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FILE TITLE: Policy	SERIES ENVIRONMENT
	PART 31
PART BEGINS 17 MAY 2003	PART ENDS 9 June 03
	CAB ONE

Labour Administration

Part Closed

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PART

CLOSED

DATE CLOSED	9 June 03

Series : **ENVIRONMENT**

File Title : **POLICY**

Part : **31**

Date	From	To	Subject	Class	Secret
20/05/2003	ss/defra	DPM	Committee Report: "Buying time for forests: Timber trade and public	U	
20/05/2003	SS/DEFRA	DPM	Water Bill: Flood Defence Committee Membership in Wales	U	
21/05/2003	DPM	ss/defra	Progress on the development of the Aarhus Convention on Pollutant	U	
22/05/2003	SS/DoT	DPM	Flood Management and Coastal Defence Strategy	U	
22/05/2003	DPM	ss/defra	Applying Operator and Pollution Risk Appraisal to Waste Managemnt	U	
22/05/2003	PD(JK)	PM	PMBs on the Environment	R	
22/05/2003		PM	Sustainable Development Commission - Redefining Prosperty	U	
22/05/2003		PD(JK)	'Redefining Prosperity'	U	
23/05/2003	MS/DPMO	DPM	Abandoned Cars	U	
23/05/2003	DPM	ss/defra	Water Bill : acceptance of Opposition Amendments	U	
27/05/2003	Brussels/UKREP	EC	Developing an action plan for environmental technology UK response	U	
28/05/2003	ss/defra	FCS	Non road Mobile machinery emissions directive	U	
28/05/2003	ss/defra	FCS	Amendment to the sulphur content of liquid fuels directive regarding	U	
28/05/2003	ss/defra	LP	Private Members bill - Municipal waste recycling	U	
28/05/2003	ss/defra	DPM	OSPAR Ministerial Meeting 25-26 June	U	
28/05/2003	ss/defra		Dear Colleague - Delivery Mechanism in rural areas	U	
28/05/2003	DPM	ss/defra	ENV Correspondence : Additional special areas of conservation	U	
28/05/2003	ss/defra	DPM	Implementing the Large Combustion Plants Directive	U	
28/05/2003	FA/APS	PM	Next steps on climate change and technology	C	
28/05/2003	ss/defra	FCS	Proposal for a directive on the limitation of emissions of volatile organ	C	
28/05/2003	ONS	ss/defra	Foresight Flood and Coastal Defence Project	C	
28/05/2003	ss/defra	FCS	Depletion of the Ozone Layer	U	
30/05/2003		PD(MH)	The UK Government is fueling Indonesian Forest Destruction	U	
30/05/2003	ss/dti	DPM	The Environment Agency's Corporate Strategy	U	
02/06/2003	FCS	ss/defra	Implementation of the Nitrates Directive 91/676 EEC: Response to Ar	U	
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02/06/2003	SS/DoT	DPM	Review of the waste management licensing exemptions	U	
02/06/2003	pus/ODPM	LP	PMB Municiple Waste Recycling	U	
03/06/2003	MS/DPMO	DPM	Review of the waste management licensing exemptions	U	
03/06/2003	MS/DEFRA	LP	PMB: Municipal waste recycling	C	
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04/06/2003	SS/DTI	SS/DEFRA	Amendment to the Sulphur Content of Liquid Fuels Directive (1999/32	U	
04/06/2003	Telegram/IN	Telegram/IN	teL No 782 Washington Climate Change : US views	R	
05/06/2003	DPM	FCS	Environmental Liability Directive	C	
05/06/2003	DPM	MS/WO	DA and ENV Corresspondence : Water Bill : Flood Defence Committ	U	
05/06/2003	MS/FCO	FCS	Non-road Mobile Machinery (NRMM) Emissions Directive	U	
05/06/2003	MS/DEFRA	MS/DTI	OSPAR Ministerial Meeting 25-26 June 2003	U	
06/06/2003	DPM	ss/defra	Regulatory Impact Assessment for the Statutory Controls on Odour a	U	
06/06/2003	PUS/MOD	SS/DEFRA	Seeking agreement to the UK negotiating strategy for a proposal to a	U	
09/06/2003	ss/defra	CST	Success Criteria for the Entry Level Agri-Environment Scheme Pilot	U	
09/06/2003	MS/DTI	ss/defra	Amendment to the sulphur content of liquid fuels directive regarding	U	
09/06/2003	ss/dti	DPM	Implementing the large combustion plants directive	U	
09/06/2003	HMT	FCS	Environmental Liability Directive	U	
09/06/2003	PUS/MOD	ss/defra	UK Priorities and Negotiating Package on Environment Council	U	
09/06/2003	PUS/MOD	DPM	Review of existing private sewers in England and Wales	U	

dti

The Rt Hon Patricia Hewitt MP
SECRETARY OF STATE
FOR TRADE AND INDUSTRY

9 June 2003

The Rt Hon John Prescott MP
Deputy Prime Minister and
First Secretary of State
Dover House
Whitehall
LONDON
SW1A 2AU

MH
cc JK
JG
GN

Dear John,

IMPLEMENTING THE LARGE COMBUSTION PLANTS DIRECTIVE

I am writing in response to the letter from Margaret Beckett of 28 May 2003 seeking agreement on UK implementation of the Large Combustion Plants Directive. I am content for Margaret to proceed as broadly proposed, in particular to consult as soon as possible on the UK implementing this Directive using a national plan with an emissions-trading scheme. However, I am concerned that some sectors of industry continue to oppose the national plan approach and that there is not a common understanding regarding the impact of this Directive on post-2008 energy and coal markets. I am therefore of the view that our officials should continue efforts during the consultation period to resolve these issues and that the proposed approach should be considered again in the light of this work and responses to the consultation.

Current Government assessments suggest the cost of implementing the revised Large Combustion Plants Directive using a national plan are around £250 million lower than the cost of implementing by an emissions limit approach. It is therefore appropriate at this time for the UK to propose to adopt a national plan approach. However, I would ask Margaret to write again to review this decision when responses to the consultation and

Department of Trade and Industry
V 823
1 Victoria Street
London
SW1H 0ET

Direct Line +44 (0)20 7215 5428
Fax +44 (0)20 7215 5468
Minicom +44 (0)20 7215 6740
Enquiries +44 (0)20 7215 5000

further analysis are both available. It is worth noting that even if the UK submits a draft national plan to the Commission before the deadline of 27 November 2003, this does not necessarily mean that the UK cannot switch back to an emission limit approach during the ensuing discussions with the Commission, which could last as long as 9 months.

This should provide time for the relevant Government officials to continue discussions with those industry groups who are currently opposed to the UK adopting a national plan approach. In addition it should enable us to understand the combined impacts on this sector (and related industries, such as coal production) of the Large Combustion Plants Directive and of the proposed European Directive on an Emissions Trading Scheme. I would therefore ask Margaret to make it clear in the consultation document that officials will be continuing to analyse the options and that a final decision will be taken following the consultation period.

I welcome Margaret's proposal to adopt an interpretation of a combustion plant that will reduce the scope of this Directive. UK industry as a whole is convinced of the benefits of adopting a 'unit' approach and I am pleased that these views have been taken forward as part of a careful assessment of all the costs and benefits.

It is necessary to explain clearly to stakeholders how an emissions-trading scheme under an LCPD national plan could operate and I am pleased that Margaret is progressing this work. It is unfortunate that the wording of the Directive seems to constrain the proposed trading-market, e.g. by requiring the national plan "bubble" for each pollutant to be reduced following the closure of a plant. However, I remain convinced that the market will provide adequate financial incentives for overall cost-savings, as compared to the alternative implementation approach. A further advantage of the national plan approach is that it will promote the use of innovative techniques to reduce emissions.

The choice of an allocation mechanism under a cap and trade scheme is always highly contentious but it seems, at least at first sight, that one of the constraints on this particular trading-market is that a plant's allocation will need to match the contribution it made to the calculation of the "bubble" for each pollutant, based on operations between 1996-2000. It would be helpful to have a greater understanding of who would be the winners and losers under such an allocation mechanism.

It is also clear that we need to provide operators with as much certainty and flexibility under a national plan as is legally possible. I would therefore ask Margaret to consider carefully issues where allocations need to be amended, e.g. from plant closures, and ensure the impact of such amendments are as low as possible. In particular I would like Margaret to consider an interpretation whereby periods of temporary closure only lead to adjustments to allocations in exceptional circumstances.

In addition, I agree with Margaret that greater flexibility for operators under a national plan approach could be obtained through an appropriate amendment to the Integrated Pollution Prevention and Control Directive, and that this could lead to even greater cost-savings. I would therefore encourage Margaret to continue her efforts to secure such an amendment, as previously agreed.

My officials will contact Margaret's officials regarding the detailed drafting of the Regulatory Impact Assessment, consultation document and draft national plan.

I am copying this letter to the Prime Minister, members of the ENV Committee, Angela Smith in the Northern Ireland Office and Sir Andrew Turnbull.

Best wishes,

PATRICIA HEWITT

dti

9 June 2003

Brian Wilson MP
MINISTER OF STATE FOR
ENERGY & CONSTRUCTION

The Rt Hon Margaret Beckett MP
DEFRA
Nobel House
17 Smith Square
LONDON
SW1P 3JR

MH c SW JM GN DT

Dear Mrs Beckett

AMENDMENT TO THE SULPHUR CONTENT OF LIQUID FUELS DIRECTIVE (1999/32/EC), REGARDING MARINE FUEL

Thank you for your letter of 28 May, requesting agreement on the line to take when negotiating the Commission's proposal (COM (2002) 595). I fully support the general position of "Conditional support" you are taking to protect the environment in a cost-beneficial way. However, I have some detailed suggestions to make which I feel will enhance the UK position and improve the environment in a cost effective manner.

The issue of "Technical abatement" raised in your letter I strongly support and you should push to ensure the amendment is carried. This, as you state, keeps open the option of complying with the environmental impact by alternative means other than changing the fuel. I also agree you should seek to ensure that conflicts between MARPOL Annex VI and the European Union legislation are avoided on this issue.

However, the proposal to establish a Regulatory Committee under the Directive to consider which alternative abatement methods might be permissible strikes me as likely to stifle innovation and delay any new technology reaching the market. A better approach would be in line with that taken by the legislation controlling the emissions from automotive engines, power stations and industrial plant. This sets the emissions limits of the combustion gases leaving the chimney or exhaust pipe at the required level to achieve the environmental goal. The choice of technology should be left to the ship

Department of Trade and Industry
V 837
1 Victoria Street
London SW1H 0ET

Direct Line +44 (0)20 7215 5147
Fax +44 (0)20 7215 5645
Minicom +44 (0)20 7215 6740
Enquiries +44 (0)20 7215 5000
www.dti.gov.uk
mpst.wilson@dti.gsi.gov.uk

owner to decide depending on the specific requirements of the ship, provided it meets the strict environmental controls required, and subject to monitoring of the emissions, as with other industrial applications.

I am sending a copy of this letter to the Prime Minister, other members of the EP Committee, and to Sir Andrew Turnbull and to Sir Nigel Sheinwald.

Yours sincerely,

John Doyle

BRIAN WILSON

(Approved by the Minister and signed in his absence)

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HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

The Rt Hon Jack Straw MP
Secretary of State
Foreign and Commonwealth Office
King Charles Street
LONDON SW1A

9 **June 2003**

MH

Dear Jack

cc JK. SW.

ENVIRONMENTAL LIABILITY DIRECTIVE

I have seen Margaret Beckett's letter of 28 May, which seeks agreement to her proposed negotiating position on the Environmental Liability Directive for the forthcoming Environment Council. I share Margaret's concern that the Directive has been inadequately prepared and is not yet ready for adoption by the Council. I therefore strongly endorse her suggestion that the UK should seek to block the Presidency's bid for political agreement. In the event that this is not possible, I also broadly endorse her proposed negotiating position on the matters of detail, and her willingness to vote against if the UK's concerns are not addressed.

I am grateful to Margaret for her update on the negotiations on the Environmental Liability Directive. It is disappointing that despite the lack of adequate preparation and in the absence of significant progress on any of the substantive issues, the Presidency is nevertheless seeking to reach agreement on 13 June. I therefore strongly support the proposal that we should seek to block agreement at the Council. As Margaret rightly points out, our European economic reform objectives will not be delivered by allowing legislative provisions we believe to be ill-conceived and inadequately prepared to be adopted by the Council.

However, I recognise that, as this is the only issue of substance on the Council agenda, the Presidency may nevertheless seek to achieve a deal. We therefore have to be prepared for that eventuality, although even if effort were made to reach agreement on the key issues of substance, I believe that we should seek to avoid agreeing to precise texts. The implications of a Directive such as this are potentially very significant, and appropriate attention needs to be given to achieving precision and certainty. Given the Presidency's failures to date, the Council would need to move a considerable distance on most aspects of the Directive to reach political agreement on a common position. It is in just these circumstances that hurried drafting could lead to significant (but unintended) impacts If we are not able to block the Directive, we should seek to ensure that the Council only decides in general terms on the key issues on 13 June.

If the Presidency does attempt to agree precise texts, I can, however, endorse Margaret's proposed negotiating line. There are a number of specific issues on which I should comment.

In relation to financial security, Margaret has rightly identified the dangers of compulsion. There has been no evidence to suggest that the imposition of these significant costs is justified by the benefits In relation to insurance there are also clear constraints on capacity. Introducing a compulsory regime for thousands of operators when we know the market would be unable to supply sufficient insurance products would be extremely unwise. Margaret's offer of a review clause therefore seems the maximum we should be prepared to offer.

The other key issue, and related closely to financial security is subsidiary responsibility. I strongly endorse Margaret's suggestion that we should give this greater emphasis. We must not allow this Directive to create a broad obligation for the UK taxpayer to remediate environmental damage. Transferring the burden from operators to the taxpayer is not acceptable, and is entirely inconsistent with the polluter pays principle. Furthermore, I would be concerned by the implications of allowing decisions on acceptable standards of remediation (and thus on cost) to rest with the Commission and ultimately the ECJ. Experience suggests that the standards they would seek would exceed significantly those we would regard as cost-effective in the UK. I am prepared to accept Margaret's suggested fallback, for deployment as a last resort and where all other UK priorities have been met.

Avoiding new burdens on the taxpayer is also relevant to the permit and state of the art exceptions. I am content with Margaret's proposed negotiating line, provided that any exceptions do not simply transfer the remediation obligation from the operator to the taxpayer.

I am also content with Margaret's proposed position on the other, lesser, issues.

Finally, I would like to comment on Margaret's suggestion that the UK should ultimately be prepared to vote against a common position if our minimum requirements are not met. While this is not without risk, I believe that it is the correct approach. We need to demonstrate that we are prepared to vote against legislation that we believe is incompatible with our economic reform objectives, in whatever Council formation they emerge, if we are to maintain our credibility in pursuing this agenda. I therefore welcome Margaret's position

If we are required to vote against it we will need to consider the public presentation implications, which will differ depending on whether we prevent the common position's adoption by so doing. I would suggest that officials work together on this in the coming days, so that we are able to give a clear and confident message about the reasons for our position.

I am copying this letter to the Prime Minister, members of EP Committee, Derry Irvine, Sir Andrew Turnbull, Sir Stephen Wall and Sir Nigel Sheinwald.

Yours ever

JOHN HEALEY MP

JH
CMH
JJH
MR

8

PARLIAMENTARY UNDER-SECRETARY OF STATE FOR DEFENCE
AND MINISTER FOR VETERANS AFFAIRS

MINISTRY OF DEFENCE
OLD WAR OFFICE BUILDING
WHITEHALL LONDON SW1A 2EU

Telephone (020) 7218 2216 (Direct Dialling)
(020) 7218 7610 (Fax)
(020) 7218 9000 (Switchboard)

The Rt Hon John Prescott MP
Deputy Prime Minister
Office of the Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

D/US of S/LM 25/1/0

9th June 2003

Dear John

Margaret Beckett copied to me a letter of 15 May seeking agreement to the publication of the consultation paper on the review of existing private sewers in England and Wales. I am content with the publication of the document, however, please note that the Ministry of Defence has a keen interest in the outcome of the consultation exercise.

