Land Use, Land Use Change and Forestry (LULUCF) Regulation

The LULUCF Regulation sets out the rules for accounting for emissions and removals from land use at the EU level for the first time. The LULUCF sectors can, uniquely, be a carbon sink as well as a source of emissions.

The most contentious issue in the LULUCF negotiations proved to be the setting for Forest Reference Levels (FRLs), which are projections on how the carbon sinks of forests will change in the future. The UK and like-minded Member States successfully defended a robust approach to the setting of Forest Reference Levels which will ensure changes in emissions and removals caused by changes in harvesting intensity will be fully captured in the accounting framework.

However, in recognition of the challenges heavily forested Member States face in reaching net zero emissions in the LULUCF sector under the accounting rules, despite having maintained a forest sink, a 'Managed Forest Land Flexibility Mechanism' was agreed in the General Approach agreed on 13 October 2017. This will allow heavily forested Member States a limited allowance to increase harvesting of trees up to a specified limit (359Mt at the EU level) without incurring debits. An additional 10Mt of flexibility was allocated to Finland under certain conditions, to recognise the challenges facing it as the most heavily forested EU Member State. However, the availability of the flexibility mechanism was made contingent on the EU meeting the requirement for emissions from the LULUCF sectors to be at least net neutral overall to protect the environmental integrity of the proposals.

There were relatively few substantive changes to the text in the trilogue discussions which included, among other things, some changes to the how Forest Reference Levels submitted by Member States will be reviewed and changes to the accounting treatment of Harvested Wood Products (HWP) so that HWP credits are not capped when used in the ESR LULUCF flexibility mechanism.

Overall the final package was delicately balanced and supported by a majority of Member States including the UK.

Next Steps

It now remains for these texts to be formally approved by both the EP and Council of Ministers which we expect to take place during the first half of 2018. As agreement on the EU ETS Phase IV has already been reached, agreement of the ESR and LULUCF proposals will complete the implementing framework for the EU's 2030 climate package which underpins the EU's contribution under the Paris Agreement. This is a very positive signal, paving the way for the EU to play its part in the UNFCCC processes during 2018.

16 February 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 16 February 2018 on the above Proposals, which was considered by our Energy and Environment Sub-Committee at its meeting on 7 March.

Thank you for updating us on the progress of these proposals, to the effect that the final texts have been agreed by COREPER and are subject to a final approval by both the EP and the Council of Ministers.

We welcome your success in preserving the environmental integrity of the Effort Sharing Regulation. We note your explanation of the changes made by the EP, and that the UK supported the agreed package.

We note your explanation of how discussions regarding Forest Reference Levels were resolved, and welcome the restricted use of the Managed Forest Land Flexibility Mechanism unless Land Use, Land Use Change and Forestry (LULUCF) emissions are net neutral overall.

Please update us when the final EP and Council votes have taken place.

9 March 2018

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

Thank you for your letter of 9 March 2018 on the above proposals and your recognition of the progress made. I am writing to update you on the final stages of the legislative process as requested in your letter.

I am pleased to inform you that the Effort Sharing ("ESR") Regulation and the Land Use, Land Use Change and Forestry ("LULUCF") Regulation have now been formally adopted. On 17th April 2018, the European Parliament voted for the proposals, and on 14th May 2018, the Council of Ministers also voted in favour. The agreed texts represent a good outcome and so the UK, along with the majority of Member States, supported them.

The ESR and LULUCF Regulations - together with Phase IV of the EU Emissions Trading System ("ETS") - form the EU 2030 climate package, which implements the EU's commitment to reduce domestic greenhouse gas emissions by at least 40% on 1990 levels by 2030. The climate package underpins the EU's current contribution under the Paris Agreement.

This latest step completes the EU approval process for these pieces of legislation. After being published in the Official Journal of the European Union, the Regulations will come into force on the twentieth day following publication, currently expected to be in July. As the EU ETS Phase IV has already been agreed, this completes the implementing framework for the EU's 2030 climate package.

Adopting the ESR and LULUCF Regulations is a very positive signal for the global climate effort, paving the way for the EU and the UK to play our part in the UNFCCC processes during the rest of this year.

21 June 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 21 June 2018 on the above Proposals, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 July.

Thank you for confirming that both Regulations have now been formally adopted, and are likely to come into force in July. We note your view that the agreed texts represent a good outcome, and that adopting the Regulations paves the way for the EU and UK to play a part in the UNFCCC processes later this year.

We are now content to close this correspondence.

4 July 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ESTABLISHING A MULTI-ANNUAL PLAN FOR DEMERSAL STOCKS IN THE NORTH SEA AND THE FISHERIES EXPLOITING THOSE STOCKS AND REPEALING COUNCIL REGULATION (EC) 676/2007 AND COUNCIL REGULATION (EC) 1342/2008 (11636/16)

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

An agreement has been reached to establish a Multi-Annual Plan (MAP) for the North Sea at a trilogue between the Council and European Parliament (EP).

The UK has secured its priorities. These include a provision which will allow exploitation rates to be set within an upper FMSY(a) range if supported by science, and the simplification of the scope of the MAP by reducing the stock categories so that it applies to (i) targeted stocks and (ii) by-catch stocks, together with the removal of potentially burdensome control provisions. The Council also successfully argued against nephrop quotas being set at a functional unit level, which could have rendered the current management of nephrop fisheries in the UK inoperable, and which would not be possible to resolve without significant upheaval for industry and fisheries managers.

The EP was successful in inserting a provision that brings recreational fisheries under the plan so that the impact of these fisheries is taken into account when setting fishing opportunities. When necessary, recovery measures will also regulate recreational fishing activities. This broadly aligns with UK policy since the inclusion of recreational fisheries will contribute to improving the sustainability of many stocks, and indeed it is what the UK has already argued for in relation to bass. In addition, a definition for 'best available scientific advice' has been agreed. FMSY ranges will not be included in an annex to the plan, instead the Commission will request that these ranges are included by the International Council for the Exploration of the Sea (ICES) in its periodic catch advice. This approach will work better for the joint management of the North Sea mixed fishery once the UK has left the EU.

We anticipate the final version of the MAP will be published in the next few weeks after the "jurist linguist" process is complete.

17 January 2018

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

Thank you for your letter of 17 January on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 January.

We welcome the agreement of the Multi-Annual Plan (MAP) for the North Sea and the fact that the UK secured its priorities, including exploitation rates supported by science, simplified stock categories and a functional approach to nephrop quotas.

We note your view that the inclusion of recreational fisheries in the MAP is broadly aligned with UK policy, and that the final approach to designating FMSY ranges will facilitate the joint management of the North Sea after the UK leaves the EU.

We are now content to close this correspondence.

31 January

COMMISSION DELEGATED REGULATION (EU) …/... OF 20.9.2017 AMENDING REGULATION (EC) NO 589/2008 AS REGARDS MARKETING STANDARDS FOR FREE RANGE EGGS WHERE HENS' ACCESS TO OPEN AIR RUNS IS RESTRICTED (12415/17)

Letter from the 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 13 December 2017, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 10 January 2018.

We note that you consider the extension of the derogation to 16 weeks provides the right balance between offering flexibility to producers and clarity to consumers.

We also note that your department is continuing to work with enforcement agencies and the devolved administrations, and that you have consulted with the industry on how the changes resulting from this Regulation will be implemented. Please provide an update once these discussions have concluded.

We have decided to release this document from scrutiny and look forward to your response in due course.

11 January 2018

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

Thank you for your letter of 11 January 2018 on the changes introduced by the Commission regarding the marketing of eggs as free range, where housing orders are in place. You asked if I could provide you with an update on how the changes resulting from the Regulation will be implemented once discussions with industry had been completed.

I can confirm that we have concluded our discussions with the egg industry and reached agreement on how to apply the derogation on a flock-by-flock basis in a way which allows Defra officials to enforce the new rules. As I mentioned in my letter of 13 December 2017, it is necessary to know when the birds have been placed in housing and therefore whether the eggs can continue to be marketed as 'free range'. Under the agreement reached, producers and packers will voluntarily include the house number and date of placing of the flock in that house on the transport document that accompanies the eggs from the laying house to the packing centre. The agreed approach will enable Defra officials to check compliance whilst minimising the burden for egg producers. It will also enable industry to take responsibility for correctly applying the method of production, without increasing the cost of production.

This approach will be kept under review to ensure that the new requirements are being adhered to and to determine their effectiveness.

19 March 2018

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

Thank you for your letter of 19 March 2018, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 28 March.

We note that you have now reached agreement with the egg industry on how the 'flock-by-flock' derogation will apply, and that you are confident that the agreed approach will enable Defra to check compliance without increasing the cost of production and that it will keep the burden on egg producers to a minimum.

We are therefore content to close correspondence on this issue.

29 March 2018

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON MEMBER STATE NATIONAL ACTION PLANS AND ON PROGRESS IN THE IMPLEMENTATION OF DIRECTIVE 2009/128/EC ON THE SUSTAINABLE USE OF PESTICIDES (13138/17)

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 14 December, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 10 January.

As your reply has resulted in a number of further questions that Members wish to put to you, we would like to invite you to attend a future meeting to discuss these issues in person. Our Clerk (Alexandra McMillan; mcmillana@parliament.uk) will make contact with your officials to discuss a convenient date. In the meantime, we have decided to retain the Report under scrutiny.

11 January 2018

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

When I gave evidence on UK implementation of the EU Directive on the sustainable use of pesticides at your session on 21 February, I agreed to write to you on three points:

(i) Whether the Commission are now satisfied that their requests for information on UK actions in this area have been met in full

As we discussed at the evidence session, the HSE provided information following discussions with the Commission. The Commission indicated that they would like further information in some areas and HSE suggested a further discussion to clarify this request. HSE have now prompted the Commission, who say that they are looking at the information they have (including information provided by HSE in response to the earlier discussions and the material that HSE have placed on the Commission's web-portal on the sustainable use of pesticides). They will then advise whether they require anything further and, if so, what that is. My officials will keep in close touch with HSE on this and I will let you know the eventual outcome.

I also agreed to send you the Commission's original questionnaire (copy attached) and to outline HSE's concerns about it. In many cases, HSE felt that the information was readily accessible from information already provided to the Commission (mostly the UK National Action Plan but also returns made to Eurostat under the EU pesticides statistics regulation and an earlier questionnaire). For several questions HSE were unsure of the relevance to implementation of the Directive and in other cases HSE were concerned that the available data were not fully reliable or needed interpretation. It was these concerns that prompted HSE to seek a dialogue with the Commission.

(ii) How AHDB works with organisations such as research institutes and universities in producing its forecasts for pest and disease control

I attach a summary provided by AHDB (not published here) which outlines the services they provide and the main partners who help design and deliver those services.

The Committee asked for further details of a Commission audit report which referred to the range of information available to UK growers. I attach a copy of the report; the audit was carried out in April 2016 to evaluate UK controls on the marketing and use of plant protection products and includes a section on Integrated Pest Management at paragraphs 54 to 59 which refers to AHDB and NIAB services. That section concludes that "There is an extensive range of information sources available to growers to assist in the implementation of IPM as required by Article 14(2) of Directive 2009/128/EC".

(iii)How the impact of pesticide use on human health is being monitored and measured (including results of the HSE investigation on pesticide applicators' health begun in 2013)

The authorisations system is intended to prevent pesticides from causing harm to people when used correctly. The risk assessment carried out covers all likely routes of exposure. Monitoring is carried out to act as a check on the risk assessment and to look out for harm that may be caused by accidental or deliberate misuse of pesticides.

There are established schemes to monitor the acute effects of pesticides -whether short-term exposure leads to harm. The main monitoring is carried out by the National Poisons Information Service, which is the point of contact on a range of poisons for medical practitioners (GPs and hospital staff). All enquiries received about reported human exposure to pesticides and biocides, and the observed consequences, are collected and analysed by the NPIS unit in Edinburgh. A brief summary of the findings are published online in the NPIS annual report and more detailed information is regularly reported to HSE and to the UK Expert Committee on Pesticides. Most cases are recorded as acute and minor; in 2016/17 there were three cases classified as severe and all of these were cases of deliberate self-harm.

As acknowledged in the Directive (which requires Member States to put in place systems for gathering information on pesticide chronic poisoning developments "where available") and in the Commission's report on implementation, chronic effects of pesticides are difficult to measure. There are a great many confounding variables. As one example, those working with pesticides may have used any of a very substantial range of chemicals; this pattern of use will also have changed over time with many pesticides that were frequently used in the past being no longer in use.

The Pesticide Users' Health Study (PUHS) was established to investigate chronic ill health which may arise as a result of occupational exposure to pesticides. Investigations were carried out by surveys of people who held pesticide certificates of competence. Response rates were disappointingly low at around 15% which may affect the robustness of the results.

The main findings of this research were:

- The PUHS cohort had a significantly lower mortality rate than the British population as a whole. Specific causes of death (including individual cancers, respiratory

disease and neurological diseases were also generally lower. It is supposed that

this finding reflects a healthy worker effect or a healthy volunteer effect.

- Individuals who were often exposed to pesticide concentrates were more likely to report ill-health than those exposed to dilute pesticides. Ill health was also more often reported by those who had used pesticides occupationally for longer periods.

The Prospective Investigation of Pesticide Applicators' Health (PIPAH) Study started in

2013 and aims to builds on the work of the PUHS by collecting more detailed information about the study participants. It also links to NHS data to help monitor the long term health of scheme participants. A major focus of the scheme is the development of tools to enable precision in measuring information on health, pesticide use and other factors which could affect health.

13 March 2018

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

Thank you for attending our Committee meeting on 21 February and for your subsequent letter of 15 March, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 28 March.

Your previous correspondence had left us with a number of queries that we were keen to address during the 21 February meeting, and which we outline below.

Firstly, given the HSE's failure to respond to the Commission's questionnaire, we wanted to establish if the UK is complying with the Directive. We note that you are "very confident" that the UK is complying, and that you cite the development of the National Action Plan, the 2012 Statutory Instrument that implements the Directive, and the BASIS regulations as examples of this. We also note the information you provided to us in your letter of 14 December, outlining how the UK was meeting some of the Directive's requirements.

Secondly, in your letter of 14 December, you stated that you believed the Report to be inaccurate because it suggested the Directive required advisors to be certified. You also stated that the UK had not set a requirement for certification because "market forces within the sector already mean that advisors are effectively trained". We wanted to know if you had come to an agreement with the Commission over the interpretation of the Directive and how the Government could ensure that advisors had the skills they required. We note your explanation that the Directive requires there to be a system in place to certify advisors (which the UK has), but that there is not a requirement for individual advisors to be certified. We also note your confidence that most advisors are on the BASIS register and that, in reality, insurance requirements would require pesticide users to only use a qualified advisor.

Thirdly, we noted that the Commission had written to the HSE to request further information but, at the time of your last letter, the HSE had not responded as they were seeking further clarification. We note from your letter of 13 March that HSE have now been in touch with the Commission and that the Commission has said they will look over the information received to date before determining if anything further is required.

Fourthly, we were keen to understand why, unlike 24 Member States, the UK has no publicly funded system for forecasting, warning and early diagnosis of pest and disease control. We note your explanation that the AHDB provides these services, which is funded through a statutory levy of the agriculture and horticulture sectors.

Finally, your letter of 14 December stated that the UK did not have risk reduction targets in place because the Government did not believe they would "be an effective tool to drive sustainable pesticide use". We wanted to understand, therefore, how the Government was measuring whether

the risk from pesticide use is reducing. We note your official, David Williams', explanation that "clear incidents of harm to either people or the environment" are infrequent, and therefore difficult to measure, and that instead of developing quantitative indicators you take advice from a number of expert committees. We also note the explanation in your letter of 13 March that the National Poisons Information Service (NPIS) collates instances of human exposure to pesticides. Having consulted the NPIS annual report for 2016/17, we note that they considered 1,000 exposures involving pesticides including 845 acute cases, 40 chronic cases and 79 self-harm exposures. We also note that 423 involved children aged 12 or younger. Please explain how these figures have changed since the launch of the National Action Plan and how this information contributes to your measurement of progress in reducing the risk of pesticides to human health, as required by the Directive.

The Directive also requires that Member States have systems to gather information of both acute poisoning incidents and chronic poisoning amongst groups that may be regularly exposed to pesticides. We note that the Commission's Report found that, across the EU, the accuracy of acute poisoning data was questionable and that systems to gather information on chronic poisoning have not been widely implemented. What is your assessment of the accuracy of the data collected by the UK?

In addition, we note from your letter of 13 March that the Prospective Investigation of Pesticide Applicators' Health Study started in 2013. Please provide any findings from the study thus far, and details of what progress they have made in developing "tools to enable precision in measuring information on health, pesticide use and other factors which could affect health".

We also note that the Commission's Report states that they are considering establishing systems to collect information on suspected pesticide poisoning. Has any progress been made on this?

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

29 March 2018

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

Thank you for your letter of 29 March 2018. This recorded some of the information I provided at the evidence session on 21 February and in my follow-up letter of 13 March to Lord Teverson, of which I enclose a copy.

Your letter also raises several further questions about the monitoring of the effect of pesticides on human health.

You asked how the National Poisons Information Service (NPIS) figures had changed since the launch of the National Action Plan in 2013, and how this information contributes to the measurement of progress in reducing the risk of pesticides to human health. Cases classed as fatal or severe are very few and there is no clear trend. The overall number of cases has, however, fallen modestly since 2013/14 while the number classified as moderate has declined more steeply.

We would not want to attach very much significance to these changes over just four years. However, the NPIS has reported similar changes over a slightly longer timescale. These may be a consequence of the removal of authorisations from some more highly toxic pesticides (such as paraquat, which was previously used in a number of self-harm cases) and of improvements made to the packaging of pesticides available for use by amateurs that make accidental exposure less likely.

You asked about the accuracy of the data collected in the UK on acute poisoning. We believe that this will be highly accurate but it will not be entirely comprehensive. NPIS data is collected largely through enquiries from health professionals. It will not record other cases where people may have had concerns but have not followed these up through medical channels.

It will also not obtain full case details where enquiries have been made through the online poisons database and follow up questionnaires from NPIS have not been completed. It is therefore likely to capture most or all of the more severe cases but will not record all other cases.

Next you asked about findings from the Prospective Investigation of Pesticide Applicators' Health (PIPAH) study. I attach a report (Harding et al) published in the scientific press on this work. This is a summary of the scheme, its methods and early findings. A further two reports are due to be published in the Health and Safety Executive's (HSE) research report series, which is accessible on HSE's website at http://www.hse.gov.uk/research/rrhtm/. These will cover the study methodology and information on the baseline volunteer cohort.

You also raised PIPAH's work to develop tools to enable precision in measuring information on health, pesticide use and other factors which could affect health. This is a longer term output from the study. Complementing similar studies such as the Agricultural Health Study in the United States, and by building on previous work by the Pesticide Users' Health Study (PUHS) in Great Britain, the PIPAH study seeks to generate a more complete understanding of the potential relationships between pesticide use/exposure and a broad range of health outcomes. The objectives of the study are to establish and maintain a long term follow up study of a cohort of pesticide users. This will be achieved through an initial prevalence study of cohort members, and a subsequent follow up study which will follow the participants in the initial prevalence study over time.

The PIPAH study is planning to collect:

- detailed information on pesticide exposure (the different types of pesticides applied, the time periods and duration of application and also the equipment, application methods and use/non-use of personal protective equipment);

- information on other possible explanatory factors such as lifestyle factors including smoking and diet, type and duration of employment;

- a fuller range of health outcomes of the cohort members and also Hospital Episode Statistics for a defined set of health outcomes; and

- information on self-reported health conditions, possible symptoms of ill health and lifestyle factors at baseline and thereafter at five year intervals (information which was not collected in the PUHS study).

Using this methodology, the study will provide a system for monitoring ill health among pesticide workers. The comprehensive nature of the data collected - particularly concerning the incidence of different health conditions, lifestyle factors and physical activity levels - will potentially allow for additional analyses to be undertaken that will address other research questions as and when required.

You note that the Commission's report states that it is considering establishing systems to collect information on suspected pesticide poisoning and ask whether any progress has been made on this. We are not aware of any substantive progress to date.

In my letter of 13 March, I recorded that the Commission was considering all the information provided by HSE and would consider whether anything further is required. The Commission has now confirmed that nothing else is needed at this stage. It may have further queries of the UK and others as it progresses the actions which it has set for itself and begins to consider its next report on the sustainable use of pesticides, which is expected to be delivered next year.

17 April 2018

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

Thank you for your letter of 17 April, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 2 May.

We note your explanation that NPIS statistics show very few fatal or severe cases of pesticide exposure, and that there is no clear trend, but that cases overall have fallen modestly since the National Action Plan (NAP) was introduced and that cases classed as moderate have declined more steeply. We note your caution about placing significance on trends over a short timescale but that the decline seem to be in line with a longer trend.

We note your assessment that data collected on acute poisoning as a result of pesticides is highly accurate, but not entirely comprehensive (as it will not record cases where people have not sought medical assistance).

Thank you for providing us with details of the Prospective Investigation of Pesticide Applicators' Health Study.

We note that you are not aware of any substantive progress made by the Commission on establishing systems to collect information on suspected pesticide poisoning.

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

3 May 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)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON VETERINARY MEDICINAL PRODUCTS (13289/14)

Letter from 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 6 September 2017. As requested, I am writing to provide an update on the above proposal.

The latest text agreed by the Council in December addressed our concerns about the proposed arbitrary limits on carry-over; these have now been removed pending the completion of the necessary risk assessments by the European Food Safety Agency.

In terms of the timing, on 20 December 2017 the Estonian Presidency sought and secured a mandate to open negotiations with the European Parliament on the three proposals (including 13289/14 and 13240/14). Trilogue discussions have since started under the Bulgarian Presidency. We currently expect them to conclude in the autumn. As currently drafted, the medicated feed regulation will come into effect 36 months after the date of its entry into force.

28 February 2018

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

Thank you for your letter of 28 February on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 14 March.

We note that you were satisfied with the text agreed at the December Council meeting, and that trilogue negotiations have begun and are expected to conclude in the autumn.

Please provide an update on those negotiations in due course.

In addition, please provide an update on what action the Government is taking to ensure there will be sufficient veterinarians in the UK after Brexit to implement these measures.

14 March 2018

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

Thank you for your letter of 14 March 2018. As requested, I am writing to provide an update on the negotiations and what action the Government is taking to ensure there will be sufficient veterinarians in the UK to implement the measures laid out in the above proposal.

Agreement was reached with the European Commission on citizens' rights on 8 December 2017. The Prime Minister's announcement confirming this provides assurance to the many thousands of EU veterinary professionals and their families who currently reside in the UK.

The Vet Capability and Capacity Project (VCCP) is being undertaken between the Government and the veterinary profession to look at ways to secure sufficient numbers of veterinarians and paraprofessionals to fill essential roles in Government and the private sector. The long term aim is to build a sustainable, thriving, diverse and modernised UK veterinary infrastructure that safeguards the UK's food chain and protects animal health and welfare.

The British Veterinary Association and the Royal College of Veterinary Surgeons continue to be involved in the VCCP. Their continued contributions in relation to future immigration modelling, UK veterinary educational capacity and legislative reform ideas enable a more efficient use of the wider veterinary team as we head towards our departure from the EU.

The Government is continuing to engage with the Home Office/EU Exit Immigration Policy Team to ensure that the UK's immigration system will develop a skills based immigration policy which will take account of veterinary workforce needs and the wide range of roles vets and vet nurses fulfil. Efforts are being made to ensure that suitably qualified vets from overseas are prioritised for UK work visas (or equivalent), particularly if they are working in public health and the meat industry.

The Veterinary Professional Services team within Defra, that provides part of the Secretariat functions for VCCP, has been successful in receiving funding to pursue initiatives in relation to planning for our departure from the EU. This funding is being used in relation to veterinary education, staff management and retention.