The MOD is responsible for some 4,500 km of private foul and surface water sewers and as you will be aware from recent announcements, MOD is in the process of procuring private sector expertise for the management of these systems through Project Aquatrine, which is the UK MOD-wide Water and Waste Water Public Private Partnership Project. The contracts will have a total value of £1.5 billion and will transfer responsibility for the management and maintenance of all foul and surface water to the Service provider for a period of 25 years. There are two contracts covering England and Wales, one of which has already been let and the tendering process is well advanced for the other. All of the options identified are likely to a greater or lesser extent have a financial and operational impact on this project.

Due to the potential impact of the review on MOD's operations I would be grateful for continued close consultation in the development of solutions to resolve the general problems associated with existing private sewers.

Private Office

INVESTOR IN PEOPLE

... I am copying this letter to the Prime Minister, the Rt Hon Margaret Beckett, Members of ENV, and Sir Andrew Turnbull.

Best wishes

DR LEWIS MOONIE MP

Recycled Paper

JH
cc MH
SW
JJH
AA
MR

MINISTRY OF DEFENCE
OLD WAR OFFICE BUILDING
WHITEHALL LONDON SW1A 2EU

Telephone (020) 7218 2216 (Direct Dialling)
(020) 7218 7610 (Fax)
(020) 7218 9000 (Switchboard)

PARLIAMENTARY UNDER-SECRETARY OF STATE FOR DEFENCE
AND MINISTER FOR VETERANS AFFAIRS

Rt Hon Margaret Beckett MP
Secretary of State
Department for Environment, Food & Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

D/US of S/LM 25/1/0

9th June 2003

Dear Margaret,

Thank you for a copy of your letter of 28 May to Jack Straw, seeking agreement to the UK Priorities and Negotiating Package on the Environmental Liability Directive for this month's Environment Council. While I am content to support the majority of these proposals, I am concerned about your fallback positions on biodiversity damage and the permit and state of the art exemptions, and on any potential offer of a review of international nuclear conventions.

At present, the White Paper on the Environmental Liability Directive addresses environmental damage caused by 'dangerous activities' and biodiversity damage caused by 'non-dangerous activities'. Under the current proposals, biodiversity damage is limited to fault based liability for significant damage to sites protected under the Habitats or Birds Directives, ie Natura 2000 areas. While the Ministry of Defence takes great care to protect the natural environment, a significant number of our training areas are designated as candidate Natura 2000 sites. As a result, there is always the potential for our activities on these sites to have an impact on biodiversity. While there is a derogation for 'wholly national defence related activities', it is not clear whether your proposed fallback position to give way on the permit exception and rely on the state of the art exemption would provide sufficient protection for approved defence activities carried out on Natura 2000 sites.

Private Office

INVESTOR IN PEOPLE

Turning to the issue of a review of international nuclear conventions, I believe that competence over such a review falls to the International Atomic Energy Agency (IAEA) and to the signatory nations to those conventions rather than to the Union.

Furthermore, as you know, the current international nuclear conventions make provision for certain defence/military exemptions, which the MOD would not wish to have subject to review and/or potential amendment or deletion. As an example, the *Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management* does not apply to the safety of management of spent fuel or radioactive waste within military or defence programmes, "unless declared as spent fuel or radioactive waste for the purposes of this Convention by the Contracting Party". I would not wish such a provision, or those, which apply to defence/military issues in other international nuclear conventions to be subject to a potential review, which might lead to their amendment or deletion. To do so would present real short and long-term problems for my Department's handling of radioactive or nuclear waste.

I am pleased that you intend to continue to press for UK opposition to such a review. However, I would be grateful if any proposal to offer or agree to a review of international nuclear conventions could be deleted from the UK fallback position. I would also appreciate your comments on the issue of biodiversity damage vis-a-vis the permit and state of the art exemptions.

... I am copying this letter to the Prime Minister, Members of EP Committee, Derry Irvine, Sir Andrew Turnbull, Sir Stephen Wall, Sir Nigel Sheinwald (UKRep) and the Devolved Administrations.

Best wishes

DR LEWIS MOONIE MP

Recycled Paper

GREENPEACE
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CANONBURY VILLAS, LONDON N1 2PN

DCO

Pls file including envelope (date of postage is very important!)

Thanks

JSK

PRIME MINISTERS
DIRECT COMMUNICATIONS UNIT
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GREENPEACE
CANONBURY VILLAS, LONDON N1 2PN
TELEPHONE 0171 865 8100
FAX 0171 8200 / 8201

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GREENPEACE

CANONBURY VILLAS, LONDON N1 2PN

TELEPHONE : 020 7865 8100
FAX : 020 7865 8200 / 8201

Martin Hurst
No 10 Policy Unit
10 Downing Street
London
SW1A 2AA

72738903

30th May 2003

Dear Martin

The UK Government is fueling Indonesian forest destruction

Please find enclosed our new report, *Partners in Crime: a Greenpeace investigation of the links between the UK and Indonesia's timber barons*. I would like to stress the urgency of politicians, governments and the EU dealing with this issue as time is running out for Indonesia's rainforests.

This year it is estimated that 88% of logging in Indonesia will be illegal. Indonesia is suffering the highest rate of forest destruction in the world and has more species threatened with extinction than anywhere else on earth. The wholesale destruction of Indonesia's rainforests for throwaway commodities such as plywood will soon lead to the logging out of the largest remaining expanse of rainforest in Asia Pacific by 2010, according to the World Bank.

Unfortunately, as this report shows, despite promises from Tony Blair that *'as a government we will purchase timber only from legal and sustainable sources'*, timber from notorious timber barons logging out Indonesia's last rainforests is still turning up on UK Government construction sites such as the new Home Office headquarters at Marsham St.

And despite the Memorandum of Understanding (MOU) signed last year between the Government of Indonesia and the UK Government to combat the trade in illegal timber, the UK Government is unable to confirm that new EU laws will be included in the EU action plan on illegal timber which will make it illegal to import illegally sourced timber into the EU. Yet without such EU laws, the UK is powerless to prevent illegally logged timber from entering the country.

To make matters worse, a consortium of countries from across the EU, as well as the USA, China, Japan and Singapore is currently planning to fund the US$1.2 billion construction of yet another mammoth Indonesian pulp mill. Already the mill is politically tainted, fraudulent and – given the lack of legal, sustainable plantation timber – set to become yet one more driver of Indonesia's illegal rainforest destruction.

As this report makes clear, if the UK Government is to live up to its commitments, it must tighten up its procurement policy, ban illegal timber imports and end perverse subsidies. I urge you to ensure your department is not procuring illegally logged timber for refurbishment projects and that the Government's procurement policy is being fully enacted in your department.

I look forward to your response on how we can work together to achieve this.
Yours

JSauven

John Sauven
Campaign Director
Greenpeace UK
John.sauven@uk.greenpeace.org

John Sauven
Greenpeace
Canonbury Villas
London
N1 2PN

UK GOVERNMENT TIMBER PROCUREMENT POLICY AND THE HOME OFFICE DEVELOPMENT AT 2, MARSHAM STREET

I should be most concerned if the Government has inadvertently sponsored the use of illegally logged timber for the redevelopment of 2 Marsham Street as offices for the Home Office.

Before I can provide you with a fully considered response, of course I need to understand all the facts. Every Department is responsible for ensuring that their procurement activities comply with the requirement to actively seek to purchase timber from sustainable and legal sources both in letting contracts and in the ongoing management of them. Lord Filkin, the Home Office Green Minister, has already asked for a full investigation into the allegations made by Greepeace in relation to the 2 Marsham St site. He and I will ensure that, if there are lessons to be learned here, they will be brought to the attention of the Ministerial Sub-committee of Green Ministers - ENV(G) and of all senior procurement officers in each Department.

Following your action last year in respect of 22 Whitehall I wrote to central Government departments and asked that they review all their projects that involved timber to make sure the procurement policy was being implemented. That policy requires departments to demand independent verification of timber sources where there is any doubt over the evidence provided by suppliers to substantiate their claims.

The Office of Government Commerce also issued an information notice in November to Departments reminding them of the policy and enclosing model clauses for inclusion in their contracts. This made clear that anyone who is developing or managing a public

private partnership, including PFI projects involving capital investment, should take account of the policy when writing their specifications. Departments are also required to report on their approach in the annual Sustainable Development in Government report published last November and available on the Government's Sustainable Development web site. URL: http://www.sustainable-development.gov.uk/sdig/reports/index.htm

I will however ensure that further reminders and guidance are issued so that no one involved in timber procurement within central Government can be under any doubt as to how they should implement our policy and ensure that it is enforced by any third parties. Additionally, my department will continue to work with local authorities and their representative bodies to ensure that policies to procure sustainable and legal timber are adopted and implemented throughout the public sector.

I am sorry that the Government's response the EAC has been so long in coming but do assure you that we are addressing that now.

We are unable to ban timber imports from Indonesia or any other country without the agreement of the Governments involved. We are, however, working with Indonesia under a Memorandum of Understanding on illegal logging on issues such as legal and administrative reform, legality verification systems and financial and technical assistance. We are also working within the EU on a package of forest law enforcement and governance measures. The Commission plans to introduce a regulation on illegal logging and to develop agreements with timber producing countries. These would deny access to EU markets for illegally logged timber from those countries. We are encouraging the Commission to make faster progress. I hope that such measures together with planned further development of the Government's domestic timber procurement policy will provide the assurance you seek. We will not give up the fight against illegal logging.

MICHAEL MEACHER

GREENPEACE

CANONBURY VILLAS, LONDON N1 2PN

TELEPHONE : 020 7865 8100
FAX : 020 7865 8200 / 8201

The Rt Hon Michael Meacher MP,
Minister for the Environment,
Department of the Environment, Food and Rural Affairs,
Nobel House,
17 Smith Square,
London SW1P 3JR

4th June 2003

Dear Michael,

The UK Government is fuelling Indonesian forest destruction

Greenpeace is today taking direct action to again expose the UK Government's failure to implement its timber procurement policy. It is now nearly 3 years since you announced this policy, yet at the construction site for the new Home office headquarters, at Marsham St, timber is being used for hoardings and to hold wet concrete in place that is sourced from notorious timber barons logging out Indonesia's last rainforests.

This year it is estimated that 88% of logging in Indonesia will be illegal. Indonesia is suffering the highest rate of forest destruction in the world and has more species threatened with extinction than anywhere else on earth. The wholesale destruction of Indonesia's rainforests for throwaway commodities such as plywood will soon lead to the logging out of the largest remaining expanse of rainforest in Asia Pacific by 2010, according to the World Bank.

As I am sure you recall, this is not the first time that Greenpeace has taken action over the Government's procurement policy. As a result of our work last year the Environmental Audit Committee launched an immediate inquiry. Yet the Government has still not responded to the subsequent report 'Buying time for the forests.' Further, there is still no decision regarding final Government guidelines for the implementation of your procurement policy.

I am sure that you will agree that there can be no justification whatsoever for using timber from Indonesia's last rainforests on Government contracts at this time. Can you now confirm what action you will take to ensure that Indonesian timber will not be used again on any Government contract, until such a time as Indonesian timber can be independently certified as coming from legal and sustainable sources. Can you also clarify as to how you will ensure that the Governments timber procurement policy is fully enacted across the whole of Government.

I enclose a copy of a new Greenpeace report with this letter, *Partners in Crime: a Greenpeace investigation of the links between the UK and Indonesia's timber barons,* and look forward to hearing from you at the earliest opportunity.

Yours sincerely,

John Sauven,
Campaign Director,
Greenpeace UK

To: Michael Meacher

From: Bob Andrew
Location: PCD. Room 428
19-29 Woburn Place
London WC1H 0LU
Tel: 020 7273 8903
Fax: 020 7273 8936
Date: 04 June 2003
Copies: Alun Michael
Elliot Morley
Brian Bender
David Rabey PCD
Angela Coulton SDU
Glenys Parry EPINT
Michael Barrett EPINT
Stephen Hale SA
Nicci Collins SA
Roger Hinds PCD

TIMBER PROCUREMENT – GREENPEACE ACTION OVER HOME OFFICE RE-DEVELOPMENT OF 2 MARSHAM STREET

Issue

1. Greenpeace is alleging that the plywood site hoardings and concrete shuttering is made from illegally felled Indonesian wood. They ask for an assurance that no more timber from Indonesia will be used on Government contracts until it is independently certified as legal and sustainable. They have also asked for clarification on how you will ensure that the timber procurement policy will be enacted across the whole of Government.

Recommendation

2. That you write to Greenpeace as per the attached draft letter.

Timing

4. Urgent. This is another high profile publicity stunt and Greenpeace would make capital over any perceived stalling

Consideration

5. Twelve Greenpeace protesters have occupied a crane above the 2 MS site and have promised to stay there until the demands made are met. It is reported that the demands made orally on site were slightly different, namely that (a) an import ban is placed on all timber from Indonesia as no certification scheme will work there; and (b) Government makes a commitment that all timber it purchases from now on will be Forestry Stewardship Council (FSC) certified. HMG could not agree to either of those demands because both require HMG to act illegally.

`6. I understand that you have spoken with John Sauven and have agreed to issue a response today that will reaffirm the Government's commitment to procuring timber from legal

and sustainable sources. It is likely that the demonstration will be called off once that letter is sent.

7 The Home Office have been consulted on the draft response They have left a message for Lord Filkin (currently in Luxembourg) to consider the suggestion that he order an immediate investigation and work with Defra to report findings and make changes based on lessons learnt.

BOB ANDREW

DRAFT LETTER FROM MICHAEL MEACHER TO JOHN SAUVEN, GREENPEACE

UK GOVERNMENT TIMBER PROCUREMENT POLICY AND THE HOME OFFICE DEVELOPMENT AT 2, MARSHAM STREET

I should be most concerned if the Government has inadvertently sponsored the use of illegally logged timber for the redevelopment of 2 Marsham Street as offices for the Home Office.

Before I can provide you with a fully considered response, of course I need to understand all the facts. Every Department is responsible for ensuring that their procurement activities comply with the requirement to actively seek to purchase timber from sustainable and legal sources. Lord Filkin, the Home Office Green Minister, has already asked for a full investigation into the allegations made by Greepeace in relation to the 2 Marsham St site. He and I will ensure that, if there are lessons to be learned here, they will be brought to the attention of the Ministerial Sub-committee of Green Ministers - ENV(G).

Following your action last year in respect of 22 Whitehall I wrote to central Government departments and asked that they review all their projects that involved timber to make sure the procurement policy was being implemented. That policy requires departments to demand independent verification of timber sources where there is any doubt over the evidence provided by suppliers to substantiate their claims.

The Office of Government Commerce also issued an information notice in November to Departments reminding them of the policy and enclosing model clauses for inclusion in their contracts. This made clear that anyone who is developing or managing a public private partnership, including PFI projects involving capital investment, should take account of the policy when writing their specifications. Departments are also required to report on their approach in the annual Sustainable Development in Government report published last November and available on the Government's Sustainable Development web site. URL: http://www.sustainable-development.gov.uk/sdig/reports/index.htm

I will however ensure that further reminders and guidance are issued so that no one involved in timber procurement within central Government can be under any doubt as to how they should implement our policy. Additionally, my department will continue to work with local authorities and their representative bodies to ensure that policies to procure sustainable and legal timber are adopted and implemented throughout the public sector.

I am sorry that the Government's response the EAC has been so long in coming but do assure you that we are addressing that now.

We are unable to ban timber imports from Indonesia or any other country without the agreement of the Governments involved. We are, however, working with Indonesia under a Memorandum of Understanding on illegal logging on issues such as legal and administrative reform, legality verification systems and financial and technical assistance. We are also working within the EU on a package of forest law enforcement and governance measures. The Commission plans to introduce a regulation on illegal logging and to develop agreements with timber producing countries. These would deny access to EU markets for illegally logged timber from those countries. We are encouraging the Commission to make faster progress. I hope that such measures together with planned further development of the Government's domestic timber procurement policy will provide the assurance you seek. We will not give up the fight against illegal logging.

MICHAEL MEACHER

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

The Rt Hon Paul Boateng MP
Chief Secretary
HM Treasury
1 Horse Guards Road
LONDON
SW1A 2HQ

9 June 2003

MH

cc JR

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear Paul,

SUCCESS CRITERIA FOR THE ENTRY LEVEL AGRI-ENVIRONMENT SCHEME PILOT

This letter seeks agreement to a list of criteria against which the success of the pilot of the Entry Level Agri-Environment Scheme will be judged. I would be grateful for your agreement to the proposed criteria.

Your letter of 9 July 2002 set out the outcome for Defra of the 2002 Spending Review. The settlement included an allocation of funds to roll-out a 'broad and shallow' agri-environment scheme in 2005-6, as proposed by the Curry Commission. Paragraph 9 of Annex C to the letter explained that the £75 million set aside for the introduction of this scheme was dependent on several conditions, including the running of a successful pilot.

Outlined below are the details of how my Department has developed the pilot for the Entry Level Scheme (ELS), how the proposed success criteria for the pilot have been developed and how the pilot will be evaluated. The proposed success criteria are attached in **Annex A.**

Developing the Pilot

The Agri-Environment Review Team in Defra have developed the design of the Entry Level Scheme Pilot, working closely with delivery agents including the Rural Development Service (RDS) and the Rural Payments Agency (RPA). A public consultation on the review as a whole ran from March to May 2002. The majority of respondents strongly supported the introduction of an Entry Level Scheme, and ideas and comments from this consultation informed the design of the pilot. The Review Team have also worked closely with the Entry Level Scheme Working Group, on which key partner organisations are represented, at all stages of the development of the Pilot.

In November 2002 Defra and partner organisations from the ELS Working Group worked together to conduct a 'pre-pilot' exercise, in which over 120 farmers were consulted on the provisional design of the pilot. Overall, the feedback from farmers in the pre-pilot was very positive. Nearly 100 farmers said that they would be interested in applying for the scheme. The design of the Entry Level Scheme Pilot was revised in accordance with the feedback from this exercise.

The Pilot will test the Entry Level Scheme design on farms in four pilot areas. Each pilot area is representative of a different English farm type. The four areas are: Market Deeping (Lincs, arable farming), Mortimer (Berks, mixed farming), Barnard Castle (Durham, upland farming) and Tiverton (Devon, grassland farming).

The Pilot was formally launched in the four pilot areas on 27 February 2003. Farmers have until May 30 2003 to apply to participate in the pilot.

Evaluating the Pilot

The evaluation of the pilot will begin immediately after the deadline for applications has passed, as key information, such as uptake levels, will be available from this time.

A contractor, Central Science Laboratories, has been appointed through an open tendering process to co-ordinate the evaluation. Defra, RDS and RPA staff will all be involved. Key partner organisations will also contribute to the evaluation, assessing the effectiveness of the scheme in delivering benefits in their particular area of expertise.

The evaluation will gather data for two purposes:

- to assess the pilot against the success criteria in order to allow Ministers to make a decision on whether it should be rolled out nationally in 2005

- to improve the scheme design if it is rolled out nationally.

The contractor will be responsible for producing two reports evaluating the Entry Level Scheme Pilot. The first will focus mainly on the information needed to judge the pilot against the success criteria. The second will focus on information needed to effectively revise and develop the scheme in preparation for national roll-out.

The Success Criteria

My Department has developed the proposed success criteria for the Pilot (attached at **Annex A**) in close consultation with the Entry Level Scheme Working Group. Treasury officials have also been consulted.

A decision on whether the Entry Level Scheme is to be rolled-out in 2005 will need to be made early in 2004, in order to allow sufficient time to notify the European Commission and prepare for the national scheme. The proposed criteria against which the success of the Entry Level Scheme Pilot will be judged have been designed to be measurable within

this short time. I should be grateful for confirmation that you are content with these criteria.

I am copying this letter to the Prime Minister, the Chancellor and to Sir Andrew Turnbull.

Regards

Margaret

MARGARET BECKETT

MINISTRY OF DEFENCE
OLD WAR OFFICE BUILDING
WHITEHALL LONDON SW1A 2EU

Telephone (020) 7218 2216 (Direct Dialling)
(020) 7218 7610 (Fax)
(020) 7218 9000 (Switchboard)

PARLIAMENTARY UNDER-SECRETARY OF STATE FOR DEFENCE
AND MINISTER FOR VETERANS AFFAIRS

MH
cc: JK
MR.

Rt Hon Margaret Beckett MP
Secretary of State
Department for Environment, Food & Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

D/US of S/LM 25/1/0

6th June 2003

Dear Mrs Beckett,

Thank you for a copy of you letter of 28 May 2003 to the Foreign Secretary, seeking agreement to the UK negotiating strategy for a proposal to amend Directive 1999/32/EC on the Sulphur Content of Liquid Fuels.

Whereas it is Ministry of Defence policy always to seek to comply with EU legislation on environmental issues, there may be difficulties in seeking to achieve the goal with the proposed Amendment.

The reduction in sulphur content proposed is below that pertaining to marine fuel available in South America and East of Suez. In consequence, when the Royal Navy is participating in emergency, operational, peacekeeping or training activities which involve exercises beyond European waters, in South America or East of Suez, there can be no guarantee that any heavy marine fuel with such low sulphur content can be secured for re-fuelling to return to the UK base. Whilst we would do our best to manage this risk, to avoid a potential breach of the proposed legislation, it would be beneficial to include a military exemption, or for the legislation to be drafted to take account of such incidences occurring. This has been taken into account under the provisions of the MARPOL Convention Annex VI, which we would wish to see reflected in the draft legislation.

These issues are likely to be of concern to other Member States' Departments of Defence, and I request that your officials lobby for their support on such an important matter.

I am copying this letter to the Prime Minister, other members of the EP Committee, Sir Andrew Turnbull and Sir Nigel Sheinwald, and to the Devolved Administrations.

Yours sincerely,

p.p.

DR LEWIS MOONIE MP
(Approved by the Minister and
signed in his absence)

Recycled Paper

JL
cc MH
JOM
AT
SPM

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Rt Hon Margaret Beckett MP
Secretary of State
Department of Environment Food and Rural Affairs
Noble House
17 Smith Square
LONDON

6 June 2003

ENV CORRESPONDENCE: REGULATORY IMPACT ASSESSMENT FOR THE STATUTORY CONTROLS OF ODOUR AND OTHER NUISANCE FROM SEWAGE TREATMENT WORKS

This letter gives you ENV clearance to publish the Regulatory Impact Assessment (RIA) for the statutory controls of odour and other nuisance from sewage treatment works.

Thank you for your letter of 6 May, seeking ENV clearance to publish a RIA for the statutory controls of odour and other nuisance from sewage treatment works. You note that the RIA suggests that two of the four options considered during the recent consultation process, namely a voluntary code of practice and/or statutory nuisance, would be expected to generate significant benefits that outweighed the associated costs.

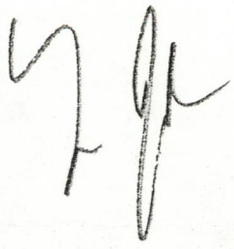
Angela Smith responded to your letter. From the devolved administrations, Carwyn Jones also commented. Both are content, but make a couple of comments.

Angela recalls that she has informed you on 13 February that she had decided not to undertake a similar consultation at this time in Northern Ireland. She looks forward to learning of your favoured option(s), which will provide a useful guide when she undertakes a proposed review of Northern Ireland's statutory nuisance legislation.

Carwyn will consider issues raised in the RIA for England when producing the Welsh equivalent. He regrets that he cannot commit to a joint announcement at this stage, needing first to take into account responses to the Welsh consultation exercise, which

closes on 13 June. He expects to write to you shortly after the end of the consultation to let you know the position in Wales.

I am copying this letter to the Prime Minister and members of ENV, and to Sir Andrew Turnbull. I assume you will convey the outcome of this correspondence to the devolved administrations.



JOHN PRESCOTT

JK
cc MH
CS
AMc
JJM
AA

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Rt Hon Peter Hain MP
Secretary of State for Wales
Wales Office
Gwydwr House
Whitehall
London
SW1A 2ER

5 June 2003

DA AND ENV CORRESPONDENCE: WATER BILL: FLOOD DEFENCE COMMITTEE MEMBERSHIP IN WALES

This letter gives you DA and ENV clearance (subject to LP agreement also being given) to table an amendment to the Water Bill at Lords Report which would provide the National Assembly for Wales with the power to make an order determining the composition of Regional Flood Defence Committees in Wales, subject to a couple of conditions.

Thank you for your letter of 14 May. Margaret Beckett responded. No other colleagues commented.

Margaret is content for the amendment to proceed on the basis described in your letter, and specifies that her approval is on the basis of including the safeguard that where such an order applied to a Regional Flood Defence Committee that included part of England, the order would require her prior approval.

On handling, Margaret says she is anxious that the amendment be presented as essentially a Welsh provision, which is a logical extension of Devolution. She feels you are right in setting out why this should not be seen as an indication of the way we will proceed in England with the advent of Elected Regional Assemblies, and the UK Government would use these arguments in debates on the amendment. It should therefore be tabled in the name of a Welsh Minister, who should ideally also move the amendment on Report. She also regards it as essential that WAG officials be present to support whichever Minister moves the amendment. Subject to these points, and her

officials having the opportunity to agree the amendment before it is tabled, she is content with your proposal.

You may therefore take it that you have DA and ENV clearance to table the amendment, subject to LP agreement and to the the conditions Margaret sets out. First, you should adhere to the specification of your letter that where an order from the NAW applies to a committee that includes part of England, the order would require the approval of the Secretary of State for Environment, Food and Rural Affairs. Second, the amendment should be tabled by a Welsh Minister (who should be supported by WAG officials), and if possible also moved on Report by that Minister.

I am copying this letter to the Prime Minister, members of ENV, DA and LP, First Parliamentary Counsel and to Sir Andrew Turnbull.

JOHN PRESCOTT

JH
cc MH
JSH
SW
MR

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: **020 7944 8623**
Fax: **020 7944 8621**

The Rt Hon Jack Straw MP
Foreign Secretary
King Charles Street
London
SW1A 2AH

5 June 2003

Environmental Liability Directive

Margaret Beckett wrote to you and other members of EP on 28 May 2003 setting out the UK's stance on the Environmental Liability Directive in advance of the June Environment Council.

I strongly support Margaret's proposed negotiating position and agree that the Directive at present is unworkable, in particular the issue of compulsory indemnity insurance, which is of interest to ODPM.

The adverse effects of compulsory indemnity insurance on small and medium enterprises are likely to include perverse environmental and safety impacts. For example in the mining and quarrying sector, where operators cease extraction, leaving sites unrestored and less than properly secured. There are also likely to be comparable impacts in other sectors, for example, in waste management and in some parts of industry. I would expect Patricia Hewitt to have views on that.

I am copying this letter to the Prime Minister, Members of EP Committee, Derry Irvine, Sir Andrew Turnbull, Sir Stephen Wall and Sir Nigel Sheinwald (UKRep).

JOHN PRESCOTT

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

020 7238 5976

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email helpline@defra.gsi.gov.uk
Website www.defra.gov.uk

ANNEX 1

defra
Department for Environment
Food and Rural Affairs

The Rt Hon Brian Wilson, MP
Department of Trade and Industry
1 Victoria Street
London
SW1H 0ET

MH
cc: JK
GN
OJ

5 June 2003

From the Minister for Environment and Agri-Environment
The Rt Hon Michael Meacher MP

Dear Brian

OSPAR Ministerial Meeting 25-26 June 2003

Thank you for your letter of 16 April about the OSPAR Ministerial meeting.

The baseline was discussed further at the Radioactive Substances Sub-Group meeting on 23 and 24 April and at the Heads of Delegation (HOD) meeting on 14 and 15 May. The outcome of these discussions is that there are now two options for the period of the baseline. Ministers will be asked to make the final selection in Bremen. The two periods are 1996-2000 and 1993-2001. Other options were in play up to the HOD meeting: the single year 1998 which Ireland, Norway and Denmark favoured, and 1993-97 which the UK and France favoured. (Prior to the HOD meeting, Spain and Belgium also favoured 1993-97 but they failed to support it on this occasion.) There was, therefore, no realistic prospect that OSPAR could be persuaded to accept 1993-97. The single year 1998 would have been very damaging from a UK perspective. Defra's representatives at the HOD meeting concluded that, in narrowing the choices for Ministers, it would be better to try to secure two options, either of which, while not ideal, would be possible for the UK to live with. I have to say that I think the Bremen meeting will pick 1996-2000, but there is just an outside chance that we shall be able to persuade the meeting to go for a longer period. The other aspects of the baseline were agreed at the HOD meeting. The key points were that trend detection would not be used for establishing the baseline, although it would be for assessing future progress. The discharges baseline would measure total alpha, total beta and tritium discharges, but not other individual radionuclides.

I am grateful for the clarity of your response on the slim prospects for new THORP contracts and the difficulties any such new contracts would raise both for Sellafield clean-up operations and in broader political terms. Whilst I understand your reluctance to open up discussion of the existing reprocessing contracts, it is my firm view that the UK should make every attempt to demonstrate an open approach to policy making in this area that offers an

early prospect of public consultation. Any such initiative would be well received internationally.

Greenpeace are seeking a Contracting Party to put forward a draft decision on reprocessing. Ireland's representative at the HOD meeting said that she had refused to endorse Greenpeace's proposal. But another Contracting Party may well do so. For example, Norway's frustrations over Tc-99 discharges may prompt an alliance with Greenpeace. Unless we are ready to make some concession on reprocessing at the meeting, we are unlikely to sway the more moderate countries sufficiently to avoid finding ourselves isolated and on the defensive. I believe that such an outcome would be damaging for the nuclear industry and for broader UK interests. BNFL have recently informed us that total alpha discharges are likely to be higher than forecast in the UK Discharges Strategy. This will make it even harder to persuade OSPAR that the UK is serious about meeting its commitments unless we are able to make a concession about reprocessing.

I believe that there is a third option that lies between my preference for a full review of reprocessing and your planned announcement that any future proposals for reprocessing contracts will be subject to public consultation. Your letter mentions that you are already engaged in a process of examining the options for the future operation of THORP, on the working assumption that existing contractual commitments will be fulfilled. This offers the opportunity for an early public consultation on a clearly defined range of options and proposals, i.e. whether THORP should be allowed to operate beyond the agreed baseline contracts.

Finally, it has come to my attention that UKAEA and BNFL have recently concluded a new contract for the reprocessing of spent WAGR fuel at THORP. On the face of it, this contract seems to be inconsistent with the terms of the undertaking given in the White Paper 'Managing the Nuclear Legacy' that any proposals for new contracts will be subject to review to ensure they are consistent with clean up plans for Sellafield, are expected to make a positive return for the taxpayer and are consistent with the UK's environmental objectives and international obligations. My officials have sought an urgent explanation from yours, but so far this has not been forthcoming. It is important that the issues raised by my officials are answered quickly. Information about this new contract is likely to find its way into the public domain and it has the potential to cause considerable embarrassment at the Bremen meeting.

I am sending copies of this letter to the Prime Minister, the Deputy Prime Minister, the Chancellor of the Exchequer, the Foreign Secretary, the Secretaries of State for Health and Northern Ireland, the Attorney General, the Cabinet Secretary and to Ross Finnie (Scottish Executive) and Sue Essex (Welsh Assembly Government).

Yours sincerely

Michael

MICHAEL MEACHER

Foreign &
Commonwealth
Office

London SW1A 2AH

Minister for Europe

5 June 2003

The Rt Hon Jack Straw
Secretary of State
Foreign and Commonwealth Office
King Charles Street
LONDON
SW1A 2AH

MH

cc JK
SW
MR.

Dear Jack

NON-ROAD MOBILE MACHINERY (NRMM) EMISSIONS DIRECTIVE

I am writing in response to David Jamieson's letter to you of 8 May seeking EP clearance to a proposed UK negotiation position on the Non-Road Mobile Machinery Directive (NRMM) for the June Environment Council.

Although I share some of the concerns expressed by David in his letter, particularly the costs of implementation, I fear we stand to lose more in terms of negotiating flexibility if we vote against the proposed Directive at this stage.