Regarding the progress of the negotiations, since I last wrote there have been two medicated feed trilogue meetings. It has been recognised that due to the close links to the veterinary medicines proposal, work on medicated feed should be slowed to allow the former to progress.

I hope this gives you some comfort that measures and efforts are in place to ensure as smooth a transition as possible once we leave the EU.

4 June 2018

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

Thank you for your letter of 4 June on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 20 June.

We note your explanation that, in order to ensure there are sufficient veterinarians in the UK to implement these measures post-Brexit, the Government is working with the Home Office and EU Exit Immigration Policy Team to ensure the UK's immigration system will take account of veterinary workforce needs, as well as working with the profession on the Vet Capability and Capacity Project, and securing funding to support veterinary education, management and retention. We welcome your focus on resolving this issue.

Thank you for informing us that two trilogue meetings have taken place since your last letter, and that progress of this dossier may be slowed in order to match the timing of the veterinary medicines proposal.

Please provide a further update on the trilogue negotiations in due course.

20 June 2018

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

Thank you for your letter of 20 June 2018 where you asked to be updated on the trilogue negotiations.

Negotiations regarding the Veterinary Medicine Package, consisting of a Regulation on Veterinary Medicinal Products, a Regulation on Medicated Feed and an Amendment of the Regulation 726/2004

(EMA-Regulation) came to a conclusion in informal trilogues in June 2018. Coreper confirmed its agreement on all compromise texts resulting from the negotiations between the European Parliament and the Council. We expect the agreed texts to go to a plenary vote in the Parliament by October. Following the completion of the legislative process, the regulations will be published in the Official Journal of the EU, which we expect to happen by the end of the year. They will come into effect three years later.

16 July 2018

PROPOSAL FOR A COUNCIL REGULATION FIXING FOR 2018 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 (13780/17)

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 8 December asking to be updated on the outcome of the December AgriFish Council which was held between 11 and 13 December to set fishing opportunities for the next year for quota stocks in the North Sea, Atlantic, the English Channel, Irish and Celtic Seas.

At the Council I worked hard to secure an agreement that struck the right balance for both our marine environment and coastal communities. As a result of the improving condition of many species, the UK was able to agree to increase the total allowable catch (TAC) for stocks of importance to the UK whilst simultaneously adhering to fishery sustainability limits. I was for example able to secure additional quota for:

- North Sea: cod +10%, haddock +23% and anglerfish +20%.
- Irish Sea: cod +376% and haddock +23%.
- Eastern Channel: sole +25% and skates and rays +20%.
- Bristol Channel: plaice +49% and sole +9%.

Total fishing opportunities from this year's annual negotiations for 2018 are worth around £754 million, which is nearly £50 million more than for 2017. This includes the value of agreements reached in negotiations between the EU and certain third countries such as Norway for jointly managed stocks, which were endorsed at Council.

Where latest scientific evidence supports it, I argued against unnecessary quota cuts proposed by the European Commission, securing the same quota as in 2017 for many species, including anglerfish and pollack in the Celtic Sea and saithe in waters to the West of Scotland.

By deploying science backed arguments provided by the Centre for Environment, Fisheries and Aquaculture Science (CEFAS), I was also able to avoid the setting of some TACs to zero, because they would not cut fishing mortality and would set an unworkable precedent for when such stocks come under the landing obligation. Instead I secured bycatch quotas for whiting in the Irish Sea and West of Scotland and plaice in the Celtic Sea.

I was able to persuade the Commission to withdraw its proposal for an "of which no more than quota" for North Sea nephrops taken in functional units outside the Fladen (FU7). This would have caused our vessels serious economic loss. The measures we have introduced in the Farn Deeps demonstrate that fishing mortality on nephrops can be controlled using technical measures, which also protect the viability of fishing businesses.

Challenges do remain in areas like the Celtic Sea and on important species such as bass and megrim in the South West, where action is necessary to cut fishing mortality in order to allow these stocks to recover. I successfully argued against the imposition of generic technical measures for the Celtic Sea and Irish Sea through the TAC and quota regulation. Instead, such measures will be scientifically developed and evaluated in the first half of 2018 through the Regional Groups and the Advisory Councils to ensure that they are both effective and protect the viability of fishing vessels.

Further restrictions on commercial and recreational bass fishing were agreed. The UK specifically pressed for and secured the removal of a proposed ban on bass angling "catch and release" activity. We also helped ensure the agreement includes a specific undertaking for a review that would consider the scope to allow landings of bass in recreational fisheries in 2018, once the scientific evaluation method for the stock is updated by the end of March.

In setting out our objectives for the negotiation, the UK Government strongly supported the overall objective of fishing sustainably, based on the principle of Maximum Sustainable Yield (MSY). We supported the aim to set exploitation rates consistent with MSY and to increase the number of stocks set at MSY compared to last year's result. The final agreement means that for 2018, 30 stocks of interest to the UK will be fished at or below their MSY, an increase on 2017, out of 44 such stocks for which MSY assessments have been made. At the EU level, 39 of 66 assessed stocks were exploited within FMSY(a).

My officials will complete an economic evaluation of the proposal in January and I will of course provide you with a copy.

There was no specific "spill over to the EU exit negotiations" at this Council, which stuck to its remit set out in the agenda to set fishing opportunities for 2018.

9 January 2018

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

Thank you for your letter of 9 January on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 January.

Thank you for providing an update on the outcome of the AgriFish Council. We note that you were able to secure a number of amendments to the original Proposal.

Thank you for agreeing to provide a copy of your evaluation of the final outcome.

We note that there was no "spill over" to the EU exit negotiations and so there was no need for the UK delegation to respond to that potential scenario.

We are content to release this item from scrutiny, and look forward to receiving a copy of your evaluation in due course.

31 January 2018

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

Thank you for your letter of 31 January. Defra economists have completed an economic analysis of the fishing opportunities agreed for the UK in 2018 following the December 2017 AgriFish Council. Their report is attached.

Please note that the method by which this analysis was calculated is different from previous settlement calculations. To account for fluctuations in annual price changes, 2017 and 2018 values applied within the report have been calculated using 12 month rolling price data from the same period. Values have also been adjusted to reflect the expected uptake of quota by UK fishermen, where uptake is the percentage of the allocated quota landed in any given year. The difference in price and the inclusion of uptake values account for any variation in December Council value figures published in this report and those published before.

17 April 2018

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

Thank you for your letter of 17 April on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 2 May.

Thank you for providing a copy of the economic analysis of the 2018 settlement. We note that the UK's final settlement has fallen by nearly 16,000 tonnes compared to 2017 and that this is due to the reduction in Total Allowable Catch (TAC) for mackerel, to bring it in line with the long-term management plan. We note that the value of the settlement has, correspondingly, fallen by c£20m.

We note that 31% of UK stocks assessed for maximum sustainable yield (MSY) are still being fished above MSY. The document states that the UK Government strongly supports setting fishing opportunities at sustainable levels and increasing the number of stocks fished at or below MSY. What are the barriers to achieving this and what projections have you made of the number of stocks that could be fished at MSY in 2019?

We note that there has been an increase (of 2) in the number of fish stocks that will be fished at or below maximum sustainable yield.

We also note that the UK's total quota is higher in the final settlement than in the initial Commission proposal, and that you negotiated increases in TACs for some stocks.

We note that there is considerable difference in regional impact, with the Irish Sea having a 79% increase in TAC value from the previous year (due to significant TAC increases for herring and cod) but West of Scotland having a 16% decrease due to a fall in TAC for Norway lobster (and 'other' having an 18% decrease due to a fall in TAC for mackerel).

Finally, on third country negotiations, we note the increase in value of the UK's share of the EU-Norway jointly managed stocks is calculated at £17.5m but that the value to the UK of the EU-Faroes quota exchange is over £200,000 less than last year, the value of the UK's share of the North East Atlantic Pelagic straddling stock quotas is down by almost £50m and the total value to the UK of the EU-Greenland negotiations has also fallen.

We look forward to receiving a response within 10 working days.

3 May 2018

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

Thank you for your letter of 3 May 2018.

You asked for some information about barriers to stocks achieving their maximum sustainable yield (MSY) in 2018, and what projections have been made of the number of stocks that could be fished at MSY in 2019.

For 2018, there are a number of barriers preventing the 14 (of 45) stocks of interest to the UK, with MSY assessments, from achieving their MSY. These are summarised as follows (specific details for each of the 14 stocks are provided in Annex A):

i. An absence of international agreement on quota shares for species including blue whiting and mackerel has prevented fishing at MSY for these species. Although relevant countries agree fishing mortality should be restricted to levels which will achieve MSY, the absence of defined quota shares has resulted in countries taking what they consider to be their rightful allocations and landings, consequently exceeding MSY.

ii. Other international agreements (i.e. EU-Norway) allow for a slower transition to MSY, for example management plans that cap increases and decreases in the annual total allowable catch (TAC). For some stocks (including whiting in area IV), it is expected MSY will therefore be exceeded in the short term.

iii. For several stocks, including cod in VIa, sole in VIIa and whiting in VIIa, numbers are so low that significant recovery of the spawning population is needed before sustainable fishing can occur. As a result, targeted fishing is prohibited, and whilst small amounts are permitted as bycatch, fishing at MSY will not be possible until the populations are much larger.

iv. In one case, despite MSY not being achievable, a TAC was allocated for herring, in order to provide important scientific information about the state of the spawning population.

v. In the case of North Sea nephrops, whilst some of the stock units which make up the TAC are being overexploited, the overall TAC is being underfished and therefore this fishery is within MSY limits overall.

Finally, whilst not technically a barrier, as TACs could in theory be immediately set at MSY, the inherent difficulties of mixed species fisheries means that if such TACs were implemented in 2018, the early closure of many other fisheries would also follow. Examples of this are for species such as whiting in area VI. If this species were to be fished at MSY in 2018, other fisheries would be closed, due to whiting being caught mixed with others, and therefore being a major 'choke' species – i.e. preventing other stocks from being fished up to their MSY levels.

However, some stocks may reach MSY by 2020 if specific management measures were to be devised, agreed and implemented as part of a commitment to cut unwanted catches and avoid chokes developing in important fisheries. This approach is consistent with the Common Fisheries Policy requirements (that stocks should be capable of producing MSY by 2020). In making this type of decision, the need to balance the sustainability of stocks against socioeconomic consequences is essential in order to avoid serious hardship for some fishermen, resulting from fishery closures or early in-year cessation of fishing for some fleets with sustainability requirements.

Regarding assessment of the number of stocks which could be fished at MSY in 2019, this will depend on a number of factors. The International Council for the Exploration of the Sea (ICES) has not yet released its scientific advice for TACs in 2019, which is necessary to begin the consideration of the number of stocks that could be fished at their MSY in 2019. In addition, there will be a number of other factors affecting this, not least the fact that several stocks may remain in transition with an expectation of reaching MSY in 2020.

16 May 2018

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

Thank you for your letter of 16 May on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 6 June.

Thank you for explaining the barriers to increasing the number of stocks fished at or below Maximum Sustainable Yield. We would urge you, both before and after leaving the EU, to take all possible action to reduce these barriers and ensure more stocks are fished at sustainable levels.

We are now content to close correspondence on this dossier.

6 June 2018

PROPOSAL FOR A COUNCIL REGULATION AMENDING REGULATION (EU) NO 1370/2013 DETERMINING MEASURES ON FIXING CERTAIN AIDS AND REFUNDS RELATED TO THE COMMON ORGANISATION OF THE MARKETS IN AGRICULTURAL PRODUCTS, AS REGARDS THE QUANTITATIVE LIMITATION FOR BUYING-IN SKIMMED MILK POWDER (14929/17)

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 21 December regarding my Explanatory Memorandum on the above proposal.

There are around 8,000 tonnes of skimmed milk powder currently held in public storage in the UK. The public intervention system operates under shared management between the European Commission and the Member States, with the Member States' Paying Agencies being responsible for the management of the stocks and ensuring compliance with the obligations laid down by the Commission, in respect of products that are offered for intervention in their territories.

The Commission has arrangements in place to sell a certain quantity of the older stocks of skimmed milk powder held in intervention. The ability to sell the stocks will very much depend on market circumstances, but the Commission believes a suitable window exists at the moment.

Looking forward, it is still to be determined what will happen to any intervention stocks held by the UK once we leave the EU. This will be subject to discussions as part of the withdrawal agreement and on any implementation period.

9 January 2018

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

Thank you for your letter of 9 January on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 January.

Thank you for explaining that there are around 8,000 tonnes of skimmed milk powder currently held in storage in the UK and that it is still to be determined what will happen to these stocks post-Brexit.

We are now content to close correspondence on this Proposal.

31 January 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE, THE COMMITTEE OF THE REGIONS AND THE EUROPEAN INVESTMENT BANK THIRD REPORT ON THE STATE OF THE ENERGY UNION (14935/17)

Letter from the Chairman to Richard Harrington MP, Minister for Energy and Industry, Department for Business, Energy and Industrial Strategy

Thank you for your Explanatory Memorandum (EM) on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 January.

We take note of the significant funds highlighted, particularly in relation to innovation and infrastructure. For example, your EM refers to €2.6 billion of cohesion funding, €2 billion of Horizon 2020 funding, and up to €800 million of support for alternative fuels infrastructure.

Will you seek to retain participation in some or all of these funding programmes after the UK leaves the EU?

As you will be aware, this Communication has already been cleared from scrutiny. We look forward to your response within 10 working days.

31 January 2018

Letter from Richard Harrington MP, Minister for Energy and Industry

Thank you for your letter dated 31st January 2018.

You asked about the funds highlighted in Explanatory Memorandum 14935/17. As part of the principles of the Financial Settlement agreed in phase one of the Article 50 negotiations, following withdrawal from the Union, the UK will continue to participate in the Union programmes (including cohesion funding, Horizon 2020, and alternative fuels infrastructure) financed by the Multiannual Financial Framework (MFF) 2014-2020 until their closure, apart from participation in financial operations which give rise to a contingent liability for which the UK is not liable as from the date of withdrawal.

As we move forward, we will want to continue working together with the EU in ways that promote the long-term economic development of our continent. This includes continuing to take part in those specific policies and programmes which are greatly to the UK and the EU's joint advantage, such as

those that promote science, innovation and education. In doing so, we would want to make an ongoing contribution to cover our fair share of the costs involved.

8 February 2018

Letter from the Chairman to Richard Harrington MP, Minister for Energy and Industry

Thank you for your letter of 8 February 2018 on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 7 March.

We note your statement that the UK will continue to participate in the EU programmes financed by the 2014-2020 Multiannual Financial Framework (MFF) until their closure, and thereafter will seek to continue to take part in programmes which are to the joint advantage of the UK and EU.

We are now content to close this correspondence.

9 March 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVES 2000/53/EC ON END-OF-LIFE VEHICLES, 2006/66/EC ON BATTERIES AND ACCUMULATORS AND WASTE BATTERIES AND ACCUMULATORS, AND 2012/19/EU ON WASTE ELECTRICAL AND ELECTRONIC EQUIPMENT (14973/15)

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT OF THE COUNCIL AMENDING DIRECTIVE 1999/31/EC ON THE LANDFILL OF WASTE (14974/15)

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

Thank you for your letter of 15 December 2017, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 10 January 2018.

We note that the European Presidency and Parliament were keen to conclude negotiations before Christmas and that the Parliament is pressing for ambitious targets. We also note your concerns about the lack of Ministerial level discussion. Please keep us updated on the progress of negotiations, including whether any informal agreement has been reached.

Thank you for providing estimates of current recycling rates for municipal waste. Thank you also for providing details of how the UK might meet a 60% target for recycling and of some of the initiatives you are undertaking to improve recycling rates.

We note that the Parliament is pressing for an ambitious Extended Producer Responsibility (EPR) regime but that the UK's position is to argue for a flexible approach. During a recent evidence session with the waste industry, the Committee heard that, currently, producers pay around 10% of the costs of waste management in the UK, compared to up to 80% elsewhere in Europe. Members also heard that the UK currently has four EPR schemes (the minimum required), compared to 27 in France. Do you anticipate adopting a more extensive EPR regime as a result of these Proposals? What assessment have you made of the costs and benefits associated with greater producer responsibilities?

Thank you for your update on the marine litter recycling target.

We have decided to retain the documents under scrutiny. We look forward to receiving a response in 10 working days.

11 January 2018

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

Thank you for your letter of 11 January 2018. I will provide you with an update on the progress made on the negotiations in the past few months, before turning to the points you have raised.

Progress was made under the Estonian Presidency. A provisional agreement was reached with the European Parliament on all six waste Directives (waste; packaging and packaging waste; landfill; waste electrical and electronic equipment; batteries and accumulators and waste batteries and accumulators; and end-of-life vehicles) on 17 December 2017.

We have the following understanding of the provisional agreement. Mandatory targets for municipal waste recycling will be set at 55% by 2025, 60% by 2030 and 65% by 2035, although the latter is subject to review in 2024. The UK has consistently pushed for these targets to be realistic and achievable.

There is also provision for a target to limit landfill to no more than 10% by 2030, and an overall packaging waste recycling target of 65% by 2025 and 70% by 2030, with the following sub-targets for packaging materials:

- Plastic: 50%/55%
- Wood: 25%/30%
- Ferrous materials: 70%/80%
- Aluminium: 50%/60%
- Glass: 70%/75%
- Paper and cardboard: 75%/85%

Each Member State is entitled to a 15% derogation on packaging materials, to be used for one or divided between two sub-targets. However, use of the derogation cannot cause the target to fall below 30% for any material; for glass and cardboard the target cannot fall below 60%.

The provisional agreement retains requirements for separate collection (which may be provided through kerbside collection or bring sites) of at least paper, plastic, metal and glass, and extend these requirements to include textiles and hazardous household waste by 2025. In addition, separate collection of bio-waste will be mandatory from 31 December 2023. Member States may apply a derogation where separate collection is not technically, environmentally, and economically practicable.

Further, Extended Producer Responsibility (EPR) schemes must cover at least half the necessary costs on existing schemes, rising to at least 80% of costs by 2025. Following the Directive's entry into force, all new EPR schemes must ensure that the producers cover at least 80% of costs. EPR will be mandatory for all packaging placed on the market from 2025.

There are also alterations to calculation methods and derogation mechanisms, as well as a new definition of municipal waste, being:

(a) mixed waste and separately collected waste from households including paper and cardboard, glass, metals, plastics, bio-waste, wood, textiles, packaging, waste electrical and electronic equipment, waste batteries and accumulators, bulky waste including mattresses and furniture;

(b) mixed waste and separately collected waste from other sources where such waste is similar in nature and composition to household waste.

Municipal waste does not include waste from production, agriculture, forestry, fishing, septic tanks and sewage network and treatment including sewage sludge, end-of-life vehicles and construction and demolition waste.

We are currently assessing the provisional agreement. Once we receive the final text, which we anticipate will be within the next month, it will be considered in detail by Member States and discussed at COREPER. We currently anticipate a vote on the package at the next Environment Council in March, although this is subject to confirmation by the Bulgarian Presidency.

You asked whether we anticipate adopting a more extensive EPR regime as a result of these proposals.

In the Government's Clean Growth Strategy we set out our headline ambition to achieve zero avoidable waste by 2050. The recently published 25 Year Environment Plan outlines steps to achieve that ambition. As part of a renewed national Resources and Waste Strategy, we will explore reforming our Producer Responsibility systems to incentivise producers to take greater responsibility for the environmental impacts of their products. This will include exploring extending Producer Responsibility requirements to other products not currently covered by our existing regimes.

You asked what assessments we have made of the costs and benefits associated with greater producer responsibilities.

We are currently planning work to explore how the principles of EPR might help increase resource efficiency. The initial focus of the work will look at how EPR might build on and improve the UK's existing producer responsibility schemes. For example, the existing UK schemes (packaging, batteries and accumulators, waste electrical and electronic equipment and end-of-life vehicles) all differ considerably in their approach, and could potentially be refined to drive better resource efficiency outcomes and improved environmental delivery.

This work is still in the scoping phase and we have not yet made a detailed assessment of the costs and benefits associated with greater producer responsibilities. However, this will be an important element as this policy develops.

24 January 2018

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

Thank you for your letter of 24 January 2018, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 31 January 2018.

Thank you for your update on the provisional agreement reached on 17 December, which includes the municipal waste recycling targets increasing from 55% in 2025 to 65% by 2035 and a target to limit landfill to 10% by 2030. You note that the UK has pushed for these targets to be realistic and achievable, but do not clarify whether you believe you have been successful. Do you support the targets included in the provisional agreement? We note recent reports from a Greenpeace investigation that, in a briefing for EU ambassadors, you stated that "The UK cannot support a binding target of 65% for 2035", and that this meant you would not support the overall waste agreement.[1]

We note that the provisional agreement included a requirement for Extended Producer Responsibility (EPR) schemes to cover at least 50% of the cost of existing schemes, and at least 80% of the cost of new schemes, which will be mandatory from 2025. We also note your statement that you intend to explore reforming the UK's Producer Responsibility systems, and are in the scoping phase of assessing the costs and benefits of extending producer responsibilities. Please update us on this assessment in due course, and as a result your view on the targets outlined above.

We would also remind you of your commitment as stated in your recently-published 25 year environment plan to "developing ambitious new future targets" on landfill, reuse and recycling, and urge you to take this approach in your negotiations on this Package.

We note that you expect a vote on this Package at the Environment Council in March.

Please update us on your assessment of the provisional agreement when it is complete, including the achievability of any targets.

We have decided to retain these Proposals under scrutiny. We look forward to receiving a response within 10 working days.

31 January 2018

[1] https://unearthed.greenpeace.org/2018/01/24/uk-opposes-new-eu-recycling-targets-despite-mays-call-plasticcrackdown/

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

Thank you for your letter of 31 January 2018. I will provide you with an update on the progress of the dossier since the provisional agreement was reached, before turning to the points you have raised.

We received the final text of the proposed agreement on 08 February. The UK withheld its position at the February COREPER while it scrutinised the proposals and updated its analysis. The proposals were supported by European Parliament (EP) Environment Committee on the 27 February. We understand there will now be a vote on the proposals at EP Plenary in the week commencing the 16 April. They will revert to COREPER in mid to late April, ahead of a formal Council vote in May or June 2018.

You asked whether we support the targets included in the provisional agreement.

As stated in the 25 Year Environment Plan, we are committed to improving resource efficiency and increasing the amount and number of materials recycled.

The proposals in the Circular Economy Package align well with the 25 Year Environment Plan and what we want to achieve through the Resources and Waste Strategy.

As I have noted previously the UK has raised concerns regarding the 65% by weight recycling target and this is where there has been the most substantive change in the proposals, with the target deadline being extended by a further 5 years to 2035. This target is subject to review by the Commission in 2028.

Since receiving the final text, officials have updated their analysis. Recognising the opportunity for a further five years to attain the 65% by weight recycling target by 2035, and the review date of 2028, on a pessimistic scenario, the net social loss has reduced from £3.5bn to £1bn; with an optimistic scenario, there would be a net social benefit of £0.5bn. This analysis does not take account of the full range of policies under considering for our Resources and Waste Strategy.

Consequently, the Government intends to support the package at the final vote.

You asked for an update on the progress of our assessment of the costs and benefits associated with greater producer responsibilities.

The Government considers the principles of Extended Producer Responsibility (EPR) to be key to delivering its vision of resource efficiency and recycling set out in the 25 year Environment Plan. We are currently working with key sector groups such as manufacturers, retailers, producer responsibility organisations, waste management companies and local authorities to better understand the nature of different models for increasing producers' responsibilities.

Any models for future policy development will be subject to a full assessment of costs and benefits and this will be used to inform the development of Resource and Waste Strategy which will be published later this year.