I understand from officials that since David's letter issued there have been several working group meetings. These have clearly indicated that the UK is completely isolated on making Stage IIIB a voluntary standard, despite intensive lobbying by our Posts. It therefore seems unlikely that we will be able to persuade the Council to adopt anything other than a mandatory Stage IIIB on 13 June. Nor that we will be able to turn round the strong support for the inclusion of locomotive engines within the scope of the Directive.

I believe it would therefore serve us better to abstain at the June Environment Council, stating that we wish to see the European Parliament's First Reading suggestions before we finalise our position. This should give us a greater leverage in subsequent negotiations. Voting against would give us less and might also lose us the concessions gained already, such as the lifeboat launching equipment exemption.

An abstention now would also help when lobbying MEPs during the European Parliament's First Reading, providing a greater chance of an outcome favourable to the UK.

The June Environment Council is already looking like a difficult Council for the UK. We are set to vote against the proposed Environmental Liability Directive. Is there not a risk that were we also to vote against the proposed NRMM, we would run into criticism from media, NGOs and some of our partners that we were failing to meet the high environmental standards we set in other areas?

I am copying this letter to the Prime Minister, EP colleagues, Sir Andrew Turnbull and Prof David King.

Yours sincerely

Denis

Denis MacShane
Minister for Europe

RESTRICTED

CLIMATE CHANGE: US VIEWS
From: WASHINGTON

TO PRIORITY FCO
TELNO 782
OF 042141Z JUNE 03
AND TO PRIORITY DEFRA
INFO PRIORITY BEIJING, BRASILIA, CABINET OFFICE, CANBERRA, DFID
INFO PRIORITY DTI, EU POSTS, MEXICO CITY, MOSCOW, NEW DELHI
INFO PRIORITY OTTAWA, TOKYO, UKDEL IMF, UKMIS NEW YORK
INFO PRIORITY UKREP BRUSSELS

Fite pls

Cabinet Office for Lloyd, Key
DTI for MacNaughton
DEFRA for Derwent, Hendry

Washington telno 727 to FCO

SUMMARY

1. No sign of change in US climate policy. They see Kyoto (though not the UNFCCC) as broken, and propose their cluster of science-focused technology initiatives as the basis for an alternative. They will build on these through bilateral relations with key developing countries and the G8 science/ technology workstream.

DETAIL

2. Following TUR, I called on Jim Connaughton, Chair of the Council on Environmental Quality, White House, to discuss US policy on climate change in the run up to COP9.

3. Connaughton said that the US's domestic and international climate policy was focused on the technology initiatives announced over the last six months, including hydrogen research, the cleaner coal FutureGen power station, and re-engagement in the International Thermonuclear Experimental Reactor. Roadmaps were being prepared on each strand. A key next step was the July 31 Earth Observation Summit, on which he was more focused than on the Carbon Sequestration Leadership Forum. He hoped for UK Ministerial attendance.

4. He denied that there was any shift in US domestic policy. Cabinet was united on the issue, and there would be no change as a result of Christine Todd Whitman's resignation. In any case climate change was not a prime political issue domestically. He reiterated the Administration's "VISION" plan for voluntary business action (my telno 206), and noted that total US emissions had fallen 1% over the past year, largely due to declining economic activity. They were working on a single voluntary federal registry for emissions (under section 1605b of the Energy Policy Act), to be finalised in advance of COP9 [Comment: we expect guidance on this to be published before the end of June]. I stressed the importance of our registry systems being compatible. Connaughton also hoped that energy legislation currently stalled in Congress would pass, given that many of its elements (for example on ethanol) were "climate-friendly". His interest was in cleaner fossil fuels, and he hoped that further sequestration initiatives would be discussed in Congress. But if the price of natural gas rose to a significant level, nuclear new build, LNG and renewables (particularly geothermal and wind) would also become more viable.

5. Internationally, the US was maintaining its involvement in the COP process, and believed that the UNFCCC still offered a lot of

common ground on which we could work. But Kyoto was bogged down, irrespective of Russian ratification (which he did not expect). It needed resetting. The G8 science/ technology strand was a key way of doing this, and the US would be looking to work with Japan and the UK in the follow up to Evian to drive the technology workstreams forward. They would also continue to build bilateral relations on the technology agenda outside the COP process, focusing on China, India, Mexico, Brazil and South Africa. Hence the importance of the Global Observation Summit. Related work (for example on sustainable forestry) would be far more effective in time than the Clean Development Mechanism. He also noted that intensity targets were the only realistic way of involving developing countries.

COMMENT

6. Connaughton was in typically robust mood. But he acknowledged that we still need to engage on the post-2012 developing country agenda. The G8 technology workstream is one way of doing this. Seen from here, we also need to look for others, irrespective of progress at Milan.

(Desk Office for Energy & Environment - Christian Turner +1 202 588 6682)

BRENTON

Sent by WASHINGTON on 04-06-2003 21:41
Received by No10 on 04-06-2003 23:25

dti

The Rt Hon Patricia Hewitt MP
SECRETARY OF STATE
FOR TRADE AND INDUSTRY

4 June 2003

The Rt Hon Margaret Beckett MP
Secretary of State for Environment,
Food and Rural Affairs
Nobel House
17 Smith Square
LONDON
SW1P 3JR

MH SW JK GN ON

Dear Margaret,

AMENDMENT TO THE SULPHUR CONTENT OF LIQUID FUELS DIRECTIVE (1999/32/EC), REGARDING MARINE FUEL

Thank you for your letter of 28 May requesting agreement on the line to take when negotiating the Commission's proposal (COM (2002) 595). I fully support the general position of "Conditional support" you are taking to protect the environment in a cost-beneficial way. However, I have some detailed suggestions to make which I feel will enhance the UK position and improve the environment in a cost effect manner.

The issue of "Technical abatement" raised in your letter I strongly support and you should push to ensure the amendment is carried. This as you state keeps open the option of complying with the environmental impact by alternative means other than changing the fuel. I also agree you should seek to ensure that conflicts between MARPOL Annex VI and the European Union legislation are avoided on this issue.

However, the proposal to establish a Regulatory Committee under the Directive to consider which alternative abatement methods might be permissible strikes me as likely to stifle innovation and delay any new technology reaching the market. A better approach would be in-line with that taken by the legislation controlling the emissions from automotive engines, power stations and industrial plant. This sets the emissions

Department of Trade and Industry
W 823
1 Victoria Street
London
SW1H 0ET

Direct Line +44 (0)20 7215 5478
Fax +44 (0)20 7215 5468
Minicom +44 (0)20 7215 6740
Enquiries +44 (0)20 7215 5000

limits of the combustion gases leaving the chimney or exhaust pipe at the required level to achieve the environmental goal. The choice of technology should be left to the ship owner to decide depending on the specific requirements of the ship, provided it meets the strict environmental controls required, and subject to monitoring of the emissions, as with other industrial applications.

I am sending a copy of this letter to the Prime Minister, other members of the EP Committee, and to Sir Andrew Turnbull and to Sir Nigel Sheinwald.

Best wishes,

PATRICIA HEWITT

DCO

Department for
Transport

From the Secretary of State

Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 3011
Fax: 020 7944 4399
E-Mail: alistair.darling@dft.gsi.gov.uk

Web site: www.dft.gov.uk

Our Ref: AD/007535/03

MH
CC: OIY
Matt
SF

The Rt Hon Jack Straw MP
Secretary of State
Foreign and Commonwealth Office
King Charles Street
LONDON
SW1A 2AH

- 4 JUN 2003

Dear Jack

AMENDMENT TO THE SULPHUR CONTENT OF LIQUID FUELS DIRECTIVE (1999/32/EC), REGARDING MARINE FUEL

I am writing in response to Margaret Beckett's letter to you of 28 May seeking EP agreement to the proposed UK line for the negotiations on the Commission's proposal for amendments to the Sulphur Content of Liquid Fuels Directive.

I welcome the line which Margaret proposes. Opposition to the Commission's proposal would be counterproductive. Equally, the UK must not give unequivocal support to the proposal, but must seek to amend it as it goes through the EC legislative process. In particular, the UK should work to ensure that the relevant provisions of the amended Directive mirror Annex VI to the MARPOL Convention, that the Directive as a whole is dovetailed with MARPOL Annex VI and the United Nations Convention on the Law of the Sea, and that full consideration is given to the implications for flag state responsibilities and port state control.

This letter is copied to the Prime Minister, other members of the EP Committee, Sir Andrew Turnbull and Sir Nigel Sheinwald.

Yours

ALISTAIR DARLING

Christopher Leslie MP
Parliamentary Under Secretary of State

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3016
Fax: 020 7944 4339
E-Mail: chris.leslie@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

Rt. Hon Dr John Reid MP
Leader of the House of Commons
and President of the Council
2 Carlton Gardens
LONDON
SW1Y 5AA

-4 JUN 2003

MH
JK
AMcG
CS

Dear John

PRIVATE MEMBER'S BILL: MUNICIPAL WASTE RECYCLING

I am grateful for Michael Meacher's letter of 3 June which sets out a further measure for a compromise approach that the Government can support on the Municipal Waste Recycling Bill. We are now very close to securing a suitable compromise although there are a few terms we need to clarify on the potential cost to local government and on any monitoring arrangements. I also remain concerned that authorities have the discretion that they need about the way in which they give effect to the duty.

There is a genuine recognition amongst local authorities that recycling should be encouraged but there has always been a question of how appropriate resources are translated to the front line. I do accept Michael's point that there are other levers that need to be taken into account when assessing additional costs and that any assessment needs to be considered in that context. My main concern here is that from the outset there will be an increased expectation with this duty that local authorities will need to act in an area where they already facing significant pressure. As a minimum DEFRA need to make clear that before the Bill comes into force they will have reached an agreement with the LGA about the timing of any burdens exercise.

Michael accepts the principle that local authorities should carry out their functions according to local circumstances. I am grateful that Michael has considered the inclusion of the phrase " shall take steps that in its opinion are necessary" in order to ensure that local authorities have the necessary flexibility to carry out their functions. I understand that he has now sought the views of Parliamentary Counsel on whether the phrase should appear on the face of the Bill or in statutory guidance in order to achieve that aim. The definition of "reasonable access" can be addressed in statutory guidance. My concern is to make certain that the Bill enshrines local authority discretion about the how they give effect to the duty and that this would be robust in the face of legal challenge. If Counsel's view is that the Bill provides that discretion, I could accept the provision as drafted. We

must, however, make our intention clear in the Statement at Committee and in any subsequent statutory guidance.

I am content with Michael's proposed approach on BVPIs although as he acknowledges, any information on new BVPIs would not become available until 2005. I also support the use of existing reporting mechanisms such as the Municipal Waste Survey so long as the overall burdens are taken into account and any proposals to require extra information from authorities are drawn up in consultation with local government.

I am copying this letter to the Prime Minister, members of LP and ENV Committees, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours

Chris

CHRISTOPHER LESLIE

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Rt Hon Patricia Hewitt MP
Secretary of State for Trade and Industry
Trade and Industry
1 Victoria Street
London
SW1H 0ET

OJ
c GN
JOH
MM
JK

4 June 2003

Dear Patricia

DA(N) CORRESPONDENCE: NEW SOCIAL AND ENVIRONMENTAL GUIDANCE TO OFGEM

This letter gives you DA(N) clearance to proceed as proposed in your letter to me of 19 May 2003, subject to the views of colleagues laid out below.

On 19 May you wrote to DA(N) seeking clearance to publish revised guidance for the Office of Gas and Electricity Markets (OFGEM). Replies were received from Lord Whitty and Anne McGuire.

Larry was content for you to proceed. He agreed with your approach of focusing the guidance on achieving the targets laid out in the Energy White Paper, and said that his officials were working with yours on some minor revisions to the guidance.

Anne was also content. She highlighted the importance of ensuring that the Regulator supports the Government's policy objectives, and particularly welcomed the reference in the guidance to renewable energy.

I am copying this letter to the Prime Minister, members of DA(N) and to Sir Andrew Turnbull.

JOHN PRESCOTT

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

020 7238 6465

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email helpline@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

Rt. Hon Dr John Reid MP
Leader of the House of Commons
and President of the Council
2 Carlton Gardens
London
SW1Y 5AA

Your ref. 0017510

3 June 2003 JK

cc MH
CS

From the Minister for Environment and Agri-Environment
The Rt Hon Michael Meacher MP

Dear John

PRIVATE MEMBER'S BILL: MUNICIPAL WASTE RECYCLING

I have seen Christopher Leslie's and John Healey's responses of 2 June to Margaret Beckett's letter of 28 May 2003 and am grateful for their willingness to try and reach agreement on a compromise which would attract Government support. This letter addresses each of the points made. I believe that none of the points raise insurmountable obstacles and I hope that on the basis of this response it will be possible rapidly to conclude that Government can support the Bill by means of the compromise. As you may know Committee Stage is now re-fixed for 10 June. The compromise amendment will need to be tabled by Friday at the latest and we need before then to finalise our instructions for Parliamentary Counsel. I would be grateful therefore for a response by 4 June.

Christopher Leslie has raised three concerns.

First, recognising that further work will need to be carried out with local government on the definition of 'reasonable access' – with which we agree – Christopher Leslie has asked that an exercise to assess and quantify any additional costs arising from the new obligation should be made and that Defra should accept the principle that any new burden on local government would fall to its budget.

It is far from clear at present whether this new duty would impose any new cost or burdens. This is because Government is already putting in place a number of policy levers which will drive up recycling performance including the statutory recycling targets, the

Landfill Allowance Scheme, increases in the Landfill Tax; the recycling challenge/performance reward funds and the Government's new public expenditure programme on sustainable waste management following the Strategy Unit report. We expect the cumulative impact of all of these measures to lead to a significant increase in doorstep recycling collections although it is too early to predict the precise levels that will be achieved and over what timescale, particularly as some of the measures are not yet in place.

On this basis, we agree that an exercise to assess progress and any potential additional costs, should progress appear insufficient, would be needed and that we will undertake to do one at the appropriate time. However, it is premature to do so before progress in response to the other measures I have described has been assessed. This suggests that a review to feed into the Spending Review 2006 would be the most appropriate time bearing in mind that the target date in Joan Ruddock's Bill is 2010.

Second, Christopher Leslie has asked that the duty on local authorities to ensure reasonable access to facilities for the separate collection of at least one type of recyclable waste be modified to ensure that local authorities have the necessary flexibility to carry out their functions. He has suggested inserting a phrase along the lines of "shall take the steps that in its opinion are necessary..." to the provision.

We accept the principle but are not clear whether this needs to be on the face of the Bill or simply in guidance to accompany it. We will take up this point with Parliamentary Counsel.

Third, Christopher Leslie is keen to ensure that the new reporting arrangements rely on existing requirements e.g. Best Value Performance Indicator (BVPI) 91 and/or the Municipal Waste Survey, to avoid creating an additional burden on local authorities.

We do not believe that there are insurmountable problems here. BVPI 91 currently seeks information on the *percentage of the population resident in the Authority's area served by a kerbside collection of recyclables*. This provides the minimum information we would seek if the Bill becomes law based on the current compromise text i.e. "at least one" type of recyclable waste collection. For future years – which Christopher Leslie rightly points out would not yield information before October 2005 – we have the option to seek amendments to the BVPIs in the next couple of months if we wish and we are already looking at some other possible amendments on waste. If we wish to use the Municipal Waste Survey to provide the information, it would need to be amended (to secure information on the number of households receiving kerbside collections for each material type), there is a time lag of currently 6 – 9 months on when information becomes available and of course it is a voluntary scheme. But we will certainly look at this possibility as well.

John Healey has raised one issue – related to Christopher Leslie's request that local authorities have sufficient discretion in exercising their obligations. He is keen that the principles of practicality and cost-effectiveness are seen to underpin the compromise. His preference would be to include this in the Bill's provisions. Failing that he would want such references clearly stated in Government's guidance to local authorities on the interpretation of the Bill's provisions.

We are content that the principles of practicality and cost effectiveness should be set out clearly. We believe, however, that including these principles on the face of the Bill would be interpreted by the Committee (and Joan Ruddock) as undermining the principle of reasonable access. We can agree therefore to include the principles in the guidance we will need to issue to local authorities, alongside any expansion of the need for local authorities to have sufficient flexibility in carrying out their functions (if Parliamentary Counsel advises that this point need not be covered in the Bill itself). We can also accept that the current compromise is in effect Government's 'bottom line'.