With a final vote now imminent I request the House of Lords now lifts scrutiny on this important dossier.

22 March 2018

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

Thank you for your letter of 22 March, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 18 April.

Thank you for explaining that, as the deadline to meet the 65% recycling target has been extended to 2035, with a review date of 2028, you are now content to support the Proposals when they come to a vote. It is disappointing that Member States have 17 years to meet this target, given the importance of improving recycling rates.

We note that you are currently in discussions with stakeholders over the potential to increase Extended Producer Responsibilities, in advance of assessing the costs and benefits of any changes.

We note that you expect the Proposals to return to COREPER in mid to late April, following a vote in Parliament, and for a formal Council vote to take place in May or June.

We are now content to release the Proposals from scrutiny. Please provide us with an update, however, on any final changes that are made to the Proposal and on the outcome of the final vote.

19 April 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS THE FUTURE OF FOOD AND FARMING (14977/17)

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 Explanatory Memorandum (EM) on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 January.

We note your statement that the new Common Agricultural Policy (CAP) will not apply to the UK. This may be true of the CAP's funding framework, but this is accompanied by eligibility conditions and a broader regulatory context, as detailed in the Communication. The approaches described in the Communication will therefore continue to impact on the UK as a third country, in that post-Brexit trade deals may mandate a degree of regulatory alignment. What is your assessment of the potential impact of these proposals on the UK as a third country? What is your assessment of the degree to which the Commission's proposals are aligned with your intentions regarding the UK's agriculture policy post-Brexit?

We also note your statement that, because of the anticipated timing of its implementation, "the Government will not … be active participants in the discussions relating to a future CAP". This appears to contradict your statement in the EM that until Brexit negotiations are concluded the Government will continue to negotiate EU legislation. We were therefore surprised by your apparent attention to distance the UK from these discussions. Please clarify the extent to which you intend to participate in negotiations regarding the nonfinancial elements of the future CAP.

Given their enduring relevance to the UK, we also ask that you provide a view on the overarching approach taken in, and scope of, the Communication. Specific questions are set out below.

We welcome the acknowledgement in the Communication of many of the concerns that have been raised in relation to the current CAP, such as inflexible EU-level regulations, complex application procedures, excessive funding of larger farms, poor delivery of environmental objectives and the difficulties faced by new farmers entering the sector. Are there any shortcomings of the current CAP that you do not believe are addressed by this Communication?

What is your assessment of the advantages and disadvantages of the Commission's proposed new delivery model, whereby the EU sets basic policy parameters while Member States formulate their own approach to meet the CAP's objectives? Overall, do you believe this is an appropriate approach?

Do you agree with the Commission's statement that "Member States are in the best position to stimulate generational renewal using their powers on land regulations, taxation, inheritance law or territorial planning"? What legislative changes could the UK make to support new entrants to the farming sector, which the EU could not?

Finally, we note that many of the issues raised in the Communication regarding risk management are addressed in our 2015-16 report Responding to price volatility: creating a more resilient agricultural sector,1 which assessed the merits of subsidised insurance schemes, a range of financial instruments, business training and knowledge sharing. Speaking in the debate on the report on 22 November 2016 Lord Gardiner of Kimble, Parliamentary Under-Secretary of State for Defra, concurred with many of the report's conclusions, and as such we suggest that you bring the report to the attention of other Member States and use it to inform discussions regarding the legislative proposals on this matter.

We look forward to reviewing the legislative proposals for the future CAP in due course. In the meantime, we have decided to retain this Communication under scrutiny, and look forward to a reply to this letter within 10 working days.

31 January 2018

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

Thank you for your letter of 31 January 2018 in relation to the European Commission's Communication on the next Common Agricultural Policy (CAP). I shall respond to each of the points you raise in turn:

> *We note your statement that the new Common Agricultural Policy (CAP) will not apply to the UK. This may be true of the CAP's funding framework, but this is accompanied by eligibility conditions and a broader regulatory context, as detailed in the Communication. The approaches described in the Communication will therefore continue to impact on the UK as a third country, in that post-Brexit trade deals may mandate a degree of regulatory alignment. What is your assessment of the potential impact of these proposals on the UK as a third country?*

The UK and the EU start from a unique position, with rules and regulations originating from the same framework, although of course following our departure from the EU we will set our own agricultural policy. Going forward, there will be some areas where the UK and the EU may have different goals, or may share the same goals but achieve them through different means.

While we envisage a degree of bilateral agreement between the UK and the EU on policy areas directly relevant to trade such as markets regulation or labelling, we do not envisage any restrictions on our ability to design a domestic agriculture policy, indeed there is no precedent for this in trade agreements anywhere in the world.

> *What is your assessment of the degree to which the Commission's proposals are aligned with your intentions regarding the UK's agriculture policy post-Brexit?*

Some aspects of the Commission's Communication on the next CAP appear to be similar to the direction of our future policy. It identifies similar priorities, such as the environment and managing risk and volatility. The reality, however, is that this is the very first step in a long discussion and negotiation between member states. It is important to note that much of the initial feedback from member states on the Communication has been negative. While there is an appetite for change in the UK, the emerging preference, amongst some in the EU, appears to be for maintaining much of the status quo.

There are two key differences between the EU's proposal and the UK's future policy direction. The EU sees the overall role of the CAP, and particularly of direct payments, as having a long term positive impact on European agriculture. It also sees the agricultural industry as requiring particular protection. The Commission's Communication suggests that the CAP, and in particular direct payments, have provided income stability and protection against price and production volatility. It does not recognise that direct payments are poor value for money.

> *We also note your statement that, because of the anticipated timing of its implementation, "the Government will not … be active participants in the discussions relating to a future CAP". This appears to contradict your statement in the EM that until Brexit negotiations are concluded the Government will continue to negotiate EU legislation. We were therefore surprised by your apparent attention to distance the UK from these discussions. Please clarify the extent to which you intend to participate in negotiations regarding the non-financial elements of the future CAP.*

I would like to take this opportunity to clarify matters and correct the record. Paragraph 18 of the Explanatory Memorandum (EM) is incorrect and caused by an administrative error in Defra. We will correct this particular paragraph, using a corrigendum form.

The UK will be a member of the EU until 29 March 2019 and will remain engaged with the EU legislative process until that point. This date is not dependent upon the timing of the conclusion of negotiations. I have made it clear to fellow Ministers at the Agriculture Council that I believe the EU faces some of the same challenges as those we face in the UK. I have offered to work closely with EU partners where we have areas of common interest going forward. Clearly some of the options being

considered in Brussels will be the same ones that we are examining here in the UK and there may be scope for co-operation in these areas.

Equally I have noted that it would not be appropriate for the UK to play too close a part in the formal CAP negotiations; for instance the discussions that will take place concerning the exact relationship between the Commission and the member state governments in defining CAP Strategic Plans. In principle though we welcome the increased flexibility for member states that the Commission are proposing; I have long argued in Brussels that the 'one size fits all' nature of much CAP regulation does not work. It is right that member states should have a greater role in designing policies that deliver better value for money in their countries. Nevertheless, it would not be appropriate for the UK to play a strong part in such negotiations when we will not have to meet these new requirements.

> *We welcome the acknowledgement in the Communication of many of the concerns that have been raised in relation to the current CAP, such as inflexible EU level regulations, complex application procedures, excessive funding of larger farms, poor delivery of environmental objectives and the difficulties faced by new farmers entering the sector. Are there any shortcomings of the current CAP that you do not believe are addressed by this Communication?*

The objectives set out in the Communication look to be very broad and I do not see any obvious gaps at this early stage. Simplifying and modernising farm regulation are important themes for all member states. Attracting new entrants into the farming sector is essential, as is the focus on modern technology, training, risk management, skills and cooperation. It is also important that the CAP has a strong environmental element.

> *What is your assessment of the advantages and disadvantages of the Commission's proposed new delivery model, whereby the EU sets basic policy parameters while Member States formulate their own approach to meet the CAP's objectives? Overall, do you believe this is an appropriate approach?*

Setting broad, EU-wide objectives, but allowing individual member states much more flexibility to design specific requirements to meet those objectives which are tailored to local circumstances, seems to me a sensible way forward. Applied correctly, this should lead to much better value for money.

> *Do you agree with the Commission's statement that "Member States are in the best position to stimulate generational renewal using their powers on land regulations, taxation, inheritance law or territorial planning"? What legislative changes could the UK make to support new entrants to the farming sector, which the EU could not?*

According to some estimates, between 1992 and 2009 (the period since the introduction of direct payments under the CAP) the value of agricultural land and buildings in the UK rose by 400% compared with 38% general inflation. Between 2004 and 2015, land prices per acre rose from around £3,000 to £8,000. This means higher barriers to entering farming, which has become increasingly restricted to those with large amounts of capital or those following their parents onto a farm. We shall be looking at the challenges of attracting new entrants to the farming sector in the context of the UK being outside the EU and outside of the CAP, on which we are developing our own legislation. I think it follows, therefore, that I believe this is an issue which can best be tackled at an individual Member State level.

> *Finally, we note that many of the issues raised in the Communication regarding risk management are addressed in our 2015-16 report 'Responding to price volatility: creating a more resilient agricultural sector', which assessed the merits of subsidised insurance schemes, a range of financial instruments, business training and knowledge sharing. Speaking in the debate on the report on 22 November 2016 Lord Gardiner of Kimble, Parliamentary Under Secretary of State for Defra, concurred with many of the report's conclusions, and as such we suggest that you bring the report to the attention of other Member States and use it to inform discussions regarding the legislative proposals on this matter.*

I am grateful to you for this suggestion and we have taken action already. The UK delegation made reference to the report during discussions on the future CAP at the Special Committee on Agriculture held on 5 February, and has followed up by sending links to the report to all EU delegations.

22 February 2018

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

Thank you for your letter dated 22 February 2018 on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 7 March.

Thank you for clarifying that you are working with EU partners where the EU and the UK have common interests, but that you do not think it is appropriate for the UK to be too deeply involved in formal CAP negotiations when the UK will not have to meet the new requirements.

We note your view that the Communication identifies similar priorities to those of the UK, but that some of the proposals have faced opposition from other Member States, and that you disagree with the Commission regarding the role of direct payments.

We also note your position that any bilateral UK-EU agreements post-Brexit to enable trade will not restrict the UK's ability to design a domestic agriculture policy. However, not restricting the UK is not the same as not affecting the UK. The UK imports 30% of its food from the EU so UK consumers are inherently affected by its approach to agriculture; and given that there are some areas of agricultural policy in which the Government takes a different view from the EU – for example with regard to direct payments – we contend that there is the potential (if the post-2020 Common Agricultural Policy (CAP) and the UK's post-Brexit policy are not aligned) for competition between UK and EU farmers to be affected. What is your assessment of the potential effect on the UK of the proposed post-2020 CAP? And what assessment have you made of the impact on the UK of unaligned UKEU agriculture policies?

Have you received any representations from the farming industry or consumer groups regarding the post-2020 CAP?

We note your assessment that there are no obvious gaps in the Communication's objectives at this stage, and that the proposed new delivery model should lead to better value for money.

We also note that you agree that the challenge of attracting new entrants to the farming sector is best tackled at Member State level.

We welcome your reference to our report on agricultural price volatility in negotiations.

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

9 March 2018

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

Thank you for your letter of 9 March 2018 in relation to the European Commission's Communication on the next Common Agricultural Policy (CAP).

I will address your questions in turn:

> *What is your assessment of the potential effect on the UK of the proposed post-2020 CAP? And what assessment have you made of the impact on the UK of unaligned UK-EU agriculture policies?*

The Commission's proposals are at the very first stage of discussion and it will be some time before the detail of the next CAP emerges fully. The principle areas of divergence with our own future policy, at this early stage, appear to be on income support and direct payments. The government is consulting on proposals to reduce direct payments, and instead focus on use of public money for public goods through environmental land management schemes. I append an analysis of the main areas of convergence and divergence between the UK and the EU's proposals.

It is important to note that there is already a large variance in agricultural support across the EU. For instance, the last figures published by the EU (in 2013) show that farmers in the Netherlands received €457 per hectare, almost double that of the UK at €229 per hectare. Latvian farmers received the least at €95 per hectare, Maltese farmers the most at €696 per hectare. There are also variations in the quantum of funding member states transfer to their pillar II budgets.

Furthermore, exchange rate fluctuations have a far greater impact than changes to farm support are likely to. In particular, the strength of Sterling pre June 2016 against the Euro, disadvantaged British farmers. The correction in the value of Sterling against the Euro, following the vote to leave the EU, has reversed this and given our farmers a welcome boost.

Just as the UK's domestic agriculture policies will be implemented without any requirement from the EU to follow a particular policy, we in turn must grant the EU the freedom to pursue its own future policies.

We believe that if we target our energies and budget on developing policies that improve productivity and reward farmers for the delivery of public goods, then we will be best placed to compete internationally.

> *Have you received any representations from the farming industry or consumer groups regarding the post-2020 CAP?*

Defra has received no direct representations from the farming industry or consumer groups regarding the post-2020 CAP. We are aware however that the European Commission received 998 responses from correspondents with UK addresses in response to its 2017 consultation on 'Modernising and Simplifying the CAP'. These responses can be broken down into the following categories: 67 farmers, 902 other citizens and 29 organisations. The Commission published a summary of responses to the consultation on its website at https://ec.europa.eu/agriculture/sites/agriculture/files/consultations/cap-modernising/summary-public-consul.pdf.

25 March 2018

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

Thank you for your letter dated 25 March 2018 on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 25 April.

Thank you for providing your assessment that the main areas of difference between the Government's policy and the Commission's early proposals for the post-2020 CAP are on income support and direct payments, and that you expect divergence from the future CAP in the provision of new environmental land management schemes, funding for productivity schemes, and compliance and enforcement regimes. We note your statement that there is already significant variance in levels of agricultural support across the EU, and your implication that the Government's policy will leave UK producers in a better position to compete internationally than the Commission's would.

We note that you have not received any direct representations from the farming industry or consumer groups regarding the post-2020 CAP.

We have decided to release this Communication from scrutiny, and are content to close this correspondence.

25 April 2018

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 Richard Harrington MP, Minister for Energy and Industry, Department for Business, Energy and Industrial Strategy

I am writing to you following Oliver Henley's letter of 21 December 2017, where he informed you that the UK had supported a general approach on the recast Renewable Energy Directive ("RED"), and Governance Regulation alongside two other dossiers of the Clean Energy Package at the December Energy Council. I am writing to respond to the questions in your letter of 14 December 2017.

Recast Renewable Energy Directive

On the proposed heating and cooling (H&C) measure, under the original Commission's proposal, Member States (MSs) would have been obliged to try to increase the use of renewable energy in the H&C sector by at least 1 percentage point (pp) every year from 2021 to 2030. At the Energy Council, however, MSs agreed a binding obligation to make efforts towards a yearly increase of an *indicative* 1pp per year with the ability to set a lower level of endeavour based on cost-effectiveness with reference to specific 'structural barriers' (for example a high share of natural gas such as in the UK, or dispersed population settlements Under this compromise the UK will be able to pursue its own level of endeavour subject to an assessment of cost-effectiveness (on the basis of our high share of natural gas). Similarly, it would also allow other MSs to set their level of endeavour at 1pp per year if they wished, depending on their national circumstances.

You asked about my assessment of a) the cross-EU impact of the H&C measure as drafted, and b) its policy implications for the UK. My officials have not undertaken any detailed analysis of the likely effect in other EU Member States although it seems likely that many of those countries without extensive gas networks will set themselves a level of endeavour of 1 pp per year. As for the policy implications for the UK up to 2030, in my view it is still too early to assess these although it will of course be factored in to the work my officials are undertaking, as part of the Government's Clean Growth Strategy, into how we can decarbonise the heating sector most cost-effectively.

On the proposed biomass sustainability criteria, the compromise agreement reached at the Energy Council would allow MSs to continue applying any existing sustainability standards to plants that have already been granted public support under support schemes approved before the day of entry into force of the Directive.

You had a number of questions on the transport provision:

a) **On your question about my assessment of whether 12% constituted an appropriate transport sector target**, it is important to note the links with the accounting rules. The proposals referred to in your letter included changes to the current accounting rules, in particular the removal of double rewards for waste-based biofuels. As a consequence, although 12% appeared a modest increase from the current 10%, the practical effect could have required more than doubling the amount of biofuels supplied in the UK in 2030 compared with 2020. In terms of what might constitute an appropriate target, it is important to note that crop-based biofuels with high risk of indirect land use change, particularly those derived from oil crops including palm oil, still dominate the global market. Given their affordability and general availability, there remains a risk that ambitious targets, in

combination with a lack of safeguards, could promote biofuels that may provide limited or even negative greenhouse gas savings. The UK's view throughout the negotiations has been that the focus of this Directive should be on ensuring that we promote fuels that provide genuine greenhouse gas savings.

The agreement eventually reached at the Energy Council on 18 December has re-incorporated important flexibilities, including the option to double-reward waste-based biofuels and the possibility of adapting the overall target to the level of the domestic crop cap. As a result, I am satisfied that the Council position of a 14% transport target for 2030, including a sub-target for advanced biofuels rising to 3% in 2030, is in line with UK policy and can be achieved in a sustainable and affordable manner.

b) **On your question about the removal of double rewards**, the European Commission's original proposal excluded all crop-based biofuels from the transport target and consequently no additional incentives for waste-based biofuels were required. Some other MSs are also concerned that double rewards lessen the overall ambition level of targets. In the UK, the experience with double rewards as a policy tool has been positive in terms of promoting waste-based biofuels (which now account for more than 60% of all biofuels) and increasing greenhouse gas savings. The Government therefore welcomes the change agreed at the Energy Council to maintain the option for MSs to double reward waste-based biofuels. The impact for UK suppliers would have depended on whether the UK could have continued with double rewards within its domestic system. In the worst case, it could have removed an essential incentive for fuel suppliers to purchase waste-based rather than crop-based biofuels with a serious impact on the profitability of waste-based biofuel projects.

c) **On the link between the target and the level of the cap on crop-based biofuels**, the 12% target originally proposed by the Estonian Presidency assumed that up to 7% of the target could be met through crop-based biofuels, which are generally cheaper and more widely available than waste-based or advanced biofuels. Given the risk of indirect land use change, the UK Government has taken early action to encourage the use of waste-based biofuels which generally offer higher greenhouse gas emissions savings than crop-based biofuels; and the transition is already further advanced than in other EU MSs.[2] The level of crop-based biofuels in the UK is therefore comparatively low and the Government has set a 2% crop cap for 2032 domestically. In consequence, this means that a higher share of the 12% target needs to be achieved through waste-based and advanced biofuels in the UK, while their availability and affordability is still more limited. However, as mentioned above, the flexibilities included in the agreement reached at the Energy Council now take into account those differences between MSs.

On the requirement for MSs to publish a three-year forward look of expected publicly-funded support for renewable energy, this provision remains in the proposal. In particular, it requires MSs to publish a schedule including the expected allocation of support covering at least the following three years and including, for each scheme, the indicative timing and capacity, expected budget and principles for the consultation of stakeholders on the design of the support.

Finally, you had a question about the so-called 'contact point(s)' to guide a renewable energy developer through the permit process, and whether this would be as useful as the previous wording, which was for them to coordinate the whole process. I support the final agreement reached at the Council, which was for MSs to set up contact points that would guide renewable energy developers through the process, as it reduces unnecessary administrative burden compared with both the earlier proposal and the status quo. In particular, it reflects the make-up of consenting and related processes in the UK, where there are different actors (e.g. Ofgem, local planning authorities, relevant agencies, Government Departments), whilst still offering the assistance for those seeking to progress projects that we consider to be at the core of the proposal. If contact points were to coordinate the whole process, it could perversely be made more complicated, adding a new layer of bureaucracy.

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[2] For more information on the biofuel mix and greenhouse gas savings of individual feedstocks, please see https://www.gov.uk/government/collections/biofuels-statistics.

Regulation on the Governance of the Energy Union

As explained in the update after the Energy Council, discussions on Governance focussed heavily on the backfill mechanism to ensure the achievement of the binding EU-level renewable energy target. No significant changes were made to the reporting requirements in the Governance Regulation proposal nor with respect to the UK's ask for flexibility to rebalance between Renewables and Energy Efficiency.

On the administrative complexity of reporting, I am satisfied that the agreement reached at Energy Council includes sufficient high level monitoring on the overarching objectives of the Energy Union, including trajectories for renewable energy and energy efficiency and a detailed annex with specific indicators. The UK was successful in removing some other detailed reporting requirements within the original Commission proposal which represented a disproportionate administrative burden.

With respect to MSs' ability to amend their national plans at the update point, there is no scope in the Council Agreement for MSs to reduce their ambition in respect of any of the quantified targets around renewable energy, energy efficiency or decarbonisation. Any restriction on UK flexibility is partly mitigated by the consideration that MSs will determine the level of their contribution to the 27% EU-level renewable energy target, with the Commission able to make non-binding recommendations to MSs if the sum of their contributions does not add up to the EU-level target. The framework also does not allow for any reduction of ambition on decarbonisation during the period.

We expect the European Parliament to adopt a position on these dossiers early this year. Informal trilogue discussions should therefore start shortly after.

9 January 2018

Letter from the Chairman to Richard Harrington MP, Minister for Energy and Industry

Thank you for your letter of 9 January 2018, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 31 January 2018.

EM 15090/16: Energy Union Governance

Thank you for setting out that no significant changes have been made to the reporting requirements in this Proposal, and that you are satisfied with the level of detail in the reporting requirements.

We welcome your reassurance that the framework does not allow for any reduction of ambition on decarbonisation at the 2023 review point. Do you intend to continue seeking changes that would allow for a rebalancing of ambition between renewable energy and energy efficiency?

EM 15120/16: Renewable Energy Directive

Thank you for clarifying that the obligation to work towards a 1% increase of renewable energy in the heating and cooling section remains, but that the UK may set a lower level of ambition due to its "structural barriers". Has an assessment been carried out by either the UK or the EU of whether this obligation, as currently drafted, will make a meaningful contribution towards the EU's renewable energy targets?

We welcome the fact that you have secured the ability to continue applying current standards in addition to the proposed biomass sustainability criteria.

Thank you for clarifying that the proposed target of 12% renewable transport fuel by 2030 could more than double the amount of biofuels supplied in the UK compared to 2030. We note your caution regarding higher targets on account of the risk of negative greenhouse gas savings, and your satisfaction with the Council's position of a 14% target.

Thank you for your explanation of the value of double rewards for waste-based biofuels, and your assurance that this flexibility has been reincorporated into the Proposal.

We note your clarification that the 'difficulty' of a higher cap on crop-based biofuels related to putting the UK at a competitive disadvantage, rather than a practical difficulty, and that the flexibilities now included take Member State differences into account.

We note that the requirement to publish a three-year forward look of expected public support for renewable energy remains in the Proposal. Will you still be seeking to alter this obligation so that it is indicative and aligned to Parliamentary cycles?

We also note your view that the proposed system of 'contact points' to guide a renewable energy developer through the permit process allows for the diversity of actors involved, while still offering assistance and without increasing bureaucracy.

Thank you for your update on the expected timeline of the negotiations on both of these Proposals. Please keep us informed of developments as trilogue negotiations progress.

Both Proposals are retained under scrutiny. We look forward to receiving an update in due course.

31 January 2018

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

I am writing to you following Richard Harrington's letter of 9 January 2018, where he responded to your questions and provided an update following the General Approach on both files at the Energy Council last December. I am writing to update you on the progress of negotiations, as informal trilogue discussions are now underway.

Governance of the Energy Union

Informal trilogue discussions have so far covered a wide range of issues particularly in the field of climate policy, although key issues such as the baseline and backfill measures (which would apply if a Member State misses its 2020 renewable energy target or if the EU is not on track towards its 2030 target) and the level and nature of EU targets remain to be addressed. The European Parliament has, in particular, signalled as priorities an increased EU-level renewable energy target and an EU commitment for net-zero carbon emissions by 2050.

Discussions at the Informal Energy Council in Sofia on 19 April pointed to a relatively clear Council position on the key political items, including strong opposition to making renewable energy targets binding at the Member State (MS) level; flexibility towards a slightly higher EU-level renewable energy target; and opposition to a commitment to net-zero emissions by 2050 for now. Such a commitment is seen as premature ahead of the EU long term climate strategy expected in the first quarter of 2019 and the IPCC report due in November this year.

I judge that that a final agreement during the Bulgarian Presidency is challenging, but potentially achievable, although such agreement will depend significantly on progress on linked sections of the Renewable Energy Directive (Recast) and Energy Efficiency Directive dossiers, particularly with respect to the level and nature of EU-level targets.

Areas where it should be possible to secure convergence between the Council and Parliament (EP) positions currently include:

- Increased climate focus in the EP position including a template for long term climate strategies with more detailed reporting requirements, as well as stronger reference to the Paris agreement objectives and the EU long term climate strategy requested by the European Council of March 2018 (the Commission is expected to publish this by the first quarter of 2019).
- More detailed reporting within the national energy and climate plans including e.g. an assessment of the impact of measures on competitiveness and any national objectives related to system flexibility, smart grids, real time price signals and demand response.
- The factors to be considered by MSs when determining their renewables contribution including GDP, potential for cost-effective deployment of renewables, geographical and environmental constraints and level of interconnection.
- Inclusion of a "general overview" of the investments necessary to achieve the Energy Union objectives within the national plans, but no requirement for detailed investment strategies.

- Amended text on the status of Commission recommendations, to clarify that MSs should take due account of recommendations and give reasons where they decide not to follow those recommendations.
- Text requesting the Commission to perform an assessment of the impact of measures taken on the EU Emissions Trading System.
- Technical agreement on reporting on national and EU systems on greenhouse gas emissions and removals by sinks.
- The e-reporting platform to be set up by the Commission.

In addition, there are a number of key areas which have not been significantly discussed during the informal trilogues; these include:

- Energy poverty: several MSs are keen to resist EU-level reporting, on the basis that within their national systems they do not distinguish energy poverty from wider poverty questions dealt with by social security policies.
- Backfill and baseline: the European Parliament is expected to push for increased and binding measures to ensure achievement of EU-level targets, although I am cautiously optimistic that a strong coalition of MSs exists which will block any move to make targets binding at MS level.
- Climate change adaptation: the Commission and Parliament are expected to push for increased reporting which we view as going beyond the requirements of the UNFCCC.
- Committee structure with respect to adopting implementing acts: several Member States and the European Parliament are determined to retain separate committees for climate and energy policy at the EU level, whereas the Commission strongly defends its original proposal for a single committee.
- Public consultation and the establishment of a multi-level dialogue platform: the establishment of a multi-level platform including all relevant stakeholders to discuss and feed in to the development of national energy and climate plans is a key ask of the European Parliament. MSs, while willing to commit to early and effective public consultation, do not wish to establish potentially duplicative new structures.

I expect informal trilogue discussions on the politically sensitive issues to be held in the next two months; the Bulgarian Presidency may decide to prioritise this particular dossier in order to achieve agreement before the end of June.

Renewable Energy Directive (RED) (Recast)

Informal trilogue discussions have also covered most issues in the RED proposal, although not much progress has been made. There are a few key provisions that remain controversial, namely:

- **The level of the binding 2030 EU-level renewable energy target**, where the European Parliament continues to push for a 35% target. As I mentioned above, at the Informal Energy Council in Sofia on 19 April some MSs signalled flexibility for a higher EU-level renewable energy target than the "at least 27%" agreed by the European Council in 2014. The UK's priority is to seek maximum flexibility for each MS to develop the most cost-effective pathway for it to deliver its emissions reductions commitments, including deciding the contribution renewable energy should make, whilst recognising the need for mechanisms to give the EU assurance that its objectives on renewables will be met. We believe that the "at least 27%" EU-level renewable energy target agreed by Council in December 2017 struck the right balance between ambition and cost-effectiveness for MSs, but given the wider support for a higher target we may need to show some flexibility in order reach a compromise that secures our other objectives for the dossier such as the heating & cooling and transport provisions.
- **The European Parliament has also introduced a new formula in the proposal**, which would automatically calculate MSs' contributions to the overall EU-level renewable energy target, depending on certain criteria, for example on MSs' GDP per capita or their

levels of interconnection. The Parliament argue that this would ensure that MSs collectively meet the EU target. However, in Council there is a strong preference for MSs to have flexibility to set their own contributions to the EU-level target and only if those contributions together do not add up to the level of the EU target, would the Commission issue recommendations to MSs. Such recommendations would be based on objective criteria (as in the General Approach to the Governance Regulation agreed by the Council) alongside a formula, which would be determined later in an implementing act. This is an important area that has not yet been discussed between the Bulgarian Presidency and the European Parliament.

- **On the proposed heating and cooling (H&C) measure**, a compromise has also yet to be found. The European Parliament's position is that MSs should be obliged to try to increase the use of renewable energy in the H&C sector by 2 percentage points (pp) per year. If they are unable to do so, they should provide a public justification to the Commission. Given that the Council's position is for an obligation on MSs to make efforts towards a yearly increase of an indicative 1pp per year, the discussion between the European Parliament and the Council is focused on the level of the endeavour, as well as to how *binding* the measure should be. The UK has defended the wording in the General Approach agreed at the Energy Council last December, which would allow MSs to set a lower level on the grounds of cost-effectiveness with reference to specific 'structural barriers'. For example, where a MS has a high share of natural gas, such as the UK, or dispersed population settlements, it would be able to aim for a level below 1pp per year.
- **On the proposed transport sector target**, substantive discussions have not yet taken place. The European Parliament is pressing for a 2030 target of 12%, including a sub-target for advanced biofuels of 0.5% in 2021 and 3.6% in 2030; for freezing the cap on crop-based biofuels at 2017 levels (maximum 7%); excluding palm oil in fuels from counting towards renewables targets by 2021; and a 1.7% cap on waste-based biofuels (although Member States may ask for a derogation to allow more). The European Parliament does not want to see either advanced or waste-based biofuels double rewarded. This, in particular, would make it challenging and costly for the UK to meet the overall target and would create an incentive for MSs to continue to use crop-based biofuels. This runs counter to the UK's policy of promoting the most sustainable fuels which deliver genuine greenhouse gas savings. We are therefore defending the Council General Approach, including the possibility to double reward, and thus promote, waste-based biofuels; we also support the possibility for MSs to lower their overall transport sector target where they have got a domestic cap on crop-based biofuels, as this ensures that MSs are incentivised to move from crop-based to waste-based biofuels.
- Discussions have also taken place on other issues, such as renewable self-consumers (a key priority for the European Parliament), permit granting, renewable energy communities, and renewable energy support schemes. Further negotiations are still needed on these issues as no compromise solutions have yet been found.

We expect substantive trilogue discussions later this month. The Bulgarian Presidency are aiming for an agreement in June, although this is challenging given the range of issues still to be discussed and agreed.

14 May 2018

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

I am writing to you following your letter of 31 January to respond to your questions on the files above.

Governance of the Energy Union

On your question about whether we continue to seek changes which would allow for a rebalancing of ambition between renewable energy and energy efficiency at the mid-point of the National Energy and Climate Plans in 2023, article 13(3) of the Council General Approach in December restricted the scope of the update of the plans in 2023 so that "*Member States shall only modify their national target objective or contribution for any of the quantified EU targets, objectives or contributions set out in Article 4(a)*

and (b) to reflect an equal or increased ambition as compared to the one set in the latest notified integrated national energy and climate plan".

It follows that under the General Approach the UK would not be able to rebalance ambition between renewable energy or energy efficiency at the 2023 mid-point. Although we argued for this flexibility, other Member States felt it was essential that there be no scope to reduce or rebalance ambition in order to safeguard delivery of the separate EU-level renewables and energy efficiency targets. This was acceptable to the UK, as we gained assurance that Member States would retain full discretion to set an appropriate renewable and energy efficiency contribution at the point of setting the plan in 2018.

As you are aware, the proposal is now entering informal trilogue negotiations, where none of the negotiating positions of the Council, Parliament or Commission would allow for a rebalancing of ambition at the mid-point. UK negotiating priorities in this context will be to ensure that Member States retain flexibility to set their own renewables and energy efficiency contributions at the onset of the plan in 2018. This I judge to be achievable.

Renewable Energy Directive (RED) (Recast)

You also asked whether an assessment had been carried out by either the UK or the EU of whether the heating and cooling (H&C) obligation, as currently drafted, would make a meaningful contribution towards the EU's renewable energy targets. The Commission produced a report at the beginning of March that saw the deployment of heat pumps as a key contributor to meeting a higher EU-level renewable energy target as well as a factor which would limit costs to consumers. For example, the report saw the renewable energy produced by heat pumps for heating and cooling increase by 13% if the overall target increased from 27% to 30% in 2030.

Turning to your question about the three-year forward look of expected public support for renewable energy, and whether we will seek to alter this obligation so that it is indicative and aligned to Parliamentary cycles, we have continued to engage in Council to make this obligation indicative and the timing align more readily to Parliamentary cycles. We have been successful since the General Approach in obtaining improvements to the Council mandate for trilogues, the latest version of which now refers to an "indicative long-term schedule anticipating the expected allocation of support."

I understand that Council needs to compromise with the European Parliament on this and many other issues. Whilst I believe that ideally this obligation should be fully aligned to Parliamentary cycles, I think that there has been a clear improvement in the wording.

We anticipate that a vote on these files could take place in mid-June, therefore I request that you lift scrutiny or consider granting a waiver.

4 June 2018

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

Thank you for your letters of 14 May and 4 June 2018, which were considered by the EU Energy and Environment Sub-Committee at its meeting on 13 June 2018.

EM 15090/16: Energy Union Governance

Thank you for providing an update on trilogue discussions for this Proposal, and for setting out the areas in which you expect to be able to reach agreement. We note that reaching a final agreement during the Bulgarian Presidency depends in large part on progress in other parts of the Clean Energy Package.

We note your explanation that, although under the agreed General Approach it will not be possible to rebalance ambition between renewable energy and energy efficiency targets at the 2023 review point, you are confident that you will have enough discretion to set appropriate targets at the outset.

EM 15120/16: Renewable Energy Directive

We note that limited progress has been made in trilogue discussions on this Proposal, and that some key provisions remain controversial. We note in particular that you foresee the possible need to

compromise on the level of the binding 2030 EU-level renewable energy target, increasing it from "at least 27%" in order to achieve other objectives for the dossier.

We acknowledge the Commission's finding that increasing the overall renewable energy target from 27% to 30% would increase the renewable energy produced by heat pumps by 13%. However, this does not address our question of whether the obligation, as drafted in the General Approach, for Member States to work towards a 1% increase of renewable energy in the heating and cooling sector, with the option available for the UK to set a lower level of ambition due to its "structural barriers", would make a meaningful contribution towards the EU's renewable energy targets. We question the value of setting such a low target when it is plainly not consistently applicable across the EU. We therefore restate the question.

We note that since the General Approach was agreed, you have secured a mandate for trilogue negotiations to establish an obligation to publish an "indicative long-term schedule anticipating the expected allocation of support", rather than a three-year forward look of expected public support for renewable energy. We agree that this is more in keeping with the need for such a prediction to be indicative and aligned to Parliamentary cycles, so welcome your progress. Please keep us informed regarding the development of this obligation in the trilogue process.

We are now content to release both Proposals from scrutiny. Please provide an update on the positions reached after the relevant votes, in addition to answers to the questions above.

We look forward to receiving an update in due course.

14 June 2018

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

I can now update you on the final status of these dossiers, which form part of the Clean Energy Package and set the framework for the EU's energy and climate policy to 2030. Provisional agreements were reached on the dossiers at trilogues on 13 and 19 June and approved by Member States at COREPER on 27 and 29 June. I am also writing to respond to the questions in your letter of 13 June and to ask you to release the Energy Efficiency Directive from scrutiny.

Renewable Energy Directive (RED) (Recast) and Governance of the Energy Union

As discussed in previous letters, the strategy for these files was to prioritise limiting the overall costs to the UK, including ensuring that any targets were not nationally binding, and minimising the cost of specific requirements on heating & cooling and on transport. We accepted that the cost of securing those objectives might be a higher headline EU-level target. The provisional deals reached at trilogue matched these priorities; so we were able to support them at COREPER.

The RED sets a headline EU renewables target for 2030 of 32% with a review in the mid-2020s. I view this as an acceptable compromise as part of the strategy described above, given that we secured language in the Governance Regulation allowing Member States to set their own contributions to this target. This means that there will be no legal mechanism to oblige the UK to make any specific contribution, giving us the flexibility to meet our climate targets in the most cost effective way.

On heating and cooling, the provisional agreement sets a defined level of endeavour of a 1.1 percentage point per annum (pppa) increase in renewable heat's share of total heat but allows Member States to aim for a lower endeavour on grounds of cost-effectiveness, as discussed in previous letters. To respond to the question in your last letter, it is not clear from the Commission's Impact Assessment what specific impact this endeavour will have on achieving the EU-level target. The stated aim of the measure is to help achieve this target by incentivising the switch to renewables in heat to reach an EU-wide level of 27%, which Commission modelling suggests is the cost-effective level of decarbonisation in this sector. Given that our modelling suggested that this level of endeavour would not be cost-effective for the UK, and that we do not support sub-targets as a rule, as we believe that Member States should be free to achieve their emissions savings in the most efficient way available to them, we opposed this endeavour during the negotiations. However, given that removing this measure from the legislation entirely was not a realistic goal, we focused our efforts on prioritising the UK's flexibility to set a lower ambition, as discussed in our previous letter.

On transport, an overall renewable energy target of 14% in 2030 was agreed with a review clause in 2023, alongside a range of further detailed provisions. The deal also met our objective on palm oil by not specifically removing palm oil from the list of fuel sources which count as renewables for the transport targets in the Directive. Acceptable compromises were also secured on the other issues in the files, such as exemptions from grid fees for small-scale self-consumers of renewable energy, and sustainability criteria for biofuels.

I would also like to update you on the obligation to publish support schedules as requested in your letter. The final text reads "Member States shall publish a long-term schedule anticipating the expected allocation of support …", which we view as an acceptable compromise position.

Energy Efficiency Directive

In the final stages of the negotiation over the Energy Efficiency Directive, we were able to resolve our concerns relating to the calculation of existing 2020 targets. The methodology is now set out in the new legislative text, significantly reducing our legal risk. We have also secured acceptable compromises on the rest of the Directive.

On the new 2030 targets, the EP, Commission and Presidency agreed that there should be an EU-level target to reduce energy consumption by 2030 by an 'indicative' 32.5%. While we attempted to limit the level of the EU target as far as possible, ultimately there are no binding consequences on the UK, so we were able to show flexibility here to protect other areas. Under the final text, Member States are required to set an indicative national target which contributes to this but there is no mechanism to ensure that national targets add up to the required EU level. On the further national energy savings targets, the final deal was for a binding requirement for Member States to achieve annual end-use energy savings of at least 0.8% of final consumption (including transport) over the period to 2030.

Given that we expect final votes at Council could take place on these files as soon as the start of September, I am requesting that the Committee lift scrutiny on this file as it has already done for the RED and Governance Regulation.

12 July 2018

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

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

Thank you for your letter of 21 December in which you asked to be kept informed as negotiations progress with the European Parliament on the Energy Efficiency Directive.

The Parliament has now adopted its position on the Directive. The key elements of its position include:

- An EU-level binding energy efficiency target of 35% compared with 30% in the Council's General Approach.

- A national energy saving target equivalent to new savings each year from 1 January 2021 to 31 December 2030 of at least 1.5 % of annual energy sales to final customers by volume. The Council General Approach had lowered the target from 1.5% to 1% for the latter five years of the period.

- Final energy consumption in the transport sector to be included in the scope of the national energy-saving target. The target has also been made cumulative with Member States required to maintain the baseline of annual savings achieved in 2014-20 through to 2030. These proposed changes, taken together, would significantly increase the targets.

- The ability to reduce the national energy saving target by up to 25% (compared with 35% in the Council General Approach)

- A new provision explicitly allowing Member States to count savings from "more sustainable" technologies in district heating and cooling systems towards their national energy-saving targets.

- Additional requirements to take into account the effects of policy measures on low-income households and those in fuel poverty with a requirement to implement measures as a priority in those households (and social housing) and to report savings in national energy and climate plans

- A new obligation on the Commission and Member States to ensure that services in the energy efficiency market are transparent and competitive with non-discriminatory access to the market, particularly for SMEs.

- Additional requirements related to the metering and billing of natural gas, heating and cooling.

- A requirement on the Commission to establish a common methodology to account for the energy efficiency and flexibility of the electricity grid.

- A new article calling for the European Bank of Reconstruction and Development and the European Investment Bank to adapt their objectives to recognise energy efficiency as an energy source in own right and to develop programmes tailored to the efficiency sector.

The Parliament's position is significantly different from that agreed by the Council in June 2017 and as such we expect that the process of securing a compromise acceptable to both parties will be challenging. The focus of the negotiations will be on the nature and level of the EU-wide and national targets whilst other changes proposed by the Parliament are likely to be less controversial with scope for compromise. We will continue to argue against raising targets and will urge the Presidency to defend the levels of ambition for 2030 in the Council's General Approach.

The Bulgarian Presidency have indicated that they are aiming to secure such an agreement by the end of their Presidency in June and to date two trilogues have been held, focussing on the less controversial elements of the proposal. We expect the third trilogue, scheduled for later this month, to start to focus on the targets following discussions at the Informal Energy Council in Sofia in April. I will keep the Committee informed as the negotiations progress over the coming months and we move towards a final agreement.

You also asked what steps we are taking to clarify the points needed to assess whether or not the UK will face a shortfall against our 2020 target. First, I should be clear that the Government still stands by its interpretation of the existing directive as previously shared by the Commission and will continue to report annual savings in line with that interpretation. Secondly, in so far as possible, during the ongoing negotiations we will seek to use any opportunity that presents itself to add clarity. Thirdly, we will continue both to monitor savings from existing policies across the UK and to make projections of savings from new policies as they are developed and introduced in order to assess progress towards the targets. The Directive itself is silent about the implications of a Member State missing its target but we anticipate that, if there were infraction or other enforcement or court proceedings (without prejudice to any post-Brexit arrangements), and our interpretation of the directive was not accepted, a possible outcome is that the UK would be required to make up any shortfall for 2020 as soon as possible thereafter.

10 May 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 10 May 2018, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 6 June 2018.

Thank you for setting out the position adopted on this Directive by the European Parliament, and for your assessment that while there is scope for compromise on many of the areas in which the Parliament's position differs from that of the Council, discussions regarding the nature and level of the Directive's targets are likely to be more controversial. Please provide an update on trilogue negotiations in due course, including, as requested previously, any developments on whether the Article 3 target will be indicative or binding.

We note that you are continuing to seek clarity on the Commission's position regarding early energy savings from the supplier obligations, and that you will monitor savings from both existing and new policies in order to assess progress towards the targets. We also note your assessment of the action

the UK may be required to take if it falls short of its 2020 target as a result of the Commission's position.

We have decided to retain the Proposal under scrutiny and look forward to your response in due course.

6 June 2018

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

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 ESTABLISHING A EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS (RECAST) (15149/16)

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

Thank you for your letter of 14th December to my colleague, Richard Harrington, on the above proposals. You had written in response to Richard Harrington's letter of 5th December, in which you granted a scrutiny waiver so that the UK could vote on the General Approach texts at the Energy Council on 18 December. You asked for an update on the negotiations after the Energy Council.

Lord Henley represented the UK at the Energy Council where General Approaches were agreed on the Electricity Directive and the Electricity Regulation. Following constructive discussions over the course of the Council, the UK was able to support these General Approaches.

EM 15135/16: Proposal for a revised electricity Regulation

At the Energy Council, discussion centred around two major issues – bidding zones (wholesale pricing areas) and capacity mechanisms, particularly the proposed emissions limit.

As you mentioned in your letter, the UK's main concern over capacity mechanisms was that the Regulation placed too much weight on the European adequacy assessment rather than national assessments to determine whether Member States could operate capacity mechanisms.

At the Council, the UK stressed that its Capacity Market will support the decarbonisation of the electricity system by ensuring that, as the UK transitions to more intermittent and inflexible generation sources, there is sufficient total reliable capacity to meet demand. Together with a number of other Member States, the UK also highlighted the importance of national assessments for determining whether or not a capacity mechanism is needed. We were successful in achieving wording to this effect in the General Approach.

Member States had very divergent views on the proposed emission limits for generation that can participate in capacity mechanisms. It was therefore difficult to reach a balanced compromise on this issue. The agreed positon placed a range of restrictions on the carbon intensive generation capacity that will be able to receive capacity payments and I am satisfied that this will encourage coal phase-out, in line with UK policy. The UK's judgement was that this was the best compromise that could be reached, taking account of the Regulation as a whole.

EM 15150/16: Proposal for a revised electricity Directive

At the Council, the discussion on the Directive centred on energy price regulation. The UK, along with a number of other Member States, noted the importance of giving Member States the flexibility to introduce temporary and targeted price caps while undertaking action to remedy faults in their energy markets.

We were successful in achieving a compromise text in the General Approach with respect to energy price regulation.

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

You asked whether the conditions for third country participation in ACER were now acceptable or whether we were continuing to press for more flexible wording. I can confirm that the wording of this Article now provides sufficient flexibility for us.

We expect a General Approach to be agreed on this file at Coreper by mid-March.

31 January 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 31 January, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 21 February.

EM 15135/16: Proposal for a revised electricity Regulation

We note that you secured wording in the General Approach for this Regulation that acknowledges the importance of national assessments for determining whether a capacity mechanism is needed.

We also note that the agreed position on emission limits for capacity mechanisms is in accordance with UK decarbonisation policy, and your view that it was the best compromise that could be reached given the divergent views across Member States.

Thank you for informing us that you supported the General Approach on this Proposal.

EM 15150/16: Proposal for a revised electricity Directive

We note that the General Approach included sufficient flexibility to allow the Government to introduce temporary and targeted price caps.

Thank you for informing us that you supported the General Approach on this Proposal.

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

We note your assessment that the conditions for third country participation in ACER set out in the Proposal are now sufficiently flexible.

Thank you for your update on the expected timing of agreeing a General Approach on this Proposal. However, we have concerns about agreement being reached below Ministerial level, as this circumnavigates Parliament's scrutiny reserve. Please explain why you expect agreement to be reached at Coreper rather than at Council.

These Proposals are retained under scrutiny. Please provide further updates as negotiations progress, including an outline of the expected timings for each Proposal.

23 February 2018

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)

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

I am writing to update the Committee on the progress of this Regulation and, specifically, to seek clearance to agree a General Approach at the Energy Council on 11 June. Your letter of 23 February refers to this.

First, in your letter, you said that the Committee had concerns about agreement being reached below Ministerial level and thus circumventing Parliamentary scrutiny reserve. I can assure the Committee that this is not the intention of the Presidency; rather, they are seeking a General Approach at the next Energy Council.

There are two outstanding issues on which there is a split in the Council – the UK and 15 other Member States on one side and Germany, France, Italy and Spain on the other. They relate to the powers of ACER to resolve disputes between national regulators and the respective roles of ACER's Board of Regulators and Director in issuing opinions and recommendations and making decisions.

ACER has a crucial role in approving the terms and conditions or methodologies for the implementation of network codes which require approval by all regulators or all regulators in a region. It also has an important role to play in disputes between national regulatory authorities, where it may arbitrate on issues with relevance to cross-border trade.