I hope, therefore, that this response now meets the concerns Christopher Leslie and John Healey have EST to John Reid re: Ruddock Bill compromise raised and clears the way for agreement to Government support for the compromise amendments to Joan Ruddock's Bill.

I am copying this letter to the Prime Minister, members of LP and ENV Committees, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours sincerely

Michael

MICHAEL MEACHER

Jeff Rooker
Minister of State For Housing, Planning and Regeneration

MH
cc-PK.

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3012
Fax: 020 7944 4489
E-Mail: jeff.rooker@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

P /LR/009593/03

- 3 JUN 2003

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

Dear Deputy Prime Minister

REVIEW OF THE WASTE MANAGEMENT LICENSING EXEMPTIONS

I have seen Margaret Beckett's letter to you of 16 May concerning a proposed public consultation in respect of a review of waste management licensing exemptions in England and Wales.

I welcome this initiative. The success of the ODPM's policy to encourage greater use of suitable construction and demolition waste in place of newly quarried aggregates depends, in part, on better controls to ensure that such materials are not wastefully lost into exempt sites and on being able to properly monitor the situation. The consultation proposals appear to provide a means of addressing this issue. However our officials will need to communicate with Defra's officials to ensure that this aspect is properly covered in the consultation papers before these are published. I am asking mine to follow this up with Defra's officials.

I am copying this letter to the Prime Minister, members of ENV and Sir Andrew Turnbull.

JEFF ROOKER

APPROVED BY THE MINISTER AND SIGNED IN HIS ABSENCE

DEO

Top. PD(MH) & PD(JK) PD(MEL) RDD(SF)

From the Secretary of State

Department for Transport

Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 3011
Fax: 020 7944 4399
E-Mail: alistair.darling@dft.gsi.gov.uk

Web site: www.dft.gov.uk

Our Ref: AD/006980/03

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

- 2 JUN 2003

Dear John

REVIEW OF THE WASTE MANAGEMENT LICENSING EXEMPTIONS

I have seen Margaret Beckett's letter to you of 16 May seeking ENV clearance to publish a consultation paper containing draft amending Regulations and a partial Regulatory Impact Assessment on amendments to the system of exemptions from waste management licensing in England and Wales.

I am content for you to publish this consultation paper as planned. I would be grateful if you could add the Highways Agency to the list of consultees as they have an interest in the use of wastes for construction.

Yours

Alistair

ALISTAIR DARLING

I am copying this letter to the Prime Minister, members of ENV and Sir Andrew Turnbull.

SKP 3/6/03

File

Christopher Leslie MP
Parliamentary Under Secretary of State

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3016
Fax: 020 7944 4339
E-Mail: chris.leslie@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

MH
cc: DM
CS

Rt. Hon. Dr John Reid MP
Leader of the House of Commons
and President of the Council
2 Carlton Gardens
LONDON
SW1Y 5AA

-2 JUN 2003

Dear John

PRIVATE MEMBER'S BILL: MUNICIPAL WASTE RECYCLING

I have seen a copy of Margaret Beckett's letter of 28 May seeking agreement of LP and ENV Committees to your proposed approach for the future handling of the Municipal Waste Recycling Bill. I take the firm view we cannot support Bill as drafted. However, in the light of our position on the Strategy Unit report on waste, I agree that there are ways in which the text of your compromise can be amended. I can accept the obligation on local authorities to provide access to segregated waste so long as it is amended to protect the discretion of local authorities and so long as the 'new burdens principle' applies. Whilst I would be prepared in principle to consider something in relation to doorstep recycling collection beyond the existing BVPI, I do not believe that this is practical. However, I believe we can find a suitable alternative arrangement where existing reporting requirements are used. Without these amendments it may prove difficult to agree a way forward. If that is the case, we need to stand ready to withdraw our support for the Bill.

I am grateful for Margaret's proposal for a way forward on this issue. I agree that the Bill requires substantive amendment to bring it in line with Government policy, particularly on freedoms and flexibilities for local government. Margaret suggests placing an obligation on waste collection authorities to ensure that all households have reasonable access to facilities for the separate collection of at least one type of recyclable waste by 2010. I agree that further work would be needed on agreeing a suitable definition of "reasonable access to" collection facilities. This is far from straightforward and should be undertaken with local government. Given that uncertainty it is particularly important that, if we are to agree to this compromise, Margaret makes clear to the Committee that DEFRA will meet any new burdens that fall on local government. We shall need a proper exercise to assess and quantify these additional costs.

Whilst I am encouraged to see that most of the original provisions in the Bill have been dropped, we do need to ensure that local authorities have the necessary flexibility to carry out their functions in response to local needs. Therefore, I believe the duty should be conditioned so that authorities shall take the steps that, in their opinion, are necessary in order to ensure that households have reasonable access to separate collection of recyclable waste.

I recognise that in the context of the Government's response to the Strategy Unit report on waste, we have indicated that there is a need for a significant increase in doorstep collection of separate recyclable waste and a need to monitor progress. It is vital that any reporting arrangements use reasonable measures in order to minimise the extra burdens placed on local authorities. Margaret's proposal goes some way to meeting this requirement but there are a number of practical problems with this approach. The existing BVPI 91 encourages local authorities to extend kerbside collections only. It does not indicate the type of waste to be collected or whether any "classes" of waste are involved. Any new BVPIs introduced under the current arrangements would not come into operation until 1 April 2004 and the first progress report on any new BVPI linked to kerbside recycling could not be made until Autumn 2005. A significant amount of work will be required in securing agreement on the definition of any new BVPI which would to give a precise figure and clearly define the products being collected so that genuine inter - authority comparison is possible. Although it would not be suitable to use this or a similar BVPI for reporting purposes, I believe there are existing measures - for instance the Municipal Waste Survey - we can adopt. The Bill will need to be amended and phrased in such terms as to allow us to use such measures and not be quite so rigidly prescriptive.

I am copying this letter to the Prime Minister, members of LP and ENV Committees, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours

Chris

CHRISTOPHER LESLIE

File Top: PD(MH)
" PD(SK)
PD(CS)
KQs

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HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Rt Hon Dr. John Reid MP
President of the Council and Leader of the House of Commons
2 Carlton Gardens
London SW1

2 June 2003

John

Margaret Beckett's letter of 28 May 2003 seeks agreement to support a compromise approach on the Municipal Waste Recycling (Ruddock) Bill. I am very grateful for Margaret's efforts in trying to reach a compromise with Joan Ruddock. I believe that we are close to reaching a compromise the Government should support. However, the Government must take the opportunity afforded by the Bill's Commons' Committee stage to further clarify the precise terms of the compromise provision before announcing our support.

The Government is making good progress in reconciling the extent of parliamentary support for the Ruddock Bill, with the importance of not accepting unaffordable commitments. While persuading Joan to remove the 50% recycling and composting target by 2010, we have incorporated two of the obligations originally contained in the Ruddock Bill into the Waste and Emissions Trading [WET] Bill. The compromise provision which Margaret is trying to reach is in keeping with this balanced approach.

As Margaret's letter acknowledges, the suggested compromise provision hinges on the definition of 'reasonable access'. I suggest that the Government tries to clarify its position up-front, by making explicit reference in the compromise provision to the principles of practicability and cost-effectiveness. Further, I understand that Chris Leslie will be writing to emphasise the importance of allowing local authorities maximum flexibility in how they deliver upon the obligation. If revisions to the compromise provision cannot be secured by amendment in Committee, I am of the view that the Government should reluctantly accept the compromise as currently drafted. Since this represents my department's bottom line, the Government should be prepared to block any amendments that seek to go further than this position. Further, if we are obliged to accept the bottom line, the principles of cost-effectiveness, practicability and local flexibility will have to be set out in subsequent Government guidance to local authorities.

Margaret's letter does not include an estimate of the potential costs of implementing the Ruddock Bill compromise. Any new burden on local authorities in this area will fall on Defra as the department responsible for it. Defra will have to prioritise this against their other expenditure pressures if they choose to bid for it in future Spending Reviews. In assessing

SKP 2/6/03

future costs, the Government will need to take into account that a 30% statutory recycling target already exists for 2010, and that delivering our existing commitments is likely to be consistent with cost-effective implementation of the Ruddock Bill.

Copies go to the Prime Minister, members of LP and ENV Committees, Sir Andrew Turnbull and First Parliamentary Counsel.

JOHN HEALEY MP

Room 625
Nobel House
17 Smith Square
London SW1P 3JR
020 7238 6465

Telephone: 0207 238 5537 (general inquiries) 5535 (diary)
Fax: 0207 238 1100
Email: pus.lords@defra.gsi.gov.uk

defra
Department for Environment
Food and Rural Affairs

file

Top: PD(GN)
" PD(OO)
PD(MH)
PD(JK)
PD(SPM)

The Rt Hon. John Prescott MP
Deputy Prime Minister and First Secretary of State
Dover House
Whitehall
London
SW1A 2AU

2 June 2003

From the Office of Lord Whitty
Minister for Food, Farming and Sustainable Energy

NEW SOCIAL AND ENVIRONMENTAL GUIDANCE TO THE REGULATOR

I have seen Patricia Hewitt's letter to you of 19 May seeking clearance to consult on new social and environmental guidance to the Office of Gas and Electricity Markets (OFGEM).

The new guidance forms a key part of the programme of action announced in the Energy White Paper to raise the profile of environmental considerations in OFGEM's regulatory decision making. I agree with Patricia that the best approach to gain the Regulator's support is to provide guidance tightly-focussed on the achievement of the targets in the Energy White Paper. I know that my officials have been working closely with Patricia's on the guidance and are in touch about some further minor revisions. We believe that the guidance will provide us with an effective tool to focus the regulator's attention on their role in helping us meet our targets and aims. I am

SKP 2/6/03

therefore content for the guidance to be issued for consultation following Patricia's speech on energy policy on 4 June.

I am copying this letter to colleagues on DA(N), Geoffery Norris and Sir Andrew Turnbull.

LORD WHITTY

File

FCS/03/112

SECRETARY OF STATE FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

MH
cc: OK
SW

Implementation of the Nitrates Directive 91/676 EEC: Response to Article 228 Reasoned Opinion

1. Thank you for your letter of 6 May seeking EP colleagues' clearance of your draft UK response to the Commission on the Nitrate Directive infraction proceedings.

2. I have seen responses from Angela Smith and Ross Finnie. Both are content with your general approach. Angela addresses the concerns you raised in your letter regarding compliance in Northern Ireland. She is pleased to confirm that all the issues have now been addressed by the responsible officials and are now covered in the response. She also confirms that Northern Ireland's new designations will be made by Regulations which will come into force on 1 June 2003.

3. In order to avoid an immediate referral to the European Court of Justice, we should seek to establish an informal and co-operative relationship with the Commission on this issue. I understand that Whitehall officials, co-ordinated by Cabinet Office, are making further presentational changes to the draft response to encourage a positive reaction from the Commission. Subject to an agreed outcome to that process, you may take it that you have clearance to proceed with your approach.

4. I assume you will convey the contents of this correspondence to the Devolved Administrations.

5. I am copying this minute to the Prime Minister, members of the EP Committee, Sir Andrew Turnbull, Sir Stephen Wall and Sir Nigel Sheinwald.

(JACK STRAW)

Foreign and Commonwealth Office
2 June 2003

File

dti

The Rt Hon Patricia Hewitt MP
ARY OF STATE
\DE AND INDUSTRY

30 May 2003

The Rt Hon John Prescott MP
Deputy Prime Minister and
First Secretary of State
Dover House
Whitehall
LONDON
SW1A 2AU

Dear John,

THE ENVIRONMENT AGENCY's CORPORATE STRATEGY

I am writing in response to the letter from Margaret Beckett of 15 May 2003 seeking agreement on a Corporate Strategy for the Environment Agency to provide a basis for the work of the Agency until 2006/2007. I am happy to endorse the Strategy, the text of which was agreed at official level.

I am grateful to Margaret for the work that has gone into developing this Strategy. The Strategy will help the Environment Agency focus on the stated Government priorities, including the need for the Agency to continue its efforts develop a risk-based, proportionate, consistent, efficient and cost-effective approach to regulation. These efforts are being welcomed by UK industry, and I am pleased that my officials remain involved in this work through their participation in Defra's Strategic Sponsorship Group. We also support closer involvement of the Agency in policy work and welcome their input to the implementation of the End-of-Life vehicles and WEEE Directives.

There remains a tension, however, which came out during what turned into a lengthy and resource-intensive process to agree the Strategy, between the Agency's role as regulator and their broader objectives to promote sustainable development. Whilst both

Department of Trade and Industry
V 823
1 Victoria Street
London
SW1H 0ET

Direct Line +44 (0)20 7215 5428
Fax +44 (0)20 7215 5468
Minicom +44 (0)20 7215 6740
Enquiries +44 (0)20 7215 5000

are part of their statutory functions, they cannot always expect to fulfil both roles at the same time on the same issue, by being part of the policy-making process whilst reserving the right to criticise those policies. For example I understand that the Agency have publicly criticised the Government's decision on last-owner pays for end-of-life vehicles, and that they intend to submit a separate response to my Department's consultation on the WEEE Directive, both issues on which Agency officials have been closely involved. This is a point that Margaret may want to make to John Harman and Barbara Young, if the opportunity arises.

I am copying this letter to the Prime Minister, members of the ENV Committee and Sir Andrew Turnbull.

Best wishes,

PATRICIA HEWITT

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

pls file

The Rt Hon Jack Straw MP
Secretary of State
Foreign and Commonwealth Office
King Charles Street
London

JK

28 May 2003

10/6.
David Hay
dealing

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear Jack,

DEPLETION OF THE OZONE LAYER

14897/02: DRAFT REGULATION AMENDING REGULATION (EC) 2037/2000 AS REGARDS TO THE CRITICAL USES AND EXPORT OF HALONS, THE EXPORT OF PRODUCTS AND EQUIPMENT CONTAINING CFCS AND CONTROLS BROMOCHLOROMETHANE

I am seeking agreement to support a First Reading Agreement at the Environment Council in June to a technical amendment to Regulation (EC) No. 2037/2000 on substances that deplete the ozone layer. I would be grateful for a response by 9 June 2003.

The UK, with the support of UK industry, has been actively seeking an amendment to the Ozone Regulation in the areas of export of halon and export of products containing CFCs for some time. We therefore welcomed the original Commission proposal of 27 November 2002, which provided for:-

(i) The introduction of timeframes for the eventual phase-out of halon for critical uses, as alternatives to halon are identified and found to be suitable for these uses. This would ensure that stepped progress is made in reducing the scope and usage of halon for critical uses and, therefore, be likely to have a beneficial effect on the environment. As the Commission would only propose the phase-out of halon for particular critical uses once technically and economically feasible alternatives existed, and that would have to be agreed under the Management Committee procedure, the economic impact of such a timeframe is unlikely to be significant in the UK. Phase-out would be analysed on a case-by-case basis once the Commission proposed to remove a particular halon use from the list of critical uses.

(ii) The export of bulk halon for critical uses as listed in Annex VII of the Regulation. This would reduce the possibility of further production of virgin halon and obviate the need for unnecessary destruction of surplus halon, and so be beneficial to the environment. It would also be beneficial for UK industry which is keen to export recovered halon that is surplus to UK and EC critical use requirements for critical uses outside the EC.

(iii) The export of products and equipment containing foam blown with CFCs, other than refrigeration and air-conditioning equipment that contains CFC-blown foam. This is necessary in order to negate a potential restriction on EC trade in second-hand aircraft, ships and vehicles and to address the impracticability of removal of CFCs from foams in such products and equipment. This amendment would not result in any significant impact on the environment.

(iv) Bringing the level of control on bromochloromethane in the EC into line with the Montreal Protocol on substances that deplete the ozone layer. There would be no significant economic impact but there would be a potential net gain to the environment.

I attach a Partial Regulatory Impact Assessment.