The amendments, supported by Germany, France, Italy and Spain, would reduce ACER's ability to make the internal energy market work effectively and efficiently. Whatever the UK's long-term relationship with the internal energy market, it is our interests for it to work well. Our objective is thus to keep ACER's arbitration powers and the respective roles of the Board of Regulators and the Director as close as possible to the existing arrangements which have worked well.

There is a good chance that an acceptable compromise can be reached. I am therefore seeking the Committee's clearance to agree a General Approach at the Council on 11 June.

4 June 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 4 June, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 6 June.

Thank you for your assurance that the Presidency is not seeking to circumvent the scrutiny reserve.

We note your explanation that there is a split in the Council on two issues, regarding ACER's power to resolve disputes between national regulators and the respective roles of ACER's Board of Regulators and Director in decision making. We understand that the UK and 15 other Member States wish to preserve the existing arrangements in this regard, while a number of other Member States are seeking to reduce ACER's role. We also note your view that despite these differences "there is a good chance that an acceptable compromise can be reached" at Council next week.

We are therefore content to grant a one-off scrutiny waiver to allow you to vote on the General Approach to these Proposals at the Energy Council on 11 June. Please provide an update after that Council meeting on the compromise reached, the extent to which it accords with the current position of the European Parliament, and the expected timing of trilogue negotiations.

This Proposal is retained under scrutiny. We look forward to your response within 10 working days.

6 June 2018

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

I am writing to update the Committee on the outcome of the discussions on the ACER Regulation at the Energy Council on June 11th and to answer questions raised by the Committee in your letter of June 6th in which you granted a one-off scrutiny waiver to allow us to vote on a General Approach at Council.

At the Council, Member States agreed a General Approach on the proposed ACER Regulation. The UK was able to support the General Approach as acceptable compromises were reached on the two points of contention mentioned in my previous letter of June 4th - ACER's power to resolve disputes between national regulators and the respective roles of ACER's Board of Regulators and Director in decision making.

You asked whether the General Approach agreed accorded with the current position of the European Parliament (EP). Its position on ACER was set out in the EP ITRE Committee Report issued on February 26th.

Overall, the Council's position is broadly consistent with the EP's but there are differences in two main areas. First, both the EP and the Council consider that ACER's oversight role should be increased to include EU-level bodies such as ENTSO-E and G (European Networks of Transmission System Operators for Electricity and Gas), but the EP takes the view that ACER should be able to take enforcement action in cases of non-compliance by TSOs while the Council believes that ACER's role should focus on monitoring, with national regulators taking any enforcement action needed. Secondly, the Council is firmly of the view that the ACER Director and Board of Regulators must be politically independent whereas the EP seeks a role for itself in confirming the Director's appointment and having a non-voting representative on the Board of Regulators.

I anticipate that trilogues for the proposed ACER Regulation will commence in July and be completed by the end of the Austrian Presidency.

21 June 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 21 June, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 4 July.

We note that you supported the General Approach at the Energy Council meeting on 11 June. Please provide further detail on the compromises that were reached on the two key issues, and the extent to which you achieved the outcome you had been seeking.

Thank you for setting out the key differences between the Council and European Parliament positions on this dossier, namely regarding whether ACER's role should extend to taking enforcement action against Transmission System Operators (TSOs), and the extent of the European Parliament's role regarding ACER's governance.

We note that trilogues are expected to begin this month, and be completed by the end of the year. Please keep us updated on the progress of these negotiations.

This Proposal is retained under scrutiny. We look forward to your response in due course.

4 July 2018

RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS ON BEHALF OF THE EUROPEAN UNION FOR THE RENEWAL OF THE PROTOCOL TO THE FISHERIES PARTNERSHIP AGREEMENT WITH SÃO TOMÉ AND PRÍNCIPE (15248/17)

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

I am writing to inform the Committees of the recent adoption of the above mentioned mandate. The mandate was adopted at Agrifish Council held on 11 December. The decision allows the Commission to open negotiations with São Tomé and Príncipe with a view to agreeing a new Fisheries Protocol, because the current deal expires in May 2018.

The timescales for completion of these negotiations are not clear at this time, however there is likely to be a concerted effort to conclude talks prior to the current deal expiring.

An Explanatory Memorandum will be provided at the conclusion of these negotiations once we are in receipt of a proposed agreement. The UK has no direct fishing interest in this fisheries protocol, and as there was nothing of concern in the proposed mandate the UK supported it. We will assess the outcome of the deal once agreed.

17 January 2018

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

With reference to my letter of the 9th March 2017 and your subsequent reply dated the 16th March 2017. I am writing to update you on the above proposal for a Regulation of the European Parliament and the Council on the Sustainable Management of External Fishing Fleets. This proposed Regulation aims to improve the control of the EU fishing vessels operating in areas outside of EU waters and those of third country fishing vessels in EU waters.

Following informal trilogues held 27th April, 30th May and 20th June 2017, Member States considered the final proposal 20th June which was subsequently endorsed at COREPER 19th July. This Political Agreement was approved by Council on the 9th October; the regulation was published in The Official Journal of the European Union 28th December 2017 and will come into force 17th January 2018.

The main issues that arose for the UK during this process were:

- The European Parliament suggested wording for article (5) regarding the refusal of fishing authorisations to masters found guilty of a serious infringement within the 12 month period prior to their application. The UK and other Member States did not support this wording as it did not align with the existing provision in the control regulation and would result in two different enforcement regimes depending on where the infraction took place. It was subsequently agreed to remove the wording from the final agreement.

- Both the European Parliament's text and the General Approach refer to the EU's need to be a contracting party to the relevant Regional Fisheries Management Organisations (RFMOs), such as the North Eastern Atlantic Fisheries Convention. The UK would have preferred the text of the proposal to explicitly refer to both membership as contracting parties and non-contracting parties of RFMOs, the final text only refers to contracting parties. However, this was a drafting preference but does not have any implications for the UK.

- In the proposed text Recital 3a referred to the Union having responsibility for the activities of vessels flying the flag of the Member States and the due diligence that the Union must exercise in that regard. The UK argued successfully that the EU does not have general flag state responsibilities and this text was excluded from the final version.

- Recital 12b in the proposed text would allow the Commission to assume a mediating role in the suspension, withdrawal or modification of a fishing authorisation on the grounds of presenting a serious threat to the exploitation of fishing resources. The UK opposed this on the grounds that one party to a partnership agreement cannot adopt the role of a mediator in a dispute with another party. This has been removed from the final text.

- For Article 7(6) the Commission proposed at trilogue to overrule Member States' authority allowing them to directly cancel fishing authorisations. Member States successfully objected to this on the grounds that it is not legally appropriate and legal procedures exist for the Commission to deal with Member States' that do not fulfil their obligations. This amendment was removed from the final text.

As the UK already collects the information required for this proposal it will present no additional burden to UK businesses. The UK is content with the final wording of this proposal.

30 January 2018

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

Thank you for your letter dated 30 January on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 28 February.

Thank you for the update on the progress of this Proposal. We note that, during the negotiations, the UK disagreed with a number of suggested amendments. We also note, however, that these

amendments were not included in the final text and that the UK is content with the final wording of the Proposal.

We note that the Proposal has now been agreed, and came into force on 17 January.

We are now content to close correspondence on this matter.

9 March 2018

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING COUNCIL DIRECTIVE 92/66/EEC INTRODUCING COMMUNITY MEASURES FOR THE CONTROL OF NEWCASTLE DISEASE (15540/17)

Letter from the 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 Explanatory Memorandum (EM) on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 31 January.

While we recognise the need for this proposal, which ensures both legal consistency with the Treaty on the Functioning of the European Union (TFEU) and the ability to designate a new European Reference Laboratory (EURL) for Newcastle disease before the UK leaves the EU, we have some questions:

- What is the current scale of the UK's Animal and Plant Health Agency current role as the EURL?
- What will be the impact on the Agency of losing this role? Will it remain viable?
- Will it be possible to continue to share information on Newcastle disease with the EU post-Brexit? If so, through what means?

We have decided to release this Proposal from scrutiny, but would be grateful to receive a reply to this letter within 10 working days.

31 January 2018

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

Thank you for your letter of 31 January 2018.

What is the current scale of the UK's Animal and Plant Health Agency current role as the EURL? What will be the impact on the Agency of losing this role? Will it remain viable?

The EURL for Newcastle Disease currently employs approximately two FTE staff with a budgetary provision of £85,000 direct from the EU. It provides key funding for APHA's international activities in the area of Newcastle Disease, and cross subsidises other engagements such as supporting UK interests through the World Organisation for Animal Health (OIE). They engage with countries across the world to ensure APHA maintains expertise on Newcastle Disease and horizon scans for threats of relevance to the UK. It provides expertise/biological materials to complement our national capability for responding to Newcastle Disease emergencies in the UK, and supports policy to develop control programmes whilst aiding return to country freedom status for resumption of trade as applicable.

APHA is seeking financial support to offset loss of EU income to continue with global activities. APHA has strong international connectivity and is actively planning to maintain and exploit to further UK interests to fill the gap left by loss of EURL.

Will it be possible to continue to share information on Newcastle Disease with the EU post-Brexit? If so, through what means?

This will be subject to the outcome of negotiations with the EU. Information sharing is currently undertaken through both formal means, via the Animal Disease Notification System reporting system, through attendance at the Standing Committee on Plants, Animals, Food and Farming and working with the European Food Safety Authority (EFSA) on data collection and scientific opinions; and informal means, via Chief Veterinary Officers and national experts. We are looking at options for how that will continue once the UK has left the EU.

8 February 2018

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

Thank you for your letter of 8 February 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 7 March.

Thank you for your explanation of the scale of the Animal and Plant Health Agency's role as the EU Reference Laboratory for Newcastle disease, and that the APHA is seeking to offset the loss of the EU income in order to continue its global activities.

We note your statement that the extent to which information sharing on Newcastle disease will continue post-Brexit is subject to the outcome of negotiations with the EU. We encourage you to seek to maintain such information exchanges through both formal and informal means.

We are now content to close this correspondence.

9 March 2018

RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS ON BEHALF OF THE EUROPEAN UNION FOR THE RENEWAL OF THE PROTOCOL TO THE FISHERIES PARTNERSHIP AGREEMENT WITH THE REPUBLIC OF CÔTE D'IVOIRE (15744/17)

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

I am writing to inform the Committees of the recent adoption of the above mentioned mandate. The mandate was adopted at the Education, Youth, Culture and Sport Council held on 15 February. The decision allows the Commission to open negotiations with the Republic of Côte d'Ivoire with a view to agreeing a new Fisheries Protocol, the current deal expires in June 2018.

The timescales for completion of these negotiations are not clear at this time, however there is likely to be a concerted effort to conclude talks prior to the current deal expiring.

An Explanatory Memorandum will be provided at the conclusion of these negotiations once we are in receipt of a proposed agreement. The UK has no direct fishing interest in this fisheries protocol, and as there was nothing of concern in the proposed mandate the UK supported it. We will assess the outcome of the deal once agreed.

28 February 2018

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE DOHA AMENDMENT TO THE KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE AND THE JOINT FULFILMENT OF COMMITMENTS THEREUNDER (15878/13)

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING REGULATION (EU) NO.525/2013 AS REGARDS THE TECHNICAL IMPLEMENTATION OF THE KYOTO PROTOCOL TO THE UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE (15889/13)

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

Thank you for your letter of 29 November on the above proposals, I am writing to update you on progress on EU and Member State ratification of the second commitment period of the Kyoto Protocol (KP2).

Since I wrote to you in October 2017, I am pleased to confirm that the UK ratified KP2 on 17 November 2017, coinciding with the last day of United Nations Framework Convention on Climate Change (UNFCCC) COP23. I took the decision to ratify following an agreement amongst all Member States and the Commission at COP23 that we would complete ratification by the end of 2017. We agreed this step in order to demonstrate further our commitment to delivering pre-2020 climate commitments given the focus on this area during COP discussions, especially from developing countries.

Ten other Member States also ratified over the course of COP23 or shortly thereafter and on 21 December the EU itself ratified along with all remaining Member States except Poland. Although Poland pledged at COP23 to ratify KP2 by the end of 2017, the draft law was not submitted to the Polish parliament in time for this to happen and the draft law is still making its way through the Polish parliament. I anticipate that the momentum of all other EU Member States ratifying, along with the focus on Poland's forthcoming Presidency of COP24 will generate sufficient momentum for this to pass Poland's domestic procedures successfully.

The number of countries that have ratified KP2 has now increased to 108. To bring the Doha Amendment into force a total of 144 countries need to ratify it. As mentioned previously, the timetable for KP2 ratification and entry into force has not affected the implementation of the EU's commitments under KP2. There has always been a strong political commitment to implementation and the EU agreed to implement the protocol as if it was ratified and is in fact on track to over-achieve its 2020 target.

You will also be aware that the UK continues to be at the forefront of delivering on climate change commitments – we are on track to over-achieve our share of the EU's 2020 commitments and also our own more stretching domestic commitments to 2020.

31 January 2018

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

I am writing to apologise to you for the letter I sent to you on 24 January, updating you on the progress on EU and Member State ratification of the second commitment period of the Kyoto Protocol. Unfortunately the letter you received was in fact a previous letter sent to you on a similar issue.

Please accept my apologies for any inconvenience cause by this error. My team now have new processes in place to ensure this does not happen again. Please find attached a copy of the letter you should have received.

31 January 2018

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

Thank you for your letters of 31 January 2018 on the above proposals, which were considered by our Energy and Environment Sub-Committee at its meeting on 7 March.

We note your explanation that your letter dated 24 January was sent in error, and that there are now processes in place to avoid a similar error arising in the future.

We welcome your decision to ratify the Doha Amendment, and the decision of both the EU and the other Member States (except Poland) to take the same step.

We urge you to continue to encourage Poland to progress their domestic ratification process, and also to encourage additional international ratifications, to help secure a further 36 ratifications and ensure the Amendment enters into force.

We are now content to close this correspondence.

9 March 2018

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

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

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

My letter of 19 July 2017 provided you with a brief update on progress with these EU dossiers. I can now confirm that there was no substantive discussion of them under the Estonian Presidency last year and we are not expecting any further progress under the current Bulgarian Presidency or the forthcoming Austrian Presidency. I will of course continue to keep you informed of any significant developments.

5 March 2018

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

Thank you for your letter of 5 March 2018, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 14 March 2018.

We note that there has been no substantive discussion of these Proposals since your last update, and that you do not expect further progress under the Bulgarian or Austrian Presidencies.

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

14 March 2018

PROPOSAL FOR A COUNCIL DIRECTIVE AMENDING DIRECTIVE 2006/112/EC AS REGARDS RATES OF VALUE ADDED TAX (5335/18)

Letter from the Chairman to the Rt Hon Mel Stride MP, Financial Secretary and Paymaster General, HM Treasury

Thank you for your EM dated 8 February 2018. It was considered by the EU Financial Affairs Sub-Committee on 2 May 2018.

We note your approval of the greater flexibility for Member States to set VAT rates that would be granted by the proposals. You also state that it is important to consider the introduction of zero-

rates in conjunction with the list of goods and services introduced in Annex IIIa. Are you concerned that some items that the UK zero-rates will be on this list?

There are indications that other Member States favour the Commission's alternative option of generalising the country-specific derogations. Is this correct and, if so, how likely are the proposals to be agreed in their current form?

We also note your statement that the Government has "begun a mapping exercise in order to identify how the categories included in the proposed Annex IIIa and the intended classification of products by activity codes, align with the UK's existing zero and reduced VAT rates." Given that the UK would not be subject to the VAT Directive by the earliest implementation date of 2022 mentioned by the Commission, could you explain why the Government is carrying out this exercise?

We are content to clear this item from scrutiny and look forward to your response within the standard ten working days.

3 May 2018

Letter from the Rt Hon Mel Stride MP, Financial Secretary and Paymaster General

Thank you for your letter of 3 May 2018 in which you cleared EM 39488 on document 5335/18 (the "proposal for a Council Directive amending Directive 2006/112/EC as regards rates of value added tax") from scrutiny and requested clarification on the Government's approach to this proposal.

In your letter, you drew attention to the proposed introduction of a list of goods and services to which a standard rate of VAT must be applied (Annex IIIa) and asked whether the Government is concerned that this could affect existing zero and reduced rates in the UK. The Government is clear that while supporting changes that give Member States the flexibility to set VAT rates at levels that suit their domestic circumstances, any proposed changes should not conflict with the UK's existing reduced or zero rates. Similarly, one of the Commission's stated intentions in modernising rates policy is to allow the continuation of existing reduced rates that are legally applied in Member States and enable other Member States to apply such rates, as set out in the VAT Action Plan of April 2016.

The Government has identified instances in which the proposal would affect the UK's existing reduced or zero rates as it is currently drafted, such as in respect of retail trade services of bottled gas, coal and wood. The Government will seek to address actual and potential areas of conflict between the proposal and the UK's existing flexibilities in setting VAT rates as discussions in Council progress.

You also noted indications that other Member States favour the alternative option of generalising the existing country-specific derogations, and therefore questioned the probability of the proposal being agreed in its current form. This is an accurate observation, as several Member States have expressed a preference for pursuing more limited reform through harmonisation of rates as opposed to extending the scope for flexibility. This perspective is not universally shared within Council; other Member States consider that permitting greater flexibility in setting rates is sensible when combined with the proposed shift to a definitive system of VAT based on the priniciple of taxation in the Member State of destination of the supply of goods or services. Given the disparate views expressed within Council and the historic position of Member States, it is not yet possible to anticipate the outcome of future discussions. Moreover, there has been limited opportunity to discuss the issue as there has been only one Council working group meeting on the proposal to date.

Finally, you asked why the Government is conducting a mapping exercise to assess how the proposed Annex IIIa aligns with the UK's existing zero and reduced rates, given that proposal is unlikely to be adopted and implemented before 2022. The Government is clear that, until we leave the EU, the UK continues to have all the rights, obligations and benefits of EU membership. These obligations include our continued engagement on this and all other VAT proposals. We consider that, as part of this engagement, the Government must continue to explore the full detail of all new proposals and subsequent revised texts in order to fully understand their potential implications.

17 May 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS A EUROPEAN STRATEGY FOR PLASTICS IN A CIRCULAR ECONOMY (5477/18)

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

Thank you for your Explanatory Memorandum of 31 January, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 21 March.

We note that the Commission has set goals of all plastic packaging being reusable or recyclable by 2030 and for more than half of plastic waste generated to be recycled by 2030.

How do these targets relate to the UK Government's target of achieving zero avoidable plastic waste by 2042? How does the UK Government's definition of "zero avoidable plastic waste" differ from the Commission's definitions of "plastics packaging" and "plastics waste" and do those differing definitions bring the targets into conflict?

Given the recent Foresight Future of the Sea report found that plastic in the ocean is due to treble between 2015 and 2025, does the UK Government believe the targets set by the Commission (and, indeed, your own targets) are ambitious enough?

We also note that the Communication includes a list of measures recommended for national authorities. Is the UK Government intending to implement any of these measures?

We have already released this Communication from scrutiny but look forward to receiving a response in 10 working days.

26 March 2018

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

Thank you for your letter of 26 March 2018 regarding the Explanatory Memorandum of 31 January. As you point out, the recent Foresight Future of the Sea report highlighted the need for urgent action to tackle plastics waste. We also see this as a key strategic priority and as such it is highlighted as a key theme in our 25 Year Environment Plan which was published in January.

As noted in your letter, the European Commission has set a number of objectives/targets, including for all plastics packaging placed on the EU market to be reusable or recyclable in a cost-effective manner by 2030 and that by 2030, more than half of plastics waste generated in Europe is recycled. In the UK in 2016 the Waste and Resources Action Programme (WRAP) set out a vision for all packaging to be recyclable (where practical and environmentally beneficial) by 2025 - five years ahead of the EU target. WRAP is working with industry to deliver that vision.

The 25 Year Environment Plan identifies a challenging ambition to eradicate all avoidable plastic waste by 2042 and highlights a number of policy commitments to support this goal. Actions we will take include reviewing producer responsibility regimes to explore how these can incentivise better, more sustainable product design and increase demand for recycled materials. The EU has set no equivalent goal or target to the UK ambition to eliminate avoidable plastic waste altogether by 2042.

As explained in the Plan, what we mean by "avoidable" in this context is what is technically, environmentally and economically practicable. This covers a wider scope than just plastics packaging. We do not see the Commission's different targets as conflicting. They are intended to contribute to the same outcome and their targets will support achievement of our own.

We welcome the Commission's focus on this important issue and, in particular, the four key areas of focus in the Plastics Strategy. It is important that the strategy is translated into practical action as quickly as possible and we will continue to work collaboratively with the Commission to make this happen.

Your letter refers to a list of measures recommended to national authorities which accompanies the Plastics Strategy. We are supportive of all measures that align with the actions set out in our 25 Year Environment Plan. However, we will need to consider the detail of individual proposals before setting out our position on them. It will also be important to ensure that local circumstances and implications for businesses and consumers are taken into account.

10 April 2018

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

Thank you for your letter of 10 April, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 25 April.

We note your explanation that there is a UK target for all packaging to be recyclable by 2025, compared to the Commission's goal of all plastic packaging being reusable or recyclable by 2030, and so these targets support each other in that the UK would expect to have met the EU's goal five years early.

We note that you do not believe there to be a conflict between any targets set by the EU and the UK's target of achieving zero avoidable plastic waste by 2042, as the EU does not have an equivalent target. We note you consider that the Commission's goal for more than half of plastic waste generated being recycled by 2030 contributes to the UK achieving its target for 2042.

We note that the use of "avoidable" in your 2042 target means that it is limited to what is technically, environmentally and economically practicable. Does the EU's 2030 target have a similar caveat?

We note that you have yet to form an opinion on which, if any, of the measures recommended in the Communication for national authorities to adopt should be taken forward in the UK. Given our previous correspondence on the UK's rates of recycling, and what could be learned from EU countries with higher recycling rates, we would hope that those actions are given due consideration.

We look forward to a reply to this letter within 10 working days.

25 April 2018

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

Thank you for your letter of 25 April 2018, regarding the Explanatory memorandum of 31 January. In the absence of Minister Coffey, I am replying on her behalf.

It is difficult to make comparison with these targets as the EU target relates exclusively to recycling 50% of plastic waste, whereas the UK objective is to eradicate all plastic where possible. The technical caveat on the UK objective reflects the fact that some plastic waste such as medical and hazardous waste materials will always be unavoidable.

The EU target which aims for more than half of plastics waste generated in Europe to be recycled by 2030 is not limited by technical, environmental and economical practicability.

13 May 2018

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

Thank you for your letter of 15 May, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 6 June.

We note that the EU target does not contain the same caveat as the UK one, but that it is hard to make comparisons between them and that the UK target recognises that some medical and hazardous waste materials made from plastic will be unavoidable.

We are now content to close correspondence on this issue.

6 June 2018

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS EU ACTIONS TO IMPROVE ENVIRONMENTAL COMPLIANCE AND GOVERNANCE (5485/18)

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

Thank you for your Explanatory Memorandum (EM) on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 7 March.

We note that the Government broadly supports the proposals outlined in the Action Plan, and that you consider it a "constructive initiative to support the implementation of EU environmental legislation by Member States".

We also note, however, your concerns regarding the proposed guidance for inspections of extractive waste facilities. Are there any specific recommendations that you are concerned that the Commission might include in their guidance? If so, how would that differ from current practice in the UK and what would the impact of introducing the change be? What commercially sensitive information do you think Member States may be asked to share?

We note that you wish to continue to work with European partners to protect the environment, but that the nature of the UK's involvement in EU bodies post-Brexit is currently unclear. Do you hope that the UK will be able to continue to participate in the types of best-practice sharing initiatives described in this Action Plan, including the sharing of expertise through joint visits, joint enforcement actions and peer reviews? When the UK leaves the EU, how will environmental compliance assurance schemes be assessed and how will the Government ensure that this assessment is independent?

We have decided to release this Proposal from scrutiny, but would be grateful to receive a reply to this letter within 10 working days.

9 March 2018

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

Thank you for your letter of 9 March 2018. I shall respond to each of the points you raise in turn.

Guidance for inspections of extractive waste facilities

With regard to the proposed guidance for inspections of extractive waste facilities, there was a meeting of the Expert Group on Mining Waste on 25 January 2018 at which a number of key areas of interest to the UK were discussed. Following this meeting the Commission has circulated revised draft guidelines for comment and has proposed an iterative process which will be ongoing for a number of months yet. We have no significant concerns regarding the new draft guidelines, although a number of minor challenges remain and we are still engaged in the process. In relation to the question of sharing commercially sensitive information, we will want to ensure as the guidance is developed further that this risk is minimised.

UK's involvement in EU bodies post-Brexit

While the UK remains in the EU, we will continue to participate fully with all the rights and obligations of EU membership, and as part of that we welcome the objectives of this Action Plan. After we leave the EU, we will seek a deep and special partnership with our European colleagues, and will continue to work with them to resolve our collective environmental challenges. The exact nature of that cooperation will be a matter for the negotiations, but the UK has historically been very active in environmental cooperation networks and is committed to remaining so in the future.

Assessment of environmental compliance

The assessment of environmental compliance is also a matter for the negotiations, but the Committee will want to note that in November the Secretary of State announced his intention to launch a consultation on the creation of a new independent statutory body to hold Government to account on its environmental commitments. We would welcome the views of the Energy and Environment Sub-Committee on the shape and remit of this body once the consultation is published this spring.

22 March 2018

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

Thank you for your letter of 22 March, which was considered by our Energy and Environment Sub-Committee at its meeting on 18 April.

We note that the proposed guidance for inspections of extractive waste facilities have been revised and that, whilst you have no significant concerns, "a number of minor challenges remain". Please explain what these are. In our last letter, we asked for an explanation of what commercially sensitive data you thought Member States might be asked to share, as your Department had flagged this as a concern in their Explanatory Memoradum. We note that you want to ensure the risk of this is minimised, but we would like you to explain (or provide examples of) what data you might be asked to share that would be commercially sensitive.

We note that any opportunities for the UK to participate in best-practice sharing initiatives in future depend on the outcome of Brexit negotiations. We also note the Government's intention to consult on a new independent statutory body to hold the Government to account on its environmental commitments.

We look forward to a response within 10 working days.

19 April 2018

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

Thank you for your letter of 19 April 2018, following up on two points in my letter to you of 22 March. I set out further explanation in turn below.

Guidance for inspections of extractive waste facilities: explanation of "a number of minor challenges remain"

The next meeting of the Technical Adaptation Committee (TAC) has been scheduled for 22 June, at which the main topic for discussion will be the draft technical guidelines for inspections of waste facilities. The UK representative to the TAC (from the Environment Agency) is in the process of reviewing the latest version of the draft guidelines with the devolved administrations. The primary concern relates to implementing coordinated inspections in the UK across multiple regulators, although this is in line with HM Government policy more generally.

There is also a concern in relation to the words in Article 3(1) "Inspections of all waste facilities shall take into account the technical requirements specified in Annex 1". This potentially contradicts a previous understanding that Annex 1 should be seen as a 'pick list' and not that each element of Annex 1 needs to be covered in each inspection. If this is the case, it is likely that we would seek a different formulation, such as "shall include such elements of Annex 1 as the competent authority sees fit".

Sharing of commercially sensitive data

Potential commercial confidentiality issues were raised by colleagues from one of the devolved administrations within the initial UK aggregated return in advance of the first meeting of the TAC on 25 January. Having reviewed Annex 1 recently, the devolved administration is no longer concerned with this issue, and does not now consider that there would be problems for either a regulator or an operator when the inspection reports are made public.

27 April 2018

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

Thank you for your letter of 27 April, which was considered by our Energy and Environment Sub-Committee at its meeting on 16 May.

We note that your concerns about the proposed guidance for inspections of extractive waste facilities relate to implementing coordinated inspections across multiple regulators, and whether all the technical requirements specified in the Annex would need to be covered during an inspection. We note that you intend to seek a different formulation of words be agreed in relation to the latter.

Thank you for explaining that concerns over potentially being asked to share sensitive data have now been resolved.

We are now content to release the Communication from scrutiny and close correspondence.

16 May 2018

DRAFT COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS ON A REVISED LISBON AGREEMENT ON APPELLATIONS OF ORIGIN AND GEOGRAPHICAL INDICATIONS (5788/18)

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

I am writing to inform the Committees of the recent draft Council decision as mentioned above. The decision would retrospectively appoint the Commission as the Union negotiator for the revised Lisbon Agreement for the Protection of Appellations of Origin, negotiated and adopted in 2015. This decision is necessary as the previous Council decision which authorised these negotiations was annulled by the Court of Justice of the European Union following a legal challenge by the European Commission.

The aim of the revision was to adopt a new Act of the Agreement that would render the Lisbon System more attractive for states and users, while preserving its principles and objectives. The Geneva Act was adopted on a revised Lisbon Agreement, with three key changes:

- Widening its scope to cover all geographical indications (GIs)
- Modernising it to ensure full compatibility with the evolving international legal framework for Intellectual Property Rights, in particular the WTO TRIPS Agreement, and
- Creating the possibility for international organisations, including the EU, to become full members.

This decision would replace Council Decision 8512/15, which was annulled by the CJEU ruling (C-389/15) on the substantive legal basis for the negotiation mandate. The previous decision was based on Article 114 of the Treaty on the Functioning of the European Union (TFEU) (approximation of laws) which is an area of shared competence and provided for both the Commission and the Member State Parties to the Lisbon Agreement to participate in the negotiations. The Commission brought a legal challenge and the CJEU ruled in their favour, deciding that the correct substantive legal base was Article 207 TFEU (common commercial policy), which is an area of exclusive EU competence. The Court maintained the legal effects of the previous decision in order to give the Council a reasonable period of time (not exceeding 6 months) to adopt a new decision. The Geneva Act was adopted at the Diplomatic Conference for the Adoption of a revised Lisbon Agreement on Appellations of Origin and Geographical Indications in Geneva from 11 to 21 May 2015. The Council Secretariat is looking for the decision to be adopted at Environment Council on Monday 5 March.

Membership of the Lisbon Agreement for the Protection of Appellations of Origin consists of 28 contracting parties, including seven EU Member States (Bulgaria, Czech Republic, France, Hungary, Italy, Portugal and Slovakia).The UK is not a contracting party, nor does it plan to sign the Agreement. The Lisbon Agreement does not distinguish protection between agricultural and non-agricultural GIs,

and the UK's long standing position is that we believe a trade mark oriented approach is sufficient to protect non-agricultural GIs.

5 March 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 for the Environment, Department for Environment, Food and Rural Affairs

Thank you for your Explanatory Memorandum (EM) on the above Communication, which was considered by our Energy and Environment Sub-Committee at its meeting on 7 March. We note that your department is still in the process of considering the impact of the Proposal, in terms of the policy implications and in terms of subsidiarity. Please could you provide us with an update on your assessment?

It would be helpful to understand:

- Your assessment of the costs of implementing the Proposal. We note that you expect there to be an impact on water companies, government agencies and private suppliers. Do you agree with the Commission's assessment that there could also be an increase for consumers?
- The extent to which implementing this Proposal will require change. We note, for example, that risk assessments in England, Wales and Scotland are already undertaken from 'source to tap'. Would this Proposal require any additional risk assessment or monitoring to be undertaken?
- To what extent the UK already meets the proposed obligation to ensure access to drinking water for vulnerable groups. What further action, if any, do you believe would need to be taken?
- To what extent the UK already meets the proposed obligations on provision of information. What further action, if any, do you believe would need to be taken?

We note that, should the text be agreed quickly, the Proposal could come into force during a period in which the UK is still implementing EU law. If this is not the case, does the UK Government intend to mirror changes to the existing water quality Directive that this recast brings in?

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

9 March 2018

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

Thank you for your letter of 9 March in which you asked for an update on our assessment of the recast proposal and our understanding on a number of points.

"Your assessment of the costs of implementing the proposal. We note that you expect there to be an impact on water companies, government agencies and private suppliers. Do you agree with the Commission's assessment that there could also be an increase for consumers?"

The Government is still considering the proposal and the Commission's assessment of it. Any increase on the requirements on companies, can lead to an increase in customer bills.

We have begun informal consultation with relevant stakeholders, both inside and outside of Government (including the devolved administrations). We will be seeking agreement on the UK's position, and a high level strategy to negotiate at the Council Working Parties, to ensure the proposal meets our objectives of ensuring the wholesomeness of drinking water and minimising the impact on customers and tax payers in the UK.

For instance, the proposal imposes a requirement to analyse all water supplies for perfluorinated compounds (a by-product of firefighting foam). Perfluorinated compounds are currently only monitored where they might pose a risk to health. This is because contamination is often localised to some very specific areas. Analysis of these compounds is expensive and specialised and not all laboratories have the capability. The Commission may not be aware of this unintended consequence, and we will therefore be requesting that the current risk based approach to monitoring of this substance is maintained.

"The extent to which implementing this proposal will require change. We note, for example, that risk assessments in England, Wales and Scotland are already undertaken from 'source to tap'. Would this proposal require any additional risk assessment or monitoring to be undertaken?"

The UK has excellent drinking water quality with 'source to tap' risk assessments already forming a key component of our approach. As currently drafted, the recast would require additional risk assessment and monitoring and we are assessing whether this approach meets our objectives.

The proposed hazard (abstraction point) risk assessments of water supplies are currently carried out, in part, using drinking water safety planning methodology for supply systems. The water safety plans are published online and specify voluntary measures that water companies carry out to reduce the need for treatment and maximise the quality of raw water. The recast will formalise this approach but additional monitoring of parameters would be required due to the inclusion of several new parameters such as chlorate, chlorite, endocrine disrupting compounds etc.

Moving on to domestic distribution system risk assessments, these are already assessed by water companies on a risk basis and usually focus on the distribution arrangements within public buildings, health care facilities, high risk sites such as abattoirs, and at some domestic dwellings. As drafted, the recast sets out domestic distribution risk assessment requirements for all properties (including private supplies), albeit focused on 'priority premises' such as hospitals. Given the increase, we are assessing whether this meets our objectives as it would dramatically increase the number of assessments.

The values and parameters that are proposed for monitoring as part of the recast go beyond those that are recommended by the World Health Organisation (WHO). Our initial views on this approach are that the recast should follow WHO recommendations and that the domestic distribution risk assessments should be carried out in public buildings. Citizens should, however, be given the choice to request such an assessment given the potential costs involved to undertake remedial work, such as replacing lead piping.

"To what extent the UK already meets the proposed obligation to ensure access to drinking water for vulnerable groups. What further action, if any, do you believe would need to be taken?"

The proposal in Article 13 to provide access to water is in answer to the European Citizen's Initiative, 'Right2Water', which urges all EU institutions and Member States to ensure that all inhabitants enjoy the right to water and sanitation. The UK has an excellent record of providing water to vulnerable people. We are working with water companies and across Government to increase availability for those on the move, part of the strategy for reducing use of plastic bottles. For instance:

- Water companies, through Water UK, are working to create a network of water refill points across England for refillable water bottles;
- Water companies in England have committed to publishing their plans for reducing single use plastic bottles in their regions, to "make refilling your bottle as easy, convenient and cheap as possible by introducing refill points on every street"; and
- The Government is working to encourage transport hubs and retailers to extend their provision of free water and to publicise this to members of the public.

Although the Government supports the general objective the Commission wants to achieve to ensure access to drinking water for vulnerable groups, some of the provisions in the Article are too prescriptive and leave very little room for the UK to exercise its discretion. The means of meeting the general objective would be better left to Member States to decide and, on the grounds of subsidiarity, we will be writing to the Commission to this effect. The final Directive must be unequivocal in its compliance with the principle of subsidiarity.

Further research and work is required to assess if any further action needs to be taken to meet this objective in the UK. However, for the UK in particular, the costs of providing additional access (within the Commission's impact assessment) are put at zero. This is due to the very high level of connection to a water supply and access to drinking water that we already have, and because of existing or imminent national policies and practices that the Government has developed.

"To what extent the UK already meets the proposed obligations on provision of information. What further action, if any, do you believe would need to be taken?"

The Government supports transparency and the provision of information to consumers in the field of drinking water.

If the proposal is adopted as currently drafted, there may need to be additional information provided by water suppliers and the Government to meet the requirements in the new Directive. For example, additional reporting on billing breakdown for customers will be needed as costs are not currently laid out as the proposal requires. Information on what charges are included for access to water provisions will also be needed. Some of this information is already provided on the Discover Water website. In addition, information on the implementation, monitoring and incidents will also need to be prepared, collated and hosted by UK Government in an accessible format for the Commission and European Environment Agency to access.

We are still considering the implications of the proposal coming into force during a period in which the UK is still implementing EU law, and what the implications would be if it did not come into force during this period.

The Government has made clear that, upon exit, our environmental standards will equal those of the EU and we have committed to being the first generation to leave the environment in a better state than we inherited it. Therefore, if we make an agreement in EU law we can expect it to roll over into UK law on our departure. However, the Government's 25 Year Environment Plan confirms that decisions on managing risks will be proportionate and based on the weight of evidence so that, for example, a high level of certainty will be needed before a decision is made to invest in expensive treatment technology. Some elements of the proposal, as drafted, are unnecessarily constraining especially in relation to water quality parameters. As the UK has some of the highest quality drinking water in the EU, we may want to consider whether we accept all proposed changes.

27 March 2018

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

Thank you for your letter on the above Proposal, dated 27 March, which was considered by our Energy and Environment Sub-Committee at its meeting on 25 April.

We note that your department is still considering the cost of implementing the Proposal, and that you have begun informal consultation with relevant stakeholders. Please keep us updated on your assessment of the potential costs. We also note your statement that any increase in requirements on water companies could lead to an increase in customer bills.

We note you will be requesting the Proposal be changed to allow for the monitoring of perfluorinated compounds to continue on a risk-based basis, rather than requiring all water supplies to be monitored for it. Please could you clarify what the WHO's position is for the monitoring of this substance.

We note your assessment that the Proposal, as currently drafted, would require additional risk assessments to be carried out, both at abstraction points (where additional parameters would have to be included) and of domestic distribution systems (which are currently assessed on a risk based approached in the UK). We note that you are assessing whether the introduction of additional assessments would meet your objectives, but that you are minded to support domestic distribution

system assessments for public buildings only. Please provide an update on your position on these proposals, and the evidence base used to reach that position.

We note that you are minded to support parameters being based on WHO recommendations, rather than the more stringent ones included for some substances in the Proposal. Please keep us updated on how your negotiations progress on this issue.

We note that you consider the UK to have an excellent record in providing water to vulnerable people but that you are still assessing whether the Proposal as drafted would result in any further action in the UK. Please keep us updated on your assessment of the impact of this aspect of the Proposal on the UK. We also note your subsidiarity concerns in relation to this aspect of the Proposal and are aware that you supported the House of Commons' European Scrutiny Committee's recommendation to issue a Reasoned Opinion. Please keep us updated on your discussions with the Commission on this matter.

We note that the Proposal, as currently drafted, would result in water suppliers and the Government being required to provide further information to consumers and to the Commission. Please clarify if you support these aspects of the Proposal.

We note your commitment that the UK's environmental standards will equal those of the EU, post-Brexit, but that the Government may not support all aspects of the Proposal as you consider them to be too constraining and potentially incompatible with a proportionate approach to managing risk. How would the Government ensure the UK's water quality equalled that of the EU's if it adopted different parameters for water quality?

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

25 April 2018

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

Thank you for your letter on the above proposal, dated 25 April 2018. In the absence of Minister Coffey, I am replying on her behalf.

I note the request of the EU Committee, and the Energy and Environment Sub-Committee to receive updates on the progress of the proposal and our negotiations in this regard.

The Committee requests clarification on the World Health Organisation's (WHO) position on monitoring of perfluorinated compounds. The inclusion of a WHO recommended health based standard for perfluorinated compounds is welcome. However, a risk based approach to monitoring these substances would satisfy the risk to health whilst minimising onerous and costly monitoring, in line with current UK practice.

The Committee seeks an update on our position on the proposed introduction of additional assessments and the evidence base used in our evaluation. Our appraisal is ongoing, informed currently by informal discussion with stakeholders and a cross Government Project Board. The proposal requires all supplies to have at least three years of regulatory monitoring for the new parameters before they will fulfil the criteria to qualify for a monitoring variation. As noted in the letter from Minister Coffey to the Committee on 27 March, the values and parameters proposed for monitoring go beyond those that are recommended by the WHO. This will place an unnecessary burden on water companies and private supplies. Consultation with stakeholders is ongoing and a stakeholder group will be set up to support our evidence base for negotiations and implementation. An impact assessment will be developed over the coming months to inform and influence our position.

The Committee seeks clarification on the support given to the proposal for providing further information to consumers and to the Commission. As noted in the letter from Minister Coffey to the Committee on 27 March, the Government supports transparency and the provision of information to consumers, particularly information on quality where it has an impact on health, but this should be proportionate and in line with the continued security and protection of water infrastructure. Our position will continue to align with the recommendations of the Centre for the Protection of National

Infrastructure. Furthermore, engagement with devolved administrations and the planned formal consultation with stakeholders will continue to inform our position.

In regard to your question on how the Government would ensure the UK's water quality equalled that of the EU's if it adopted different parameters for water quality, the UK water industry provides consumers with exceptionally high quality drinking water. This is identified in the EU impact assessment associated with the proposal, and in a report from the Commission in 2016 . The UK has already adopted a risk based approach to water quality monitoring, as advocated by the WHO. Therefore, attainment of high standards is compatible with a risk based and proportionate approach to monitoring. Furthermore, the Drinking Water Inspectorate will continue to provide independent reassurance that public water supplies in England and Wales are safe and drinking water quality is acceptable to consumers.

14 May 2018

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

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

We note your preference for maintaining a risk-based approach to monitoring perfluorinated compounds, rather than adopting the levels recommended by the WHO or proposed by the Commission. Please keep us updated on your discussions with the Commission on this matter.

We note that you are still considering the potential impact of the draft Proposal's requirement for additional risk assessments. Please keep us updated on this, and on the evidence base used to reach your position on this element of the Proposal.

We note that you are still formulating your position on whether to support the requirements in the draft Proposal for additional information to be provided to consumers and the public. Again, please keep us updated on this.

We note your comments that the UK's current risk-based approach to water quality monitoring has not prevented the UK from achieving high standards of water quality and that, therefore, adopting the proposed EU standards would not be necessary to maintain that.

In addition to being kept updated on the three topics above, there were a number of other questions raised in our last letter that have yet to be addressed (as set out below). We understand your department may not have made significant progress on some of these issues to-date; as the Proposal is due to be discussed at June Council we would ask that you provide an update on all these issues (and on the discussions at Council) after that meeting.

The additional questions raised in our 25 April letter that we would like a response to are:

- What is your assessment of the potential costs of implementing the Proposal?
- How are your negotiations with the Commission progressing, in relation to having the parameters in the Proposal set at the levels recommended by WHO (rather than the more stringent ones proposed by the Commission for some substances)?
- What discussions have taken place regarding the subsidiarity concerns raised by the House of Commons' European Scrutiny Committee?

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

6 June 2018

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

Thank you for your letter dated 6 June 2018. I acknowledge your request to be updated on discussions with the Commission on the proposed recast of the Drinking Water Directive.

To date, the UK has made clear its negotiation principles during Working Parties and at the Environment Council on 25 June. We believe that Member States should have sufficient flexibility in areas of national competence (respecting the principle of subsidiarity), that the proposed parametric values align with World Health Organisation (WHO) recommendations (unless there is clear and robust scientific evidence to support deviation) and that the same level of protection of human health, including in relation to substances or materials that come into contact with drinking water, should be maintained. In keeping with wider Government policy, we also believe that duplication with EU law or international conventions, for example, the Aarhus Convention and Article 11 (Adequate Standard of Living) of the International Covenant of Economic, Social and Cultural Rights, should be avoided where possible.

Although we are in the early stages of the negotiations, the above points have also been made by other Member States, including at the Environment Council. At the meeting, Member States expressed broad agreement on the principle of access to water, particularly in response to the underpinning drivers of Sustainability Development Goal 6 and the 'Right2Water' European citizens' initiative. However, several Member States, including the UK, identified the need to respect the principle of subsidiarity in achieving the ambition of access to water for all, and especially for 'vulnerable and marginalised groups.' The UK clearly identified the need for Member States to exercise discretion and to select the most appropriate means according to locality or region.

In response to the specific questions you raise:

What is your assessment of the potential costs of implementing the proposal?

An outline impact assessment is being developed. On completion of this exercise, a summary of our evaluation will be shared with the Committee.

How are your negotiations with the Commission progressing, in relation to having the parameters in the proposal set at the levels recommended by WHO (rather than the more stringent ones proposed by the Commission for some substances)?

During meetings of the Council Working Party, it was clear that many Member States had concerns about the target level of specific parameters and the period of time for transition to meet them. Although some Member States welcomed the proposed text from the Commission, several, including the UK, are pressing for the recast directive to align with the WHO recommendations.

The Bulgarian Presidency proposed alternate text which included the establishment of an 'Indicator Parameters' table (which will cover parameters such as colour and odour), and an adjustment for the monitoring of perfluorinated compounds so that it is only conducted where a risk has been identified. Although these proposals more closely align with the UK's position, the UK and several other Member States are still pressing for the directive to align with the WHO recommendations.

What discussions have taken place regarding the subsidiarity concerns raised by the House of Commons' European Scrutiny Committee?

Concerns regarding the compliance of some of the articles of the recast directive with the principle of subsidiarity have been raised many times by several Member States in both Working Party meetings and at the Environment Council. The UK registered its concerns very clearly during the Council debate and will continue to do so as negotiations continue. The next Working Party is scheduled for 25 July 2018. The Presidency has attempted to address the Member States' concerns by proposing revised text which the Commission is considering.

10 July 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AMENDING DIRECTIVE 2003/87/EC TO CONTINUE CURRENT LIMITATIONS OF SCOPE FOR AVIATION ACTIVITIES AND TO PREPARE TO IMPLEMENT A GLOBAL MARKET-BASED MEASURE FROM 2021 (5968/17)

Letter from the Chairman to the Rt Hon Claire Perry MP, Minister of State for Climate Change and Industry, Department for Business, Energy and Industrial stratgy

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

Thank you for your update on the discussions with the EU institutions on their amendment to invalidate ETS allowances issued by the UK. We note that the UK Government has been successful in negotiating an alternative approach, which will bring forward 2018 compliance deadlines to before the date that the UK exits the EU, thus alleviating your concerns about the negative impact that the EU's amendment would have had.

We note that this Proposal has now been adopted. We are therefore content to release this

item from scrutiny and close the correspondence on this matter.

31 January 2018

REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL ON THE IMPLEMENTATION OF ARTICLE 5 OF REGULATION (EU) NO 576/2013 ON THE NON-COMMERCIAL MOVEMENT OF PET ANIMALS (6869/18)

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

Thank you for your Explanatory Memorandum of 20 March on the above Report, which was considered by our Energy and Environment Sub-Committee at its meeting on 9 May.

We note that the UK's response to the Commission's consultation on this issue raised concerns over the number of animals permitted to travel under the existing rules and argued in favour of restricting or revoking the derogation provided for under the Article (which allows the number to exceed five if certain conditions regarding the age of the animals, the documentary evidence provided and the purpose of the movement are fulfilled).