During discussions in Council Working Group it became apparent that a majority of Member States wanted tighter controls on the export of halon and products containing CFC refrigerants. The Presidency therefore proposed a compromise text which was agreed at COREPER and submitted by the Presidency to Parliament on 4 April. The amendments strengthen the proposal by providing:-

(i) a more rigorous authorisation process for exports of halons.
(ii) a prohibition on exports of Halon for critical uses on 31 December 2009.
(iii) Additional restrictions on the export of used products and equipment that contain foam blown with CFCs.

Following discussion at COREPER, the Greek Presidency indicated to the European Parliament that this text might form the basis for a First Reading Agreement. The EP First Reading is scheduled for 4 June. Providing the EP does not introduce significant changes to the Presidency compromise text, the Presidency will submit the file to Council as an 'A' point before the end of June.

Following the agreement that was reached at COREPER it became clear that the Council amendment that places additional restrictions on the export of used products and equipment that contain foam blown with CFCs was not clear and could lead to the interpretation that exports of second-hand vehicles, planes and ships containing foam blown with CFCs would be illegal. This interpretation, which would undermine one of our objectives in seeking the amendments, could have significant consequences for UK exports of second hand vehicles, planes and ships.

Following successful lobbying the EP rapporteur is now pressing for an amendment to clarify the Council amendment which should rectify the situation so that it is clear that the export of products and equipment containing air conditioning or refrigeration equipment is

only illegal if that equipment uses CFCs as a refrigerant. The UK is strongly supporting this amendment.

I would be grateful for your agreement to support a First Reading Agreement based on the Council text submitted to the EP, providing the EP amendments do not pose any substantial difficulties for the UK, and under the assumption that I will seek to obtain Council agreement to the helpful EP amendment discussed above. If we do not secure agreement to that clarificatory amendment, I would not wish to vote against the Agreement and thereby lose the other gains we have made. We would however then need to consider carefully the legal risk associated with interpreting the amended regulation as permitting the export of second hand vehicles, planes and ships containing CFC blown foam, and if necessary I will contact colleagues with details of our best collective assessment.

I am copying this to the Prime Minister, members of the EP Committee, Sir Andrew Turnbull and Sir Nigel Sheinwald. I am writing separately to the Devolved Administrations.

Regards

Margaret

MARGARET BECKETT

Annex A

Regulatory Impact Assessment (RIA)

1. **Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 2037/2000 on Substances that Deplete the Ozone Layer as regards the critical uses and export of halons, the export of products and equipment containing chlorofluorocarbons and controls on bromochloromethane**

2. **Purpose and intended effect of measures**

Background:

The technical amendment to Regulation EC 2037/2000 would amend the legislation in 4 areas where it was deemed to be deficient as follows:

I. Currently under Regulation (EC) 2037/2000 as an alternative to a particular critical use of halon is identified and found to be suitable, the Regulation would prevent the alternative substance being applied for that use until alternatives were identified and found to be suitable for all critical uses of halon.

II. Currently Regulation 2037/2000 does not allow for export of halon for critical uses outside the EU, despite there still being a need for halon for these particular uses as alternatives are yet to be identified and applied.

III. The Regulation would prevent the export of any products and equipment that contain CFCs, including second hand aircraft, ships and cars that contain CFC blown foam which it would be impractical to remove.

VI. The Regulation is currently not in line with the agreed Montreal Protocol controls in respect of bromochlomethane (BCM)

. The proposed amendments would address these deficiencies in the following way.

i. Introduce timeframes for the phase-out of halon for critical uses, as alternatives to halon are identified and found to be suitable for these uses.

   The effect would be to add an element of stepped progress into the legislation for each of the critical uses of halon, rather than waiting for alternatives to halon to be identified and found to be suitable for all critical uses of halon. The economic impact would be insignificant, but there would be environmental benefits associated with earlier phase-outs of particular critical uses of halon.

ii. Allow the safe export of halon for 'critical uses' outside the EU.

   The effect would be to allow halon to be exported in cylinders (i.e. safely) rather than in existing fire-protection products and equipment as is

currently allowed (i.e. potentially unsafely) until 31 December 2009. The European Commission and EU Member States would review whether that date could be brought forward at the end of 2005 in the light of further developments with halon alternatives. Also, exporters would need to obtain authorisation for exports from the Commission and a requirement would be placed on EU Member States to report on exports of halon under Article 18 of Regulation (EC) No.2037/2000 and so provide greater control.

Production of virgin halon is currently prohibited in developed countries. According to recent UNEP halon production and export data, only China produces virgin halon for export. Most new demand for halon is met by recovery and re-use. Whilst most halon systems in the EU must be decommissioned by 31 December 2003, there are a range of applications for which halon, because of its particular properties as an effective fire-suppressant, is deemed to be critical after that date. Such areas include civil aviation and military applications.

This measure could serve to prevent any need for further production of virgin halon for critical uses. As halon systems are decommissioned, there will be a large amount of recovered halon available. If that were needed for critical uses outside the EU and could be exported safely, it would preclude unnecessary destruction and the associated costs. There would be net environmental benefits as well as potential income generated by exports by UK industry.

iii. Allow the export of products and equipment containing foam blown with CFCs, other than refrigeration and air-conditioning equipment.

Currently, the Regulation prevents the export of any products and equipment that contain CFC-blown foam. It was the intent of the Regulation, however, only to prevent the export of refrigeration equipment containing CFCs. As it stands, the Regulation prevents the export of products and equipment such as second-hand aircraft, ships and vehicles that contain CFC-blown foam and so provides a major restriction on trade in these areas. This is not in the interest of the countries that receive such products either as they would be unlikely to be able to afford new ships and aircraft in particular. The environmental impact would be negligible as the removal and destruction of foam in such products and equipment is not considered to be technically or economically feasible in the EC at present.

CFCs are present on-board older aircraft in certain types of foam and as refrigerants in on-board catering equipment (newer aircraft utilise material that does not contain such substances).

Current data on exports of second-hand ships and aircraft is not available. However, data is available on the export of second-hand aircraft from the UK for the years 1993, 1994 and 1995 (trade codes seem to have changed after that date). Exports related to fixed-wing aircraft, both civil and

military, although approximately 95% was in the civil category, as follows:-

Year	Value of UK exports of second-hand aircraft £M (approx)
1993	200
1994	240
1995	320

2002 figures for exports of second-hand cars are as follows:-

Quantity	Value in £M (approx)
8,759	23

iv. Bring the level of control on bromochloromethane (BCM) in the EC into line with the Montreal Protocol on substances that deplete the ozone layer.

The European Community is currently out of line with requirements under the Montreal Protocol on substances that deplete the ozone layer in respect of BCM. The amendment would implement the required level of control on BCM. There would be an insignificant economic impact.

All proposed amendments apply to the UK as a whole.

The UK Government and business have been pressing for these amendments for nearly two years. If they were not accepted it would place the EU and UK in non-compliance with the Montreal Protocol with regards to BCM. Without the amendment there would also remain confusion regarding the type of used equipment that can be exported outside of the EU.

3. Options

A. Object to one or more of the four proposed amendments: **NO**. The UK Government, after consultation with UK industry, requested that this amendment be brought forward to iron out some of the problems with Regulation (EC) 2037/2000 as it stood. See Section 2 above.

B. Support all four proposed amendments, subject to minor drafting changes proposed by other EU Member States: **YES**. This amendment is needed and has been pressed for by UK Government for the past 2 years.

4. Benefits

Benefits are as outlined in Section 2 above.

5. Costs

No significant costs would be imposed by this proposed amendment, which however has the potential to result in a net benefit for the UK in terms of export. However, should the amendment fall the main legal impact would be to place the EC in non-compliance with the Montreal Protocol on BCM. Also without this amendment there would remain confusion regarding the type of used equipment that can be exported outside the EU.

6. Consultation with small businesses: the Small Firms' Impact Test

Some of the UK companies currently involved in the export of halon products and equipment are small businesses, who would be in favour of the amendment. Small businesses that are members of the Halon Users National Consortium (HUNC) were consulted on the proposal. There would be financial benefit to small businesses involved in the export of halon for critical uses, although this has not been possible to quantify: no actual data are available as the industry potentially affected by the amendment is very fragmented.

7. Competition Assessment

Competition Filter Test	
Questions	**Answers - Yes or No**
1. In the markets affected, does any firm have more than 10% market share?	No
2. In the markets affected, does any firm have more than 20% market share?	No
3. In the markets affected, does any firm have more than 50% market share?	No
4. Would the costs of the amended regulation affect some firms substantially more than others?	No
5. Is the amended regulation likely to affect the market structure changing the number or size of firms?	No
6. Would the amended regulation lead to higher set-up costs for new or potential firms that existing firms do not have to meet?	No
7. Would the amended regulation lead to higher ongoing costs for new or potential firms that existing firms do not have to meet?	No
8. Are the sectors characterised by rapid technological change?	No
9. Would the amended regulation restrict the ability of firms to choose the price, quality, range or location of their products?	No

8. Enforcement and sanctions

Statutory Instrument (SI) 2002 No.528, 'Environmental Protection: The Environmental Protection (Controls on Ozone-Depleting Substances) Regulations 2002', came into force on 31 March 2002. It created offences and penalties

associated with breaches of Regulation (EC) 2037/2000. The SI would need to be amended.

9. Monitoring and review

Compliance with the restriction related to exports of halon would be monitored through the requirement for EU exporters to report all halon exported to third countries, industry volume, intended use and destruction to the European Commission. Compliance with the prohibition on exports of products and equipment containing CFCs would be monitored by HM Customs & Excise.

10. Consultation

- Department of Trade and Industry
- HM Customs & Excise
- Ministry of Defence
- HM Treasury
- Cabinet Office
- Halon Users National Consortium (HUNC)
- Foreign and Commonwealth Office (FCO)

11. Summary and recommendation

This Amendment is needed and has been pressed for by UK Government for the past 2 years.

12. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the balance and cost benefits is the right one in the circumstances.

Signed:

Date: 22/5/03

.....

Micheal Meacher, Minister of State, Department for Environment, Food and Rural Affairs.

.....

.....(Minister's name, title, Department)

Contact point

Stephanie Godliman, Global Atmosphere Division, Defra, Zone 3/A3, Ashdown House, 123 Victoria Street, London SW1E 6DE (telephone 020 7944 5233; GTN 3533 5233; fax 020 7944 5219; e-mail, Stephanie.godliman@defra.gsi.gov.uk).

Office of Science and Technology
1 Victoria Street, London SW1H 0ET
Telephone 020 7215 5000 Direct Line 020 7215 3825 Fax 020 7215 0314
E-mail: mpst.king@dti.gsi.gov.uk

From the Chief Scientific Adviser to HM Government and Head of the Office of Science and Technology
Professor Sir David King KB ScD FRS

S23286

MH
cc JK

Rt Hon Margaret Beckett MP
Secretary of State
Dept for the Environment, Food & Rural Affairs
Nobel House
17 Smith Square
London
SW1P 3JR

28 May 2003

Dear Margaret,

RE: FORESIGHT FLOOD AND COASTAL DEFENCE PROJECT

Thank you for your letter dated 4 April, which invites participation in the DEFRA-led development of a 10-20 year strategy for flood management. This will be a key initiative in an important area of policy development and I believe that the Foresight Flood and Coastal Defence (FCD) project will be ideally placed to contribute.

The Foresight project is already showing that the change in flood risk due to changes in climate and society could be substantial and diverse over the next century. Since many flood management assets have lifetimes in excess of 50 years (considerably more in the case of the sewer system), it will therefore be important to take account of these longer-term factors. This will help ensure that the resulting policies are robust and able to cope with the range of future possibilities, and that decisions flowing from the strategy do not unduly restrict future options for response.

The current phase of the Foresight project is analysing the factors that will most affect future flooding, and will produce a vision of possible future impacts on society, the environment and the economy. I expect that to be complete over the next month or so. The project will then collaborate with a wide spectrum of stakeholders to consider options for responding to

the challenges that have been identified. That work is likely to consider many of the issues raised in your letter, and is due to report later in the year. This timing would seem to fit well with the production of your strategy.

On a final note, I would like to mention the benefit that the Foresight project continues to draw from Elliot Morley's advice and assistance, and from the close working of OST and DEFRA officials.

Yours ever

Dave

Sir David King

From: Liz Lloyd
Joanna Key
Date: 28 May 2003

PRIME MINISTER

cc: David Manning
Jeremy Heywood
Nigel Sheinwald
Geoffrey Norris
Stephen Wall
Oliver Jones
Martin Hurst

NEXT STEPS ON CLIMATE CHANGE AND TECHNOLOGY

Our strategy

In order to tackle climate change we need deeper cuts in greenhouse gas emissions than Kyoto will deliver and we need to involve the US and developing countries in doing so. Our broad strategy was to a) get agreement on the science and b) to push international collaboration on environmental technologies.

We also need to protect ourselves from allegations of poodledom by being strong supporters of Kyoto itself. That means getting Russia to ratify and soon, as without Russia Kyoto won't enter into force. Kyoto's legal framework and the virtually universal agreement behind it is one the most significant environmental and international treaties in existence.

How have we done?

So far we have some progress on the environmental technologies side through the G8, but on the science and on getting Russia to ratify there has been much less movement.

Our objectives over the next 6 months should be these:-

a) to get **Russian ratification**. You have already written to Putin and he is sensitive to EU nagging on this. The best route is through the EU - they have the money which Russia wants through the EU trading scheme. But some green elements in the Commission are reluctant to let Russia have access to the EU trading scheme because of fears that unproven Russian emission reductions will 'corrupt' the EU scheme. *ACTION: You could use Putin's visit here in July to press again on ratification (the draft communiqué contains positive wording on ratification) and emphasise that the UK is keen to involve Russia in emissions trading and will work within the EU to ensure this happens. Meanwhile Defra should put pressure on the EC to take a more positive line with Russia – otherwise they are jeopardising ratification. If necessary you should write to Prodi.*

I think it is very important to step up the EU science to other countries

b) to **define the environmental technologies** where we want to see real movement. We have suffered from Whitehall distaste for picking winners. Of course there are risks with government doing so, but from the ICCEPT report and our own Energy White Paper it is pretty clear that the areas of innovation will be new renewables (including offshore wind, tidal and wave) and hydrogen. The Carbon Trust believes there are real opportunities for UK business in these industries; because of our North Sea Oil experience we are particularly well-placed on offshore technologies. The US have no qualms about picking winners and are backing hydrogen and sequestration to the hilt. *ACTION: MB needs to come back to you with a strategy for pushing environmental technology in the UK and EU (see below), agreed with PH and DK.*

Energy strategy

c) To get better agreement on the **science of 60%**. Your joint letter with Persson launched this in the EU, but we need a wider spread of countries on board to lend it credibility. The Dutch are very helpful on this and have a new initiative to canvass views internationally on the need for deeper emission cuts. There may also be scope to achieve a wider consensus through the international group on the science of climate change – the IPCC - but its next report is not due until 2007! We also need to do more to get **developing countries on board**. We have not done well here. The key countries are Brazil, India, China and South Africa. The best way in is probably in emphasising the impact that climate change will have on their own countries. *ACTION: The Progressive Governance Summit aims to get people to sign up to 60%. If it does not succeed you could write to key leaders, e.g. Lula. DK could go out to key developing countries make presentation on the impacts of climate change (he has already done so in South Africa). DK and DEFRA to provide further advice.*

d) To ensure that our **domestic policy is not out of kilter** with our international aims. NGOs and others will take every opportunity to highlight areas where the Energy White Paper does not deliver enough for them. In particular, we need to watch out for when Defra may reduce spending on fuel poverty/energy efficiency next year. There is a good stuff going on too, and we should make sure the high-profile policy success stories (e.g. emissions trading) come through.

We will need to drive this through at three levels. Through the **G8**, where the US are crucial as it is their Presidency next. The White House has said informally that they would be willing to review of progress on environmental

technologies in their Presidency, but Bush is leaving before the session on this at the G8. [I think it would be useful for you to write to Bush or Tis & ask them to drive forward the G8 agreement]

Through the EU. The Commission has a huge technology budget but we worry that it does not back our strategy. They are due to publish a White Paper on environmental technologies this autumn, so there is a good opportunity to influence them. We will then need to follow up at Spring Council next year. Your letter with Persson set this off. If you agree we should take forward a joint strategy with the Swedes (and possibly the Germans) to get others to join us on the 60% as well as working on a joint strategy toward the December document. *ACTION: Defra to ensure a good lead person on this. Blair letter to Persson/Schroeder setting out our strategy.* ✓

Finally public presentation. Green NGOs are remarkably quiet on this front at the moment, although if Russia does not ratify soon, there will be a hullabaloo. *ACTION: You are hosting a reception in October for people working on real sustainable development projects – it will be a chance to review progress one year on from WSSD. There are also opportunities to get more involved on UK success stories like emissions trading. We need to get the City geared up for when the EU scheme goes live in 2005 – a breakfast or seminar here, with MB, would be a good opportunity. She is very keen to take this forward.*

Do you agree with the basic analysis? ✓

Are you happy with the Action points outlined above? ✓

Is there more you want to do?

I really want the science pushed. And major restructuring

Joanna Key (J Cr)

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

ENVIRONMENT: Policy

defra
Department for Environment
Food and Rural Affairs

The Rt Hon Jack Straw MP
Secretary of State
Foreign and Commonwealth Office
King Charles Street
London

MH
cc: JK
SW

28 May 2003

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear Jack,

PROPOSAL FOR A DIRECTIVE ON THE LIMITATION OF EMISSIONS OF VOLATILE ORGANIC COMPOUNDS DUE TO THE USE OF ORGANIC SOLVENTS IN DECORATIVE PAINTS AND VARNISHES AND VEHICLE REFINISHING PRODUCTS AND AMENDING DIRECTIVE 1999/13/EC

I am writing to seek agreement to the United Kingdom's line in the forthcoming negotiations on the proposal (COM(02) 750) for a Directive limiting the solvent content of paints. I propose that our key negotiating objectives should be to ensure a Directive with clear purpose and definition, which maximises benefits to the environment, which does not impose excessive costs on industry, and which is practically enforceable and technically feasible. I would be grateful to receive your response by 4 June.

Organic solvents – volatile organic compounds– are precursors of ground-level ozone. High concentrations of ozone in air can impair human health and can damage trees, vegetation and crops, reducing yields.

Most paints have traditionally contained organic solvents and the process of the paint 'drying' is these solvents evaporating. In recent years, there has been a move to water based paints that are generally more acceptable to the general public because of ease of use and quicker drying time (as well as being more environmentally-friendly). There is, however, often a consequential trade-off on quality of finish and limitations on the conditions in which such paints can be used. Many paints on sale in the United Kingdom already meet the standards in the new proposal. The Commission's proposal would reinforce the move towards water-based paints and require industry to make a step change by 2010 to reduce still further the use of organic solvents.

THE COMMISSION PROPOSAL

The key proposals are:

i. To set limit values for the content of volatile organic compounds in certain categories of decorative paints, varnishes and vehicle refinishing products. Paint that did not comply with these limits could not be placed on the market in any Member State.

ii. The proposal would also introduce an amendment to the Solvent Emissions Directive 1999/13/EC. This sets limits for emissions of volatile organic chemicals from a range of activities that use solvents. The proposal is to repeal controls under the Solvent Emissions Directive 1999/13/EC for some ~~vehicle refinishing – vehicle spraying – activities. The intention is to control~~ the sector by limiting the solvent content of the paint products used. Unfortunately the proposal is flawed in its present form and would have the effect of excluding emissions from vehicle refinishing from regulation.

UNITED KINGDOM APPROACH TO THE PROPOSAL

Options

Opposition

I don't see opposition as a viable or desirable option. Decorative paint products in the paint industry and, products used in the vehicle refinishing sector have been identified by the Commission as significant users of volatile organic compounds that at present are either wholly or partially outside the scope of Community legislation.

This Directive aims to assist Member States in achieving their emissions targets for volatile organic compounds under the National Emission Ceilings Directive 2001/81/EC, by placing controls on these sectors. The proposal will make small but useful reductions in emissions. The United Kingdom can achieve this national emission ceiling without these proposals; some other States (particularly Germany) would not and will press the measures. Opposing European legislation on this subject may undermine the United Kingdom's environmental credentials and is, in any case, unlikely to be successful.

Unconditional Support

While I wish the United Kingdom Government to support the proposal in principle, unconditional support is not a desirable option. A number of features of the Directive as drafted should be altered in order to ensure clarity of definition. We also need to ensure that the solvent content limits set for some product categories are technically feasible for industry to achieve without incurring excessive costs, and without unduly sacrificing the acceptability of the quality and durability of the paint finish Additionally, the present

implementation strategy may require more flexibility. There may also be implications for the use of paint by the Ministry of Defence that need to be considered.

Conditional Support

I take the view that we should offer conditional support to the Commission proposal. I propose that we support the proposal's aim of reducing emissions of volatile organic compounds by limiting the solvent content of certain categories of paint products. However we wish to seek some amendments to the proposal, in accordance with the general principles outlined below.

The representations from the United Kingdom paints and solvents industries have been fairly supportive of the Commission's proposal (with some caveats) . The United Kingdom is seemingly already further along the road of producing and using water-based paints than some other member States, and should therefore be better placed than some other countries to meet new standards. There are arguments that supporting the measures will gain a competitive advantage for our industry.

GENERAL PRINCIPLES UNDERLYING THE UNITED KINGDOM APPROACH

I propose that the United Kingdom adopts a negotiating line that adheres to the following principles:

i. That the Directive is compatible with our existing obligations under international agreements within the World Trade Organisation. (I have yet to establish that the Directive does not impose trade barriers to companies outside the European Union.)

ii. Ensuring that the solvent content limits for the product categories and the implementation timetable proposed are the most beneficial to the environment taking into consideration technical feasibility and, not incurring excessive costs to industry. For example, industry has concerns about some of the specific product requirements. If their view can be justified, we should press for amendments.

iii. That the definitions contained within the Directive are clear and accurately describe the categories of products which are intended to be within the Directive's scope. Industry have concerns that some definitions require further clarity to ensure that products categories not intended to fall within the scope of the Directive are explicitly excluded.

iv. The flaw in the proposal for the vehicle-refinishing sector is corrected. It arises because paint for this sector is not supplied as a finished product but mixed as and when required and so controls on marketing the final paint cannot bite. If the flaw cannot be corrected by amendment to the proposal itself, I would want the vehicle-refinishing sector to remain within the terms of the Solvent Emissions Directive 1999/13/EC on environmental grounds.

v. The proposals could prevent the use of products used for the authentic restoration and maintenance of historic building, classic cars and similar items of historic and cultural value. It is not clear to me that it is really necessary to use an 'old' style' paint rather than a modern one that can give a similar finish in all of these areas. However officials are exploring the issues and trying to establish whether this is a significant issue. My inclination is to try for a derogation for the continued use of 'old style' paint only if this proves to be an important industry sector, a derogation would not lead to significant emissions of solvents, and the provisions can be worded so as to avoid creating a significant loophole in the Directive that would allow these paints to be used extensively in other sectors.

The key negotiating priorities will therefore be to obtain a Directive with clarity of purpose and definition and, which is practically enforceable, and technically feasible. We should also try to maximise benefits to the environment without imposing excessive costs on industry within the sectors affected. If we were to seek a derogation for paints used in restoration, that would be given a relatively low priority.

I attach a draft Regulatory Impact Assessment for the proposal. I suggest that any remaining issues in this are agreed at official level.

I am copying this to the Prime Minister, other members of the European Policy Committee, the Secretary of State for Defence, and to Sir Andrew Turnbull and to Sir Nigel Sheinwald. I am writing separately to the Devolved Administrations.

Regards

Margaret

MARGARET BECKETT

10 DOWNING STREET
LONDON SW1A 2AA

From the Head of the Prime Minister's Delivery Unit

14th May 2003

Dear Jack,

I read the FCO strategic priorities paper over the weekend and found it fascinating.

Although it is not really anything to do with me, I was struck by one major missing theme: surely over the next decade the promotion of British education, culture and language must become a central priority both as a major export business and as a means of extending our influence in the medium and long term. Just one anecdote to support this: last year after giving a lecture at the University of Zurich, I found a queue of Swiss and German people waiting to talk to me about what they would need to do to replicate our success in school reform. This, as you'll remember from your days as Opposition spokesperson on education, is a complete reversal from ten years ago. Yet this is now typical when I travel abroad. Recent international comparisons showing us in the front rank have had a huge impact.

This is a narrow example of my major point: I'm sure the era of "education diplomacy" (as Richard Riley, Clinton's education secretary, called it) has arrived and the combination of successful school reform, excellent universities, the BBC, the English language, a very well-connected government and David Beckham, makes this country very well placed to be the best in the world at it.

Best wishes,

Professor Michael Barber

ANNEX B

Draft

19 May, 2003

Initial Regulatory Impact Assessment for a proposed European Commission Directive limiting emissions of volatile organic compounds due to the use of organic solvents in decorative paints and varnishes and vehicle refinishing products.

1 Purpose and intended effect of measure

1.1 Objective

To reduce emissions of volatile organic compounds into the atmosphere, in order to reduce the adverse impact on, and risks to, human health and the environment.

1.2 Background

In sunny, still conditions and in the presence of nitrogen oxides, volatile organic compound emissions react to form ground level ozone. Ozone is one of the components of summer smog and can have adverse effects upon human health, vegetation and building materials. The Air Quality Strategy for England, Scotland, Wales and Northern Ireland sets a health-based air quality objective for ozone of 100 microgrammes per cubic metre (50 parts per billion) as the maximum of a running 8-hour mean, not to be exceeded by more than 10 times a year by the end of 2005. It is a stringent objective which is unlikely to be met under existing measures alone. In addition the Third Air Quality Daughter Directive sets target values and long term objectives for ozone, with regard to both the protection of human health and the protection of ecosystems. The target value for human health is less stringent than current United Kingdom air quality objectives at 120 microgrammes per cubic metre as the maximum of a running 8-hour mean, not to be exceeded more than 25 days a year to be achieved by 2010.

In 1999 the United Kingdom is estimated to have emitted 1,749 kilotonnes of volatile organic compounds into the atmosphere from a wide range of sources. The largest of these sources, accounting for 23 per cent of the total is road transport. Emissions of volatile organic compounds from decorative paints and vehicle refinishing products make up around 4.2 per cent of the total. A number of initiatives to control emissions of volatile organic compounds from these sources are already in the process of being implemented including the Solvent Emissions Directive (1999/13/EC). The United Kingdom has also agreed to reduce total annual emissions of volatile organic compounds to 1200 kilotonnes by 2010 under both the Gothenburg Protocol and the proposed National Emission Ceilings Directive; this type of agreement allows the United Kingdom the flexibility to make emission reductions where most cost effective.

The 1999 Solvent Emissions Directive (1999/13/EC) aims to limit emissions of volatile organic compounds from solvent use in certain activities and installations by setting emission limit values for installations in a number of solvent using sectors. However, given the size and number of installations there are practical limitations to the scope of the Directive. In order to avoid an unrealistically excessive administrative burden and diminishing environmental benefits, consumption thresholds were established, below which the Directive would not apply. This meant that some industrial sectors with significant contributions to emissions of volatile organic compounds are either wholly or partially outside the scope of existing legislation.

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Draft

19 May, 2003

This Directive focuses on two such sectors, decorative paints and varnishes (whose emissions of volatile organic compounds are not controlled under existing legislation) and vehicle refinishing (where plants with a solvent threshold consumption greater than 0.5 tonnes per year will be covered by the Solvent Emissions Directive (1999/13/EC) and plants with a solvent consumption greater than 1 tonne are covered by the Pollution Prevention and Control (England and Wales) Regulations 2000). The proposed directive will take a product-based approach, applying maximum content limits of volatile organic compounds to a range of both decorative paint, varnishes and vehicle refinishing products. Setting maximum content limits for volatile organic compounds in products used in part of the vehicle refinishing sector, as well as applying limit values for emissions from these facilities under the Solvent Emissions Directive (1999/13/EC), would be duplication. It is therefore intended to repeal the provisions of the Solvent Emissions Directive (1999/13/EC) relating to this part of the vehicle refinishing sector.[1]

The Commission have estimated that the overall annual reduction in emissions of volatile organic compounds resulting from the proposal will be 280 kilotonnes in 2010, costing between €108 million (£75 million) and €157 million (£109 million) per annum in 2010. They have also estimated that the health related benefits of the proposal would amount to €582 million (£403 million) per year.[2] The average cost of reducing the volatile organic compounds content of paints is estimated at between €387 (£268) and €563 (£390) per tonne of volatile organic compounds reduced.

1.3 Risk Assessment

Emissions of volatile organic compounds have adverse effects on human health and the environment through their role in the formation of ground level ozone and also directly.

Health effects of ozone

Ozone is the most irritant of the common air pollutants and exposure to concentrations commonly encountered in the United Kingdom has been shown to produce eye irritation, sore throats, impaired lung functioning and other respiratory problems. Children and asthmatics are particularly sensitive in this respect. The Department of Health Committee on the Medical Effects of Air Pollutants (COMEAP) has estimated that, every year, the deaths of between 700 and 12,500 vulnerable people may be brought forward and between 500 and 9,900 hospital admissions and readmissions in Great Britain may be associated with exposure to ozone[3]. There is a range of estimates because there is some uncertainty over whether or not there is a threshold for adverse effects on health from ozone. The

[1] The part of the Solvent Emissions Directive to be repealed is: Solvent Emissions Directive Annex 1; Vehicle refinishing; the coating of road vehicles as defined in Directive 70/156/EEC, or part of them, carried out as part of vehicle repair, conservation or decoration outside of manufacturing installations.

[2] These benefits are likely to include monetised health benefits that the UK chooses not to monetise due to uncertainty surrounding their effects or associated Willingness to Pay (WTP) estimates.

[3] Quantification of the Effects of Air Pollution on Health in the United Kingdom, the Department of Health Committee on the Medical Effects of Air Pollutants (COMEAP), Department of Health, Her Majesty's Stationery Office, 1998.

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calculations of the Department of Health Committee on the Medical Effects of Air Pollutants (COMEAP) were performed assuming that there was a threshold (giving the smaller numbers for adverse effects) and that there was no threshold, giving the larger numbers.

Environmental effects of ozone

In addition to its effects on human health, ozone is known to have detrimental effects on plants. The critical level for forests (defined in terms of cumulative exposure over a six month period) is exceeded in 23 per cent of the United Kingdom land area while the critical level for crops (defined in terms of cumulative exposure over a three-month period) is exceeded in 91 per cent of the United Kingdom arable crop area and in 76 per cent of the United Kingdom semi natural vegetation area. Ozone also has a damaging effect on man-made materials including natural and synthetic rubber, surface coatings (such as paints and varnishes) and textiles. In combination with other pollutants it has been shown to worsen damage to metals and stone. Many of these effects cannot be monetised - such as the impact on non-agricultural plants. However, estimates have been made of the damage from ozone to agricultural crops – this was estimated at £530m in 1996[4]. The damage to materials from ozone is estimated at £90 million.

2 Options

2.1 Option 1: Do nothing – to leave emissions uncontrolled

No additional measures would be introduced to reduce emissions of volatile organic compounds. Vehicle refinishing plants with a solvent consumption greater than 1 tonne are currently regulated under the Pollution Prevention and Control (England and Wales) Regulations 2000. From 2007, processes exceeding 0.5 tonnes solvent consumption will also be covered under the Solvent Emissions Directive. However, this option would leave the decorative paint industry and the remainder of the vehicle refinishing industry outside the scope of existing legislation. Even without legislation, there has already been a considerable shift away from solvent-based paint products to water-based products.

The European Paint Manufacturers Association (CEPE) have asked it's national members to comply voluntarily with proposals for a product-based "Decorative Paints Directive". The limit values they propose for the first phase of this voluntary agreement broadly correspond to the 2007 limit values under the proposed Directive. The first phase of The European Paint Manufacturers Association's (CEPE) proposals have almost been met in the United Kingdom. **[A number of questions remain at this stage. What type of voluntary agreement is it? What is the scope of the voluntary agreement in terms of participants as compared to the Directive? Was it simply implemented in anticipation of the Directive – i.e. it would not have been done otherwise? Have the costs of phase I of the The European Paint Manufacturers Association (CEPE) proposal already been incurred? If so, how much did they cost industry, have these costs been included in Entec's estimates for the cost of the proposed Directive and if so, should they be? We are seeking clarification on these points.]** However, it is unlikely that a significant

[4] An Economic Analysis of the National Air Quality Strategy, Interim report of the Interdepartmental Group on Costs and Benefits, Her Majesty's Stationery Office, 1999.

number of producers would further limit the volatile organic compounds they produce voluntarily (see also section 2.3). This option would therefore leave uncertainty surrounding the abatement of this source of volatile organic compounds and would not be sufficient to transpose this Directive if it was adopted.