This Committee shares your concerns over the potential for the Regulation to facilitate the illegal puppy trade. As part of our current inquiry into the impact of Brexit on biosecurity, we heard evidence from the British Veterinary Association about the illegal entry of dogs into the UK under the scheme, with chronically infected dogs coming to Britain and acting as a source of infection. They also told us that the removal of the requirement for tick treatments has increased the risk of UK exposure to disease and argued for the reintroduction of tick treatments for all cats and dogs travelling under the scheme, alongside the introduction of tapeworm treatment for cats as well as dogs.

We note that you are considering the UK's pet travel policy after we leave the EU. Do you intend to lower the number of pets that can accompany their owner and, if so, when so you expect to publish your proposals? What consideration have you given to including tick and tapeworm treatments in future policy?

We have cleared this item from scrutiny but look forward to receiving a reply within ten working days.

9 May 2018

Letter from Lord Gardiner of Kimble, Parliamentary Under Secretary of State

Thank you for your letter of 9 May 2018 expressing your Committee's concerns over implementation of Article 5 of Regulation (EU) No 576/2013, in terms of the potential for this to facilitate the illegal

puppy trade and pose risks to the biosecurity of the UK. Committee members asked for information from the Government on the work being undertaken to assess options for future policy.

Whilst we remain a member of the EU, we continue to be signed up to the requirements of the EU Pet Travel Scheme. Once we have left the EU, we wish owners to be able to continue to travel with their pets to and from EU Member States with the minimum of inconvenience, and to maintain our biosecurity. The existing rules governing pet travel would continue to apply throughout any implementation period. We are working with the Department for Exiting the European Union to look at future arrangements.

Several strands of work are ongoing to assess potential options for pet travel rules once we have left the EU. We stand by our response to the EU Commission consultation on the number of pet animals that can travel with an owner or authorised person during a single trip. Looking to the future, leaving the EU will open up new opportunities for managing our pet travel arrangements, including ensuring there are robust controls on disease and animal welfare.

17 May 2018

Letter from the Chairman to Lord Gardiner of Kimble, Parliamentary Under Secretary of State

Thank you for your letter of 17 May on the above Report, which was considered by our Energy and Environment Sub-Committee at its meeting on 6 June.

We note that current rules governing pet travel will continue to apply through any transition period but that you are assessing potential options for future changes.

We are now content to close correspondence on this Report.

6 June 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 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 6 June.

We welcome the steps made towards the creation of a regime which is better-suited to delivering sustainable fisheries management.

You note in your Explanatory Memorandum (EM) that your officials were examining the proposal in detail, to produce a comprehensive analysis which will be used to inform the UK's response. Please provide an updated assessment of the Proposal once this assessment is complete.

You state that it may not be achievable to agree the Western Waters Multi-Annual Plan (MAP) by January 2019. Why is this? Please update us on the likely timescale of agreeing this Proposal as it develops, and explain how long it will take to be binding after it has been agreed.

The executive summary of the impact assessment that accompanies the Commission's Proposal states that the MAP "would be binding for all Member States and all vessels fishing on demersal fish in western waters". We note, therefore, that the MAP would apply to the to the UK after the UK leaves the EU, and also that there is a chance it may not be agreed by the time the UK leaves the EU. Is the UK in agreement with other Member States on this Proposal? Is there is any risk of the Regulation

including provisions that may be harmful to the UK if it is agreed after the point at which the UK loses its formal role in the decision-making process?

We note that industry acknowledges the MAP alone will not be sufficient to implement the landing obligation. Did they clarify what additional actions would be necessary?

Finally, please explain how affected non-EU countries, such as Norway, are engaging with the development of the MAP.

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

6 June 2018

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

Thank you for your letter of 6 June 2018.

The Government has undertaken an analysis of the proposed Western Waters multi-annual plan (MAP) and used it to submit a response to the EU, which has been included in a Western Waters MAP 'bible' alongside comments from other Member States. The procedure for agreeing a Council position has begun. There are many areas of agreement between the Commission and Member States, but some issues require further exploration before they can be agreed. Specific issues which affect the UK are summarised in a table in Annex A.

The process of agreeing the North Sea MAP took over 18 months before it was agreed in trilogue in December 2017. While the knowledge and experience gained from agreeing the North Sea MAP will benefit the development of the Western Waters MAP, mixed fisheries in Western Waters are more complex, so I feel we should be cautious about how long we can expect that process to take. That said, I am pleased with the progress that the Council is presently making to agree its position. It is in everyone's interest to agree this MAP before the UK leaves the EU.

You ask whether there is a risk that the Western Waters MAP could contain provisions that may be harmful to the UK if the MAP is agreed after the point the UK losses its formal role in the decision making process. It is important to both the EU and the UK to find a shared basis on which to establish sustainable exploitation rates for all commercially important stocks in which we have a common interest. It will therefore be advantageous to the EU to involve the UK in the final design of the Western Waters MAP, even if that process were to extend beyond March 2019 and into the implementation period. The science based framework, which this MAP will deliver, provides a basis for future bilateral cooperation between the UK and the EU. Ensuring that the UK is fully engaged in the design and agreement of the final plan will avoid the UK subsequently seeking change or choosing not to implement the final plan once we have left and is therefore in the interests of the EU. The UK will become an important coastal state in Western Waters and we expect to continue to play an active role in the management of these areas both during the implementation period and beyond.

Industry representatives from the National Federation of Fishermen's Organisations (NFFO) have said that the MAP could contribute significantly to the mitigation of chokes; but they commented that it will not, however, be sufficient to deal with this urgent task; other interventions will be required. They have suggested that (i) joint recommendations for a delegated act, (ii) decisions taken by the Council of Ministers at the December Council, and (iii) decisions taken through the co-decision process could also contribute to the mitigation of a choke. The NFFO has also suggested reviewing which stocks should have total allowable catch (TAC) status and which stocks should be managed through other means. Defra officials are holding ongoing discussions with the industry on the implementation of the Landing Obligation in 2019, including solutions that can be agreed at this year's December Council. The Government is also committed to continue working on the regional groups to identify practical solutions at an EU level, and discussing with the Commission solutions that go beyond the existing Common Fisheries Policy toolbox for stocks that may have residual choke risks once all measures have been exhausted.

We are aware that some non-EU countries have differing views on the approach taken to stock management in the Western Waters MAP, as was the case for the North Sea MAP. We expect the

EU Commission to continue its outreach and engagement with non-EU countries on these areas of divergence in order to build understanding and support.

28 June 2018

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

Thank you for your letter of 28 June 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 11 July.

Thank you for providing your analysis of the proposal. Do you expect to face significant resistance to any of the issues you raise in Annex A? Please update us on your progress regarding these issues you have identified as negotiations develop.

We note that it took over 18 months to agree the North Sea Multi-Annual Plan (MAP), and that it may therefore not be achievable to agree this proposal by January 2019 as per the Commission and Parliament's ambition despite lessons learned from the previous exercise.

Please update us on the likely timescale of agreeing this Proposal as it develops. How long will it take for the Regulation to be binding after it has been agreed?

We note your view that "it is important to both the EU and the UK to find a shared basis on which to establish sustainable exploitation rates" and that "it will therefore be advantageous to the EU to involve the UK in the final design of the Western Waters MAP, even if that process were to extend beyond March 2019 and into the implementation period."

Thank you for setting out the additional actions that industry believe will be necessary to mitigating choke risks in the Western Waters. We note that you are working with industry to identify solutions that can be agreed at this year's December Council.

You state that "some non-EU countries have differing views on the approach taken to stock management in the Western Waters MAP". Please clarify what these views are.

We note your statement that you expect the Commission to "continue its outreach and engagement" with affected non-EU countries "to build understanding and support" regarding the proposal. Given that the UK will soon be such a country, please clarify how frequently the Commission conducts this engagement, and what influence if any those countries have over the MAP.

Finally, the executive summary of the impact assessment that accompanies the Commission's Proposal states that the MAP "would be binding for … all vessels fishing on demersal fish in western waters". Please clarify how this is compatible with your statement that the UK could choose not to implement the plan once it has left the EU.

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

11 July 2018

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

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

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL LAYING DOWN RULES ON THE MAKING AVAILABLE ON THE MARKET OF CE MARKED FERTILISING PRODUCTS AND AMENDING REGULATIONS (EC) NO.1069/2009 AND (EC) NO.1107/2009 (7396/16)

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 14 December 2017. Please find below a more detailed explanation of the key amendments mentioned in my previous letter of 23 November 2017, with the UK Government's position on them.

European Parliament Amendments

The European Parliament amendments accepted at the plenary on 24 October 2017 come from document ST-13610-2017-INIT-EN.

The limits on cadmium levels in phosphate fertilisers have been one of the defining debates of the proposed regulation. The Environment, Public Health and Food Safety (ENVI) Committee, which has been granted exclusive competence by the Rapporteur to set the cadmium limits in Annex I of the proposal by the European Parliament, voted to make the original Commission proposal even stricter. The Commission set out an automatically reducing parcel of limits that would start at 60mg/kg of cadmium in inorganic phosphate fertilisers, falling to 40mg/kg after three years, and to 20mg/kg after twelve years. The ENVI Committee instead proposed that the final limit be imposed after nine years instead of twelve.

In addition to the limits on cadmium content, the European Parliament has also agreed an amendment relating to a 'Green Label' option for fertilising products that contain less than 5ppm of cadmium, arsenic, lead, chromium VI and mercury. There were also amendments relating to the ability of

Member States that already have national derogations on cadmium levels in fertilisers, to retain them until the rest of the Union reaches equivalent limits.

Additional amendments suggesting more incentives for the development of technologies such as decadmiation and phosphorus recycling. A substantial review was put forward that would take account of the need to assess the impact of this proposed regulation on the internal market, on the trade of raw materials, and on the environment.

The UK Government position regarding cadmium limits is that we fully support the aims of protecting human health and the environment from the impacts of heavy metals, in particular cadmium. However, these aims are best served by an evidence based approach that takes into account the impacts on industry, the functioning of the internal market and the further development of scientific evidence. Initially, we had pushed for a cadmium limit of 80mg/kg in inorganic phosphate fertilisers, while acknowledging that a compromise of 60mg/kg might be needed to reach an agreement. With these limits, the Government has strongly insisted throughout the negotiations that a robust review should be included within the proposal, instead of automatically lowering contaminant limits without substantial evidence.

Several amendments covering pathogen limits were suggested, these aimed at expanding the number of micro-organisms covered in organic fertilising products, soil improvers, growing media and especially with regards to microbial biostimulants. The Government's position has been to ensure that limit levels conform to or enhance the UK's national standards for composts and digestates, the PAS 100/110 criteria, which these amendments do, but also that these should not be too restrictive, especially with regards to biostimulant products.

The biostimulant industry is a fast growing industry with many new and innovative products being developed and produced. Amendments to the proposal also include text on the need to update requirements for potentially innovative biostimulant products and ensuring those requirements are made clear for manufacturers to comply with. The UK Government supports creating better conditions for innovative new fertilising products while ensuring standards conform to the latest evidence.

Council

On 20 December 2017, COREPER I endorsed a mandate to begin informal trilogue discussions with the European Parliament. After several months of debate in Council, the divisive issue was still cadmium. The Estonian Presidency put together a compromise proposal which gained enough support to take forward discussions. This consisted of a single limit of 60mg/kg cadmium in inorganic phosphate fertilisers applying eight years after entry into force of the Regulation. There would be no stepwise movement downwards, but a clause was included for the Commission to review the limit 16 years after entry into force. The UK supported this proposal as a compromise option.

Another key change relates to the frequency of the Detonation Resistance Testing of ammonium nitrate fertilisers, bringing the proposed EU Regulation in line with current UK legislation which contributes to the safety and security of such fertilisers on the market.

Trilogue

After the informal mandate from COREPER, the new Bulgarian Presidency will begin trilogue discussions in the coming months. I will update you in due course as the trilogue discussions progress.

Cadmium Evidence

Since I gave evidence to you early last year, we have further considered the cadmium content of fertilisers produced in the UK and the likely impact of limits on UK fertiliser manufacturers. The EU Regulation defines manufacturers as both processers and importers. Throughout the negotiations we have carried out extensive stakeholder engagement with industry, particularly through the Agricultural Industries Confederation (AIC), which represents 95% of the UK's fertiliser processors and importers. We have also regularly consulted the Environment Agency and the Foods Standards Agency to ensure cadmium limits do not represent an unacceptable risk to human health and the environment.

This continued engagement, alongside evidence gathered and presented to the House of Lords EU Energy and Environment Sub-Committee in 2016, has convinced us it would not be necessary to

undertake laboratory testing of actual cadmium content as it would be very unlikely to change our negotiating position. With evidence from the SCHER study about the average content of cadmium in imported sources of phosphate rock to the EU (which account for around 50% of UK imports), and the variability of imports depending on specific product types, the import sources, and the temporal availability of products, we chose instead to work closely with industry stakeholders representing the 66 UK manufacturing sites and 215 merchants in the UK who handle or sell phosphate.

The opinion of industry representatives and manufacturers themselves, whose responsibility it is to meet the required standards of the proposed CE mark for fertilisers, is that the proposed limits are acceptable and will not have an adverse effect on the UK fertiliser market.

11 January 2018

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

Thank you for your letter of 11 January, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 31 January.

Thank you for providing an overview of the key amendments agreed by the Parliament and at Council. We note the significant discrepancy in views on the limit that should be set for cadmium levels in phosphate fertilisers and that, whilst your preference was for an 80mg/kg limit, you supported the Estonian Presidency's proposal of a 60mg/kg limit applying eight years after the Regulation enters into force. We note also that you have argued for an evidence-based review to be included within the proposal, rather than setting limits arbitrarily. Has there been any support for your calls for a review?

We note your comment that the industry believes the proposed limits to be acceptable and will not have an adverse effect on the market, and that that the Environment Agency and Food Standards Agency do not believe the limits pose "an unacceptable risk to human health and the environment". What information did these bodies use to reach their conclusions?

We note that you have considered our recommendation that your department undertakes an investigation into the cadmium content of fertilisers produced in the UK, but that your preference is instead to work with industry stakeholders. However, it remains unclear how compliance with the Regulation will be monitored in the absence of data gathering.

We note that trilogue discussions are due to begin in the coming months. Please provide an update on how discussions progress and any further changes that are made to the proposed cadmium limits.

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

31 January 2018

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

Thank you for your letter of 31 January 2018. I am writing to further update you on the progress of the proposed EU Fertilisers Regulation.

Keeping EU cadmium limits under review

In response to your question about support for the UK Government's calls for a review on cadmium limits, we are pleased to say there was support for this both in the Council, and in amendments made by the Committee on the Internal Market and Consumer Protection (IMCO) to the European Parliament. We will continue to work with the Council to ensure the review takes account of the impacts of this proposed regulation and provides an evidence base with which to monitor future change.

The evidence considered by UK bodies

With regard to the evidence used by the Food Standards Agency (FSA) and the Environment Agency (EA) to reach their conclusions, throughout 2016 and 2017 we held a number of meetings with both bodies. These concluded that Defra and the FSA could support the conclusions of the European Food Standards Agency's exposure assessment in 2012, highlighting risks that the average dietary exposure to cadmium is close to, or in some cases slightly exceeds, the tolerable weekly intake of 2.5 µg/kg

bodyweight on average across Europe. Certain subgroups of the population (vegetarians, children, smokers and people living in contaminated areas) are more likely to be at risk than others.

In the UK, the FSA has rated the risk of UK produced food being in breach of the current EU maximum residue levels for cadmium (according to Regulation (EC) 1881/2006) as low. However, FSA led research has shown that in areas of high soil cadmium levels, a very small number of samples did exceed maximum levels. These high soil cadmium levels coincided with areas of historic mining and there is no evidence to suggest they were related to fertiliser use. Yet, since cadmium is a carcinogen and any exposure presents some risk, the UK should aim to reduce exposure to as low as reasonably achievable. The FSA considered a cadmium limit of 60mg/kg phosphate as most desirable, but also believed an 80mg/kg phosphate limit could be the highest acceptable limit as a compromise.

The EA has been assessing the published and peer reviewed evidence on the enrichment of cadmium within soils in particular, and suggested an 80mg/kg limit would lead to a decrease in soil cadmium rather than an increase (Smolders and Six 2013 and 2014). Following an updated study by Romkens (Romkens et al unpublished) a model was produced to predict a mass balance at the EU level, estimating inputs into the soil and losses from the soil, to determine whether certain cadmium limits on phosphate fertilisers would allow cadmium to build up in the soil over time. This predicted that in arable soils there could be cadmium enrichment in all the modelled scenarios (20mg, 40mg, 60mg and 80mg limits), but that results were much more variable than previously thought.

The EA and Defra evaluated these approaches and have highlighted issues surrounding the use of average European soil pH values (pH 5.8), which is significantly different to the average soil pH for UK arable and ley grassland (pH 7.2). This can affect the rate of cadmium leaching (acidic soils leaching more than alkaline soils so potentially suggesting a greater build up in UK soils). The recent modelling also lacks detail about levels of cadmium in phosphate fertiliser, presuming that if a limit was set at 80mg/kg of cadmium in phosphate fertilisers, there would be 80mg of cadmium in each kg of phosphate fertiliser. Evidence has shown that the average cadmium levels in phosphate fertilisers used in the EU is 32mg/kg with a large variability, thus in practice these estimated impacts derived from hypothetical limits have constraints as useful evidence to inform policy decisions. Overall the EA suggests, in similar terms to the FSA, that the UK should reduce the levels of cadmium entering the environment as much as is reasonably achievable and ensure a review takes account of further scientific evidence as it develops.

Future monitoring of UK fertilisers

The proposed regulation will include a requirement to introduce conformity assessment bodies nine months after the regulation enters into force. These bodies will be responsible for assessing the conformity of fertilisers for use on the EU market, which meet the common standards as set out in the regulation. This will ensure products entering the market are tested appropriately, that they meet the requisite limits, and will contribute to the evidence base going forward. We are currently considering what options are available in the UK, with a view to consulting stakeholders over the summer.

Update on EU negotiations

Trilogue discussions began on 25 January, where it was decided that the file would be separated out into the elements of the proposal still holding political interest (cadmium and use of industrial by-products), and the more technical aspects of the file. This would allow technical elements to be dealt with at working group levels throughout March and April, while other issues would be raised at COREPER level. The Bulgarian Presidency is intending to reach agreement on the regulation before June 2018.

23 May 2018

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

Thank you for your letter of 23 May, which was considered by the EU Energy and Environment Sub-Committee at its meeting on 13 June.

We note that there has been support for your call for a review on cadmium limits, and that you will continue to work with the Council on this matter.

Thank you for setting out the rationale for the Environment Agency and Food Standards Agency believing the proposed limits to be acceptable.

We note that you are currently considering how the UK will meet the requirement to introduce conformity assessment bodies.

We are now content to close correspondence on this Proposal.

14 June 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 for the Environment, Department for Environment, Food and Rural Affairs

Thank you for your Explanatory Memorandum (EM) on the above Regulation, which was considered by our Energy and Environment Sub-Committee at its meeting on 6 June.

We note your view that the introduction of delegated act powers for the Commission may give rise to subsidiarity concerns. Please provide an update on discussions with the Commission on this matter and what clarity you have received to-date on the role for Member States in decision making. Your EM refers to the lack of clarity over the roles of the European Chemicals Agency (ECHA), the Risk Assessment Committee and the Committee for Socio Economic Analysis in future decision making over the use of POPs. Have you obtained any further details on this?

We note your support for the proposal to give the ECHA a role in implementing the Regulation. We note that you are seeking clarification on its role in relation to the POPs Review Committee. Please explain what your concerns are and any reassurances you have been given.

We note your support for streamlining reporting but that you will be seeking clarification on the exact requirements. Has this now been made clear?

We note that the future relationship between the UK and the ECHA has yet to be agreed. What is your preferred option for that relationship, post-Brexit?

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

6 June 2018

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

Thank you for your letter of 06 June 2018. I am writing to respond to the questions you have raised.

A number of Member States share our concerns about the use of delegated acts in the revision of the Regulation. It is looking promising that our concerns will be addressed and we will continue to request clarification for use of such acts, whilst pressing for the direct involvement of Member States in the decision making process.

We have sought clarity on the role of ECHA in future decision making within the persistent organic pollutants (POPs) regime and the involvement of existing committees, which are not explicitly referred to in the regulation. The European Commission (EC) has clarified that whilst ECHA will carry out tasks with regard to the administrative, technical and scientific aspects of the implementation of the regulation, relevant expert committees will be engaged at appropriate points. We will continue to request further, specific information on this but we consider the involvement of ECHA to be a positive step.

With regards to your question on ECHA's role in the POP Review Committee (POPRC), a number of Member States shared our concern that within the 'legislative financial statement' of the regulation

recast, under 'Agencies', it is stated that DG ENV represents the European Union at the POPRC meetings. The EC clarified that the wording in the 'legislative financial statement' is not accurate as DG ENV does not represent EU Member States at POPRC meetings. It added that Article 8(1)(e) makes a provision for ECHA to attend POPRC meetings, which would be welcome.

As you note, we continue to support the streamlining of reporting under this regulation. The EC has clarified that its objective is to allow citizens to access up-to date information using an on-line tool, the Information Platform for Chemical Monitoring (IPCheM). This initiative to streamline reporting is in line with the EU's Better Regulation Agenda, and will allow Member States to determine their own timescales for uploading information.

The exact format of the information to be uploaded to the IPCheM site will be established by ECHA, in consultation with Member States, in accordance with the requirements of the INSPIRE Directive. We are content that Member States will have adequate opportunity to input into the process for setting exact reporting requirements.

With regards to the preferred option for the UK's relationship with ECHA post exit, as the Prime Minister set out in her Mansion House speech, we want to explore the terms on which the UK could continue to participate in ECHA so that businesses only need to undergo one series of approvals for chemical substances to access both the UK and EU markets.

We would accept that this would mean abiding by the rules of the Agency and making an appropriate financial contribution. But just as importantly – the UK Parliament would remain ultimately sovereign. It could decide not to accept these rules, but with consequences for market access rights.

19 June 2018

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

Thank you for your letter dated 19 June, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 July.

We were pleased to note that you are hopeful that your concerns over the use of delegated acts will be addressed. Please keep us updated on how these discussions progress.

We note that you have received some clarity on the role of the European Chemicals Agency (ECHA) and existing committees but that you are seeking further information. Please also keep us updated on these discussions.

We note that your concerns about the role of the ECHA, and DG ENV, on the POPs Review Committee has now been addressed.

We also note that you have received further details on the reporting requirements under the Regulation and that you are content that you will have adequate opportunity to input into the detail of this as it is developed.

We note that the Prime Minister's Mansion House speech stated that the Government would explore how the UK could continue to participate in the ECHA once the UK leaves the EU. What progress has been made on this since the speech was made?

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

4 July 2018

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

Thank you for your letter of 4 July 2018. I am writing to provide an update on the progress of the negotiations on the Persistent Organic Pollutants (POPs) Regulation recast as you requested.

The fourth Council Working Party meeting took place on 11 July and discussions are progressing. We continue to press for the use of implementing acts in place of delegated acts using the examination

procedure where appropriate. This gives Member States voting rights over the changes made to the restriction, use and placing on the market of substances identified as POPs and also the management of POPs waste.

Regarding the role of European Chemicals Agency (ECHA) in the future POPs regime, this has now been clarified. The Agency will lead on implementing the regulation in the EU, including work on the identification of POPs and compiling chemical restriction proposals. Certainty has been provided that expert committees will be consulted where appropriate. We are content that the Agency's involvement in supporting the technical, scientific and administrative processes will enhance efficiency and improve the consistency of expert advice available to Member States and the European Commission on both potential and existing POPs going forward.

As set out in the Government's white paper on the UK's future relationship with the EU, and in line with the UK's objective of ensuring that products only go through one approval mechanism to access both markets, our proposal is for UK participation in ECHA, with observer rights, which would involve making an appropriate financial contribution. This proposal would provide access to relevant IT systems which will ensure the timely transfer of data between EU and UK authorities. It would make sure UK businesses continue to register chemical substances directly, rather than working through an EU based representative.

Further amendments have been made to the annexes to the regulation listing restricted substances. We are considering the policy implications of these changes and can provide a further update in due course.

23 July 2018

DRAFT COUNCIL DECISION REQUESTING THE COMMISSION TO SUBMIT A PROPOSAL FOR A EUROPEAN PARLIAMENT AND COUNCIL REGULATION AMENDING REGULATION (EC) NO 1367/2006 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 6 SEPTEMBER 2006 ON THE APPLICATION OF THE PROVISIONS OF THE AARHUS CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTIC IN ENVIRONMENTAL MATTERS TO COMMUNITY INSTITUTIONS AND BODIES IN ORDER TO BRING IT IN FULL COMPLIANCE WITH ARTICLE 9 PARAGRAPHS 3 AND 4 OF THE AARHUS CONVENTION (7595/18)

Letter from David Rutley MP, Parliamentary Under Secretary of State, Department for Environment, Food and Rural Affairs

I am writing to update you on the outcome of the above mentioned case, following adoption of the Decision at the Agriculture and Fisheries Council on 18 June 2018. Let me start by summarising the background to this EU case brought before the Aarhus Convention Compliance Committee (ACCC). In 2017, the ACCC found that the EU had failed to comply with its obligation to provide effective access to mechanisms to challenge decisions of EU institutions: it considered that interested parties were not able to access the European Court of Justice in relation to environmental decisions unless they were directly affected. The 2017 Meeting of the Parties of the Convention agreed to postpone a dec;ision on these findings until the next meeting in 2021. The EU committed to use this time to explore ways to comply with the Committee's findings in a way that is compatible with the fundamental principles of the EU's legal order and system of judicial review.

The Council Decision requests the Commission to submit a study to explore ways and means to comply with the Compliance Committee's findings in a way that is compatible with the Union's framework. The Commission has been asked to carry out a detailed study and present options to address the findings by 30 September 2019. Based on these findings, the Decision also asks for a proposal - if appropriate - by 30 September 2020 for an amendment to the EU Aarhus Regulation.

A small minority of member states ideally wanted greater ambition in the timetable. The UK and majority of other member states are broadly supportive of the Decision including , the now adopted timetable: we believe it provides a balanced view in achieving a resolution to the allegation and sufficient time, given the imminent end of European Parliament and Commission terms of office in

2019, to undertake the detailed study needed. Given the timetable, it is unlikely that any resulting proposal to amend the Aarhus Regulation would be finalised and enter into force before the end of the proposed Implementation Period, and thus would not be incorporated into UK domestic law.

We will be working closely with member states, the Commission and the Presidency in ensuring the study continues to appropriately address the findings from the Compliance Committee.

21 June 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 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 13 June.

We note that, although the Commission's stakeholder consultation revealed broad support for the EU to take legislative action in this area, you state in your EM that "this is a controversial area for a number of Member States". On what grounds is the Proposal resisted by other Member States?

We note your view that initiatives to promote a fairer, more transparent food supply chain are best delivered by national legislation. As this is the case, and given that your recent consultation revealed instances of unfair behaviour among operators in the UK food supply chain, do you intend to take action on this issue at a domestic level while these negotiations are ongoing?

Given your current opposition to the proposed Directive, what, if any, amendments would make it acceptable in your view?

We note that you are "still considering options for potential enforcement bodies". What options are being considered, and what relevant bodies, if any, are being consulted as part of this process?

What assessment has been made of the extent to which UK producers have problems when selling to EU buyers, and the benefits the Proposal would bring in this regard both as a Member State and a third country?

What powers does the Groceries Code Adjudicator have to support small businesses operating across EU Member States?

Please provide us with the results of any further analysis you complete of the Commission's impact assessment, particularly with regard to the cost of establishing an enforcement authority with the necessary powers.

Finally, please keep us informed of the expected timetable of the Proposal and the likelihood of it requiring transposition by the UK.

We have decided to retain this Proposal under scrutiny, and look forward to a reply to this

letter within 10 working days.

14 June 2018

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

Thank you for your letter of 14 June requesting further information about Explanatory Memorandum (EM) 7809/18. I have answered your specific questions in turn below.

We note that, although the Commission's stakeholder consultation revealed broad support for the EU to take legislative action in this area, you state in your EM that "this is a controversial area for a number of Member States". On what grounds is the Proposal resisted by other Member States?

Discussions in the working groups have revealed a diverse range of opinions about how far the Directive should go, and various Member States have proposed amendments which alter the 'definitions' (in Article 2) in order to change the number of supply chain operators and the range of products that are covered. Supply chains vary significantly across the EU, and numerous Member States have argued that the rigid definitions currently adopted are not suitable for their national circumstances. For instance, Estonia has pointed out that 99% of operators in its domestic food supply chain are small and medium sized enterprises (SMEs), suggesting that the imposition of the SME/non-SME demarcation would have limited impact, if any, in protecting their farmers.

- ***We note your view that initiatives to promote a fairer, more transparent food supply chain are best delivered by national legislation. As this is the case, and given that your recent consultation revealed instances of unfair behaviour among operators in the UK food supply chain, do you intend to take action on this issue at a domestic level while these negotiations are ongoing?***

The recent call for evidence on the case for extending the remit of the Groceries Code Adjudicator (GCA) revealed a series of specific concerns regarding the UK agri-food supply chain. To address these, we are developing a suite of measures designed to improve the position of primary producers and protect them from unethical conduct. These measures include:

- Launching a collaboration fund to bring producers together to help strengthen their position in the supply chain;
- Exploring the potential benefits of statutory codes to help improve contractual practices;
- Introducing mandatory written contracts in the dairy sector; and
- Consulting on the introduction of mandatory sheep carcase classification.

In addition to the GCA commitments, in March the Government announced that it will be conducting a call for evidence to assess what further steps and intervention may be needed to ensure small businesses are not subject to continuing unfair payment practices.

We firmly believe that these targeted interventions are the correct mechanism to deliver meaningful, lasting change to supply chain relations. As such, work is ongoing to develop these independently of the negotiations on the EU Directive.

Given your current opposition to the proposed Directive, what, if any, amendments would make it acceptable in your view?

We have doubts that the Directive, as drafted, will yield any positive benefits for primary producers, the group it is ostensibly aimed at protecting. We also have reservations about unintended consequences which we fear may undermine the successful operation of our own domestic regulator, the GCA. We do not think that the highly collaborative approach adopted so effectively by the GCA could be replicated by an enforcement authority operating along the entire supply chain. If the GCA were responsible for a considerably greater number of businesses and more complex relationships this would undoubtedly compromise its effectiveness. Alternatively, if we were to appoint or establish a separate enforcement body, we feel this would still dilute efforts to embed acceptable business practice from the top down, and would introduce a level of complexity regarding how the new enforcement body and the GCA would interact.

However, we have maintained from the beginning that this Directive will only be effective if it is drafted to enable sufficient flexibility for Member States to be genuinely able to tailor the provisions to their specific needs. The definitions currently proposed are too blunt to account for national differences. As such, the only way we would consider this Directive acceptable is if decisions on how to apply it in practice were left to Member States' discretion to a much greater degree.

We note that you are "still considering options for potential enforcement bodies". What options are being considered, and what relevant bodies, if any, are being consulted as part of this process?

As indicated above, we do not think that the implementation of this Directive as it stands would be a straightforward task that could be achieved simply by expanding the role of the GCA. We have very real concerns that to do so would risk the effectiveness of the current approach, which has made

some excellent progress in improving the direct supplier relationship with the big retailers. The GCA still has much to do and should not be diverted from this. Officials from across departments have therefore been doing some provisional thinking about possible options, but until a clearer picture emerges about the exact role of an appointed enforcement body (as the Directive lacks clarity on this issue) it would be premature to speculate about what those approaches might be.

What assessment has been made of the extent to which UK producers have problems when selling to EU buyers, and the benefits the Proposal would bring in this regard both as a Member State and a third country?

Data is not currently available to assess the exact nature of trading relationships between UK based producers and EU based processors and retailers. Nevertheless, it is our understanding that the number of UK SME producers (farmers in particular) who deal directly with large European businesses (hence, who would be covered by this Directive) is small.

The cross border elements of the Directive are currently somewhat underdeveloped. When considering EU trade in agricultural products, our most significant trading partner is the Republic of Ireland, and its domestic regulator (the Competition and Consumer Protection Commission) already covers UK businesses who supply large Irish retailers.

What powers does the GCA have to support small businesses operating across EU Member States?

The GCA is responsible for monitoring, encouraging compliance with and enforcing the Groceries Supply Code of Practice (the Code). All direct suppliers (based anywhere in the world) to the UK regulated retailers, including small businesses, benefit from the protections of the Code.

The GCA raises awareness of the Code with direct suppliers based overseas, and encourages them to raise issues with it and complete its annual grocery sector survey to understand their experiences of supplying the regulated retailers. Any operator in the grocery supply chain can provide information to the GCA if they are aware of direct suppliers experiencing issues in relation to the Code.

Please provide us with the results of any further analysis you complete of the Commission's impact assessment, particularly with regard to the cost of establishing an enforcement authority with the necessary powers.

We have not completed any further analysis. Whilst the details of the final Directive are still subject to change it will be difficult to arrive at a reliable figure of what it would cost to introduce it. We will keep you informed of any developments in this regard.

Finally, please keep us informed of the expected timetable of the Proposal and the likelihood of it requiring transposition by the UK.

In the spoken interventions at the last working party expert group, and the subsequent written submissions, 13 Member States have expressed a desire for an extended transposition. They include Germany, who has requested a three year transposition, and France, who would prefer a two year period. Our expectation is that the transposition period is extended to at least two years.

28 June 2018

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

Thank you for your letter of 28 June 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 11 July.

Thank you for clarifying other Member States' objections to the Proposal, particularly in terms of the rigid definitions, and that they arise from the varied characteristics of supply chains across the EU.

Thank you for setting out the actions you are taking independently of negotiations on this Proposal to improve the position of primary producers and to protect SMEs from unfair payment practices in the UK.

We note your view that the Directive as drafted would not yield any benefits for primary producers, and that it would have to provide Member States with far more discretion for it to become

acceptable. Given other Member States' views on the Proposal, do you believe it will be possible to secure the necessary changes in negotiation? Please keep us informed regarding the progress of negotiation on this issue.

We note your view that it is not yet possible to take a view on how the Directive would be enforced in the UK. 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 note your understanding that the number of UK SME producers dealing directly with large European business is "small", that the Republic of Ireland is the UK's most significant trading partner in this regard, and that its domestic regulator (the Competition and Consumer Protection Commission) already covers UK businesses which supply large Irish retailers. If this Directive were agreed in its current form, what if any changes would be made to the approach currently taken by the Competition and Consumer Protection Commission, and what affect would that have on UK producers once the UK is a third country?

Thank you for clarifying the role the Groceries Code Adjudicator (GCA) plays in supporting suppliers based overseas. We note your statement that all direct suppliers benefit from the protections of the Code, but understand the Code's protections do not extend to indirect suppliers. Will the same be true under the arrangements proposed by the Commission?

Thank you for setting out the broad support across Member States for a 2-3 year transposition period and your expectation that the transposition period will be extended to at least two years. Can you confirm that this means the transposition deadline is now likely to fall after the end of the expected Brexit transition period, and as such the UK would not be required to implement the Directive? Please keep us informed of any developments regarding the timeline of the Proposal.

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

11 July 2018

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

Thank you for your letter of 11 July requesting further information about Explanatory Memorandum 7809/18. I have answered your questions in turn below.

We note your view that the directive as drafted would not yield any benefits for primary producers, and that it would have to provide Member States with far more discretion for it to become acceptable. Given other Member States' views on the proposal, do you believe it will be possible to secure the necessary changes in negotiation? Please keep us informed regarding the progress of negotiation on this issue.

We are aware of other Member States' concerns that the definitions as currently drafted are too prescriptive. However, Member States who share our belief that the scope of operators covered should be a decision made at national level are a minority. There have recently been demands from certain Member States, and members of the European Parliament, to broaden the scope of the definitions to cover any actor involved in the agri-food supply chain (i.e. to remove the distinction between SMEs and non-SMEs and to oblige all Member States to enforce the prohibitions in the proposed directive against all businesses regardless of size or role). We believe this would ever further dilute the effectiveness of this directive with regards to its ability to protect primary producers, and would greatly increase the resource burden on the enforcement authority. The UK (alongside Germany, the Netherlands, Sweden, Denmark and Malta) has voiced opposition to this move. I will keep you informed regarding how this issue develops.

We note your understanding that the number of UK SME producers dealing directly with large European business is "small", that the Republic of Ireland is the UK's most significant trading partner in this regard, and that its domestic regulator (the Competition and Consumer Protection Commission) already covers UK businesses which supply large Irish retailers. If this directive were agreed in its current form, what if any changes would be made to the approach currently taken by the Competition and

Consumer Protection Commission, and what effect would that have on UK producers once the UK is a third country?

The UK has not engaged in any advanced discussions with officials from the Republic of Ireland regarding how it plans to implement this directive. The Competition and Consumer Protection Commission is a similar organisation to the Groceries Code Adjudicator and, as such, it is likely that it shares our concerns about the dilution of effectiveness arising from an enforced extension to cover the entire supply chain.

Thank you for clarifying the role the Groceries Code Adjudicator plays in supporting suppliers based overseas. We note your statement that all direct suppliers benefit from the protections of the Code, but understand the Code's protections do not extend to indirect suppliers. Will the same be true under the arrangements proposed by the Commission?

The Commission's proposals extend to any SME supplier who has a supply arrangement with a non-SME buyer. This means that if SME producers sell to an intermediate non-SME processor/manufacturer before their produce is sold on to a supermarket, then that initial relationship would be subject to the directive (whilst it would not currently fall under the Groceries Code Adjudicator's remit). However, as mentioned in our previous reply, we have identified that there are issues in certain supply relationships between primary producers and their first purchasers, and we are developing a suite of measures designed to tackle these problems which will deliver meaningful protection to our farmers and growers.

Thank you for setting out the broad support across Member States for a 2-3 year transposition period and your expectation that the transposition period will be extended to at least two years. Can you confirm that this means the transposition deadline is now likely to fall after the end of the expected Brexit transition period, and as such the UK would not be required to implement the directive? Please keep us informed of any developments regarding the timeline of the proposal.

The latest draft produced by the Presidency has reinstated the standard 24 month period for publication of transposed laws, and set a 30 month deadline for those laws to come into force. On that basis, and on the reasonable assumption that the proposal will not have gone through the European legislative process by 31 December 2018, the initial deadline for the publication of national laws transposing the directive would extend beyond the end of the expected EU exit transition period on 31 December 2020. I will keep you informed of any further developments regarding UK implementation.

23 July 2018

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON ORGANIC PRODUCTION AND LABELLING OF ORGANIC PRODUCTS, AMENDING REGULATION (EU) NO.XXX/XXX OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL [OFFICIAL CONTROLS REGULATION] AND REPEALING COUNCIL REGULATION (EC) NO.834/2007 (7956/14)

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS - ACTION PLAN FOR THE FUTURE OF ORGANIC PRODUCTION IN THE EUROPEAN UNION (8194/14)

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 14 December 2017, which was considered by our Energy and Environment Sub-Committee at its meeting on 10 January.

Thank you for explaining that no substantive changes were made to the content of the Regulation as a result of the legal review.

Thank you for setting out the legislative progress made in November and the next steps.

Please inform us when the Regulation has been adopted by the Council of Ministers.

11 January 2018

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

Thank you for your letter of 11 January 2018.

I am pleased to inform you that the new Organic Regulation has now been adopted by the Council of Ministers and will apply from 1 January 2021.

The new regulation encourages the sustainable development of organic production in the EU and aims at guaranteeing fair competition for farmers and operators, preventing fraud and unfair practices and improving consumer confidence in organic products.

We are currently engaging with the Commission and UK stakeholders to develop the Implementing and Delegated acts that will support the basic act. We expect the first of the Implementing acts to be published mid 2019.

11 June 2018

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

Thank you for your letter of 11 June 2018, which was considered by our Energy and Environment Sub-Committee at its meeting on 20 June.

We note that the Organic Regulation has now been adopted and will apply from 1 January 2021. As this date falls after the end of the anticipated Brexit transition period, please clarify whether the Regulation, or equivalent measures, will be implemented in the UK.

We look forward to a response within 10 working days.

20 June 2018

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

Thank you for your letter of 20 June 2018.

We are currently considering how the new regulation will be treated under UK law but it is anticipated that it, or an equivalent regime, will be implemented post 2020.

I will update you with the outcome of our considerations in due course.

28 June 2018

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

Thank you for your letter of 28 June 2018 on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 20 June.

We note that although the Organic Regulation will apply from 1 January 2021, after the end of the anticipated Brexit transition period, you anticipate implementing either the Regulation itself or an equivalent regime. We look forward to receiving an update on the outcome of your deliberations on this matter in due course.

11 July 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 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 18 July.

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?

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.

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

18 July 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 the Chairman to Steve Brine MP, Parliamentary Under Secretary of State for Public Heath, Department of Health and Social Care

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 11 July.

We note the UK Government's concern that, by increasing the role of Member States, the European Food Safety Authority (EFSA) may be subject to "increased political involvement" and that Member State participation may be prioritised "over the individual merit of candidates" for the EFSA Management Board. The Commission's Proposal states that it is bringing the EFSA's governance in line with other European agencies (such as the European Chemicals Agency and the European Medicines Agency): are your concerns based on your experience of how these bodies operate? What discussions have you had with the Commission to-date about your concerns, and what reassurances have you received?

We note your concern that the Proposal must be "sufficiently flexible for business operators" and that there may be an increased administrative burden on Member States. Please provide further details of what specific aspects of the Proposal concern you, and what you think the impacts may be. Have you decided whether to challenge the EU decision not to conduct an Impact Assessment? Have you decided whether to conduct a UK Impact Assessment?

You state that "further scrutiny of these proposals is required taking into account the possible implications for EU Exit and any future relationship we may have with EU systems and agencies." Please provide an update on that assessment. If the Regulation is not adopted before the end of the transition period, does 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)? Would you seek to establish a UK register of studies (and, if so, who would manage it), or contribute to the EU one?

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

11 July 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 your Explanatory Memorandum (EM) on the above Proposal, which was considered by our Energy and Environment Sub-Committee at its meeting on 20 June.

We were concerned to note that the UK has one of the highest annual average nitrate concentrations for surface water in the EU. We also note that a significant number of monitoring stations across the UK (including around a third in England) reported increasing trends in nitrate pollution since the last reporting period. Please explain what steps you are taking to ensure the UK is complying with levels set by the Directive, particularly at drinking water sources. What assessment have you made of the reasons for the increases in nitrate pollution? Is there any geographical trend in the stations reporting increases (are they clustered in particular areas of the country or particular types of site)? What assessment have you done of the harm caused by nitrates being at higher than prescribed levels?

We note that the four nations of the UK have taken very different approaches to designating nitrate vulnerable zones (NVZs). The Commission's Report raises concerns that in some Member States there are areas with potential pollution that have not been included in NVZs. Are all four UK administrations confident this would not apply to them? The Report also highlights that, where Member States have adopted a whole territory approach, there can be challenges in adequately targeting measures to different regional pressures. Is this a concern in Northern Ireland? Given the scale of NVZs in England, is this also a challenge in England? Please explain why the area covered by NVZs in England has fallen by 8 per cent, given that the level of pollution has not significantly decreased.

We note that compliance levels amongst farmers varies across the UK and that in England it has fallen from 95 per cent to 77 per cent. What assessment have you made of the reason for this decrease? What are the main areas of non-compliance in each nation of the UK? What steps are being taken to improve compliance?

We note that, in 2015, the UK had a derogation on the maximum amount of nitrogen per hectare from livestock manure allowed in vulnerable zones. Is this still in place?

We note that there was an EU Pilot investigation addressed to the UK in 2016-17, in relation to your action plan. We note that you responded in April 2017 and that you are continuing to engage with the Commission about their concerns. Please explain what their initial concerns were, that prompted the Pilot investigation, and also what concerns (if any) remain.

Finally, we note that you expect nitrate regulations to become retained law when the UK leaves the EU. We are aware, however, that the regulations can cause difficulties to some UK 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. Has any consideration been given to amending the regulations when the UK leaves the EU?

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

20 June 2018

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

Thank you for your letter of 20 June 2018, and for your questions about the UK's performance in comparison with other Member States to address nitrate pollution from agriculture, your interest in the EU Pilot investigation by the EU Commission and whether any consideration has been given to amending nitrates legislation when the UK leaves the EU.

I recently gave evidence to the Environmental Audit Committee's Inquiry into Nitrate pollution, together with Helen Wakeham from the Environment Agency [21 March 2018, Oral Evidence Nitrate HC656]. The information and evidence provided to that Inquiry is also relevant to the Energy and Environment Sub-Committee's considerations. Answers to your questions are given in Annex A, and a copy of the written evidence provided to the EAC is in Annex B, attached to this letter.

While we remain in the EU we are committed to meeting our legal obligations. The UK considers that current legislation in all four countries meets the requirements of the Nitrates Directive.

You mentioned the proportion of surface water monitoring stations with increasing trends in nitrate pollution (including around a third in England). To put this in context, only around 6 per cent of monitoring points in England showed a strong increase in nitrate concentrations with around 10 % showing a weak increase. The areas with rising nitrate concentrations are those with ground waters or groundwater-fed rivers where in some cases (some geologies) nitrate is still moving through the system, which can take years. The UK's overall performance is showing improvement as nitrate levels are continuing to reduce over time in both surface waters and groundwater, but we recognise there is more to do.

The Government has committed through the 25 year Environment Plan, and through our future farming paper [Health and Harmony: the future for food, farming and the environment in a Green Brexit] to work with farmers to protect and enhance our environment and to use fertilisers more efficiently, putting in place a robust framework to limit inputs of nitrogen-rich fertilisers such as manures, slurries and chemicals. At this stage it is not possible to say exactly how nitrates legislation may change, but the aim in each country is to move to a more integrated approach to regulation and prevention of pollution from agriculture in future.

(Annexes A to C not published here)

3 July 2018

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

Letter from the Chairman to Dr Thérèse Coffey MP, Parliamentary Under Secretary of State for the Environment, 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 18 July.

Given the imperative to effectively manage our water resources, and address the challenge of water scarcity, it was disappointing to read that the UK has a low rate of waste water reuse and that you expect the Proposal to have little impact on this. We note that you intend to work with stakeholders to consider the impact of the Proposal; please keep us updated on this including, specifically, the views of stakeholders on the potential to increase water reuse in agricultural irrigation. What assessment have you made of the need to increase water reuse in the UK, given the projected impact of climate change and other factors on the future availability of water?

We note that your Explanatory Memorandum acknowledges "that it would be useful to draw on the expertise of other Member States more practiced in the reuse of waste water." What examples of best practice have you gleaned so far, that may be applicable to the UK?

We also note your concern that the burden of risk management frameworks and issuing permits could discourage the uptake of reuse schemes. Again, please let us know whether the stakeholders you consult share these concerns.

We note that you want to be clear that any increased resource to support the monitoring requirements and issuing of permits could be met through charges on reclamation plant operators. Have you received confirmation that this is possible?

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

18 July 2018

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

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