2.2 *Option 2: Transpose EC legislation to limit the content of volatile organic compounds in certain categories of product*

Emissions of volatile organic compounds will be reduced through imposing technical specifications. Maximum content limit values of volatile organic compounds will be set for decorative paints and varnishes, and for vehicle refinishing products (see Annex 1). A two-phase approach is proposed for reduction of the content of volatile organic compounds of the decorative paint products falling within the scope of the proposal. This will give the sectors affected adequate time to adapt without compromising the long-term environmental benefits. One phase will apply from 1 January 2007 while a second will apply from 1 January 2010. In the case of vehicle refinishing products only the 2007 values apply.

2.3 *Other options*

There may be other options that might be considered including negotiated agreement with industry or introducing more/less stringent limit values. A negotiated agreement with industry is unlikely to be successful given the varied structure of the industry across Europe, the difficulties of monitoring compliance and the inability to enforce such a voluntary agreement. This would also provide no scope for control of imported products from non-Member States and therefore no incentive for Member State manufacturers to enrol within such an agreement.

3 Costs and Benefits

3.1 Business sectors affected

The proposal will potentially impact on paints manufacturers and their raw material suppliers, including the resin industry, the solvent industry, and binder and pigment manufacturers. It is also likely to affect do-it-yourself and other shops which sell paint, and other end users including professional and amateur painters. There are estimated to be 32 paint manufacturing companies in the United Kingdom, 2 United Kingdom -based solvent manufacturers and 15-20 United Kingdom companies manufacturing alkyd resins used in solvent-based decorative paints.

The proposal also affects vehicle-refinishing plants and product suppliers. Plants with a solvent threshold consumption greater than 0.5 tonnes per year are already covered by the Solvents Directive (1999/13/EC). In the United Kingdom there are estimated to be between 2500 and 3000 small bodyshops consuming less than 0.5 tonnes of solvent per year and who currently do not fall within any regulation for solvent use.[5] It is believed that there will be a decline in numbers of small bodyshops by about 33 per cent by 2007. Therefore the costs and reductions have been based on a revised estimate of 1840 bodyshops in 2007. This includes around 170 vintage car restorers. The proposed directive will also benefit

[5] Taken from 2003 Entec report, "Revision of the Cost Curve for Volatile Organic Compounds"

manufacturers of low solvent products. This would be to the detriment of the predominantly smaller companies who only produce coatings with high contents of volatile organic compounds.

3.2 Assumptions

Emission reductions in the decorative paint sector have been estimated using a flat market (i.e. excluding market growth), using a market volume of 450,000 tonnes sales per annum and a 1998 baseline emission level for volatile organic compounds of 57.8 kilotonnes per annum. Predicted emissions under business as usual (BAU), for the vehicle refinishing sector are assumed to be approximately 1.7 kilotonnes per annum in 2007.

3.3 Benefits

Table 1 below summarises reductions of volatile organic compounds mass emissions, estimated as a result of implementation of the proposed Directive.

Table 1 Summarised mass emission reductions from the proposed Directive

	Volatile Organic Compounds abated by 2007 (Kilotonnes per annum)	Volatile Organic Compounds abated by 2010 (additional to 2007) (Kilotonnes per annum)	Total Volatile Organic Compounds abated by the Directive (Kilotonnes per annum)
Decorative paints	6.5	1.2	7.7
Vehicle refinishing	1.1	0	1.1
TOTAL	7.6	1.2	**8.8**

Taken from 2003 Entec report, "Revision of the Cost Curve for Volatile Organic Compounds"

The prime human health and environmental benefits from this reduction in emissions of volatile organic compounds are expected to arise due to reductions in ground level concentrations of ozone, for which volatile organic compounds are a key precursor. Benefits from reducing ozone concentrations include:

Possible to quantify

- human health – reductions in acute mortality and morbidity;
- reduction in damage to crops.
- reduction in damage to materials (for example; paint, rubber, textiles); and

Not yet possible to quantify

- human health – reductions in chronic mortality and morbidity;
- reduction in indirect damage to crops and trees through interaction with pests, pathogens, climate and other pollutants;
- reduction in damage to forests and ecosystems.

In addition there will be some benefits gained due to the reduction in direct impacts from emissions of volatile organic compounds. Examples of such benefits will depend on the specific types of emissions of volatile organic compounds reduced, but will cover reductions in acute and chronic health effects as well as odour nuisance for example, from small refinishing workshops located in residential areas. It has not been possible to quantify these benefits.

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There is a large degree of uncertainty involved in the process of quantifying and valuing such benefits. For example, whilst it is possible to use dose-response functions to estimate the costs to the National Health Service of respiratory hospital admissions with a reasonable degree of confidence, valuations based on willingness to pay (WTP) estimates to reduce risks of adverse health effects are inherently subject to greater uncertainty.

Generally the Interdepartmental Group on Costs and Benefits (IGCB) only accepts dose-response functions passed by the Committee on the Medical Effects of Air Pollutants (COMEAP) as sufficiently robust to allow quantification of the benefits attained from the reduction of ozone concentrations. These include acute mortality and morbidity (Deaths Brought Forward and Respiratory Hospital Admissions respectively) as well as reductions in crop damage and materials.

The following table gives estimates of the benefits that might accrue as a result of this proposal. These are based on the Committee on the Medical Effects of Air Pollutants (COMEAP) exposure-response relationships for acute effects of ozone which were based on a review of data from epidemiological studies. The Committee on the Medical Effects of Air Pollutants (COMEAP) considers that, at present, there is insufficient United Kingdom data to allow acceptably accurate quantification of exposure-response relationships for chronic effects of ozone. The reduction in crop damage and damage to materials was also quantified.

Table 2 Summary of monetisable benefits to the United Kingdom from implementing the proposed Directive

	2007 Decorative Paint requirements	2007 Vehicle Refinishing Requirements	2010 Decorative Paint Requirements	Total Proposed Directive Requirements
Mass emissions reductions, kilotonnes per annum	6.5	1.1	1.2	8.8
Deaths not brought forward[6] total per annum	2.0	0.3	0.4	2.7
Respiratory hospital admissions (RHAs) not brought forward, number per annum	2.8	0.5	0.5	3.8
Valuation of RHAs not brought forward, £000 per annum range (NHS costs)	0 – 7.7	0 – 1.3	0 – 1.4	0 – 10.3
Valuation of reduction in crop	2,480	418	443	3,341

[6] Committee on the Medical Effects of Air Pollutants COMEAP consider that no threshold should be assumed for ozone effects and hence the relationship can be applied to annual baseline death rate data.

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	2007 Decorative Paint requirements	2007 Vehicle Refinishing Requirements	2010 Decorative Paint Requirements	Total Proposed Directive Requirements
damage, £000 per annum				
Valuation of reduction in damage to materials, £000 per annum	10.6	1.8	1.9	14.2
Total, £million per annum	2.5	0.4	0.4	3.4

Taken from 2003 Entec report, "Revision of the Cost Curve for Volatile Organic Compounds"

The United Kingdom does not currently accept a willingness to pay (WTP) valuation for Respiratory Hospital Admissions (RHAs) avoided and any monetary valuation for deaths not brought forward. However this has been looked at as sensitivity analysis. The Department of Health's report, 'Economic Appraisal of the Health Effects of Air Pollution 1999' (EAHEAP) suggests lower, middle and upper range values for willingness to pay (WTP) for a small reduction in risk of death brought forward. Applying these values using accepted dose-response functions provides 2010 benefit estimates ranging from £0.008 - £4 million per annum. In addition, there are other potential health benefits of the proposed Directive that the Committee on the Medical Effects of Air Pollutants (COMEAP) do not see as robust enough to enable quantification but which other bodies (for example; ExternE) have attempted to quantify. These include asthma attacks, Minor Restricted Activity Days (MRAD) and Symptom Days. Applying dose-response functions and valuations to these benefits generates estimates of per annum benefits in 2010 of £0.04 million, £0.08 million and £0.2 million respectively. This brings total benefits of the proposed Directive up to between £4 million and £8 million per annum in 2010.

3.4 Costs

3.4.1 Total costs

Products sold on the European Community market will have to respect the maximum volatile organic compound content limit values set out in Annex 1. Capital costs will include updating equipment and possibly providing new in-store tinting machines if this does not fit in with the normal replacement cycle. The costs relating to replacement of in-store tinting machines are therefore a maximum and in reality likely to be lower. Operating costs include research and development costs to reformulate paint lines, increased costs of raw materials, use of alternative products and higher production costs, although information relating to these higher production costs has not yet been supplied by industry. These costs will be spread over a number of years, as the timetable for compliance extends until 2010. The anticipated reduction in revenue of the solvent industry is expected to be relatively modest in relation to the economic strength of the companies involved, but fixed costs will have to be spread over a decreased production volume in the absence of the development of substitute products.

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It is difficult to assess the impact of this proposed Directive on decorators and do-it-yourself paint users. Paint prices are likely to increase slightly (by an estimated 1-1.5 per cent), and the cost for materials for professional painting jobs may also subsequently increase slightly although labour savings may be made. Paint retailers and professional painters may fear that higher prices might lead to a decrease in sales. However, this is unlikely to happen, as the decision to commence a painting job is not really influenced by the price of paint (material costs are only 15- 25 per cent of the total cost). The paint market is therefore expected to remain unchanged in terms of total sales volume, but it is uncertain whether there will be any redistribution between do-it-yourself painters and professionals.[7] Nevertheless, some retailers will need to adapt their equipment, and professional painters may have to adapt their working methods and schedules to new products.

No major impact on employment is expected, as overall market demand should remain unchanged. However, there will be internal redistribution; decreasing demand for solvent-borne products should be offset by increasing demand for water-borne products although this has already been the trend in recent years.

Table 3 below gives a summary of costs to the United Kingdom under the proposed Directive. The costs include capital costs (for example; capital investment and in-store tinting) and operating costs (for example; research and development, additional raw material costs, additional production costs). In addition to these quantified costs, there are likely to be additional costs in the form of :

- disposal of unused containers, labels, non-compliant products and safety data sheets, literature, etc;
- Education of consumers;
- Reduced repainting intervals – the proposals may result in technically inferior products going to market;
- costs to end users, including professional decorators and home do-it-yourself paint consumers;
- Value and aesthetic impacts on the vintage car sector associated with a loss of authenticity if using modern low solvent coatings on vintage vehicles;
- There will also be costs of monitoring and reporting – partly offset by the reduced regulatory burden for the vehicle refinishing sector removed from the Solvent Emissions Directive and which are not included within this Regulatory Impact Assessment.

Table 3 Summary of costs to the UK under proposed Directive

Sector	2007 annualised costs, £mpa	2010 annualised costs (additional to 2007 costs), £ million per annum	2010 annualised costs (total costs from 2002 baseline), £ million per annum
Paint manufacture	45.1	4.0	49.1
Solvent Industry	1.0	0.1	1.1
Resin manufacture	28.9	2.6	31.5
Vehicle refinishing	1.1	0	1.1

[7] The Decopaint Report (Chemiewinkel, 2000)

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Total for the United Kingdom	**76.1**	**6.7**	**82.8**

Taken from 2003 Entec report, "Revision of the Cost Curve for VOCs", based on a 15 year life and a 6per cent discount rate.

The cost effectiveness of the measures for the decorative paints industry is estimated to be £5,124 per tonne of volatile organic compounds reduced. The cost effectiveness of the proposed measures for small bodyshops is estimated to be £1,108 per tonne of volatile organic compounds reduced. This compares to an average cost effectiveness of measures across all sectors of £5,164 per tonne.

3.4.2 Costs for a typical business

Each of the 32 United Kingdom paint manufacturers might expect to face an annualised cost of £1.5 million, of which £0.25 million will be capital costs and £1.25 million will be operating costs. Annualised costs for a solvent manufacturer and a resin manufacturer are estimated at £0.57 million and £1.58 million respectively.

For an average small bodyshop in the vehicle refinishing sector the mean annualised cost is £604. This is made up of £493 of capital costs and £111 operating costs.[8] The costs for individual bodyshops are estimated to be generally less than 0.5 per cent of turnover.

4 Equity and fairness

This proposal is unlikely to have a disproportionate impact on different groups.

5 Small Firms' Impact Test

While the proposal should not have much effect on the whole production chain, it could have a disproportionate impact on the small and medium enterprise sector and in particular those reliant on the production of only solvent-borne products. The need to invest, re-train and adapt will be all the greater given the smaller scale of their operations. However, the proposal allows a transitional period during which solvent-borne paints will still be permitted for a number of applications to allow small and medium enterprises enough time to adapt. We will need to speak to the Small Business Service to confirm that this is the case.

6 Competition Assessment

We have applied the competition filter to the paint manufacturing sector, raw material suppliers, the paint retailing sector and vehicle refinishing sector. This suggests the proposals do not give rise to any significant competition issues although producers of predominantly high volatile organic compound coatings will be disproportionately affected. **We may need to contact OFT to discuss this further.**

7 Enforcement and sanctions

How will the proposal be enforced? Who will enforce it?

[8] Taken from 2000 Entec report, "Reducing Volatile Organic Compound emissions in the Vehicle Refinishing Sector" and updated to 2002 costs.

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8 Consultation

Public consultation is due to take place in [redacted]. Responses to the consultation paper will be published and made available on the Defra and Devolved Administrations websites.

Consultation with industrial stakeholders has been undertaken at a Commission level and Defra are in ongoing dialogue with industry and other stakeholders. In general they support further action to reduce emissions of volatile organic compounds, but some doubt whether all of the values proposed for 2010 for the maximum solvent content of paints are currently achievable on a commercial scale. Others question whether this sector is the most cost-effective sector in which to legislate for reductions in emission of volatile organic compounds. The impact of the proposal on small and medium enterprise s was a concern of some representative associations. They mentioned the difficulties of complying with the proposed legislation because of limited resources, absence of research and development capacity and the increased impact of these issues due to their smaller scale. The idea of moving towards a product-based approach in the vehicle-refinishing sector met with a positive response from industrial stakeholders.

9 Monitoring and review

The Government would be required to carry out a monitoring programme to assess and control effective implementation of the Directive and report the results to the European Parliament every three years, or more often if so requested. The Commission will review the limit value for one specific category of paint, which they are currently undecided on in terms of technical feasibility, by the end of 2006 to determine limit values to apply post 2010.

10 Summary and recommendation

Emissions of volatile organic compounds have harmful effects on human health and the environment. Consequently there is a strong argument in favour of limiting emissions of volatile organic compounds. However, there are a wide range of technologies to control emissions of volatile organic compounds, of which limiting organic solvents in decorative paints and varnishes and vehicle refinishing products is just one. Decorative paints and vehicle refinishing products account for 4.4 per cent of the United Kingdom's emissions of volatile organic compounds.[9]

The following table compares Entec's estimates of the costs and benefits of implementing the Directive.

[9] Revision of the Cost Curve for Volatile Organic Compounds, Entec 2003

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Table 4 Summary of costs and benefits, 2010

Sector	VOCs reduced (Kilotonnes per annum)	Monetised benefits, £ million per annum	Costs, £ million per annum	Net Benefit, £ million per annum
Decorative paints	7.7	2.9	81.7	-78.8
Vehicle refinishing sector	1.1	0.4	1.1	-0.7
Total	8.8	3.4	82.8	-79.4

Even including the willingness to pay estimates and monetary values for some of the other potential health effects, the benefits only reach a maximum of £8 million per annum. Although it is likely that the benefits of these proposals are underestimated due to the difficulties in quantifying and monetising them, it is unlikely that the discrepancy will be large enough to justify the high cost to industry.

The following table shows how the Entec estimates compare to the figures presented for the United Kingdom Decorative Paint sector in the Commission's proposal document.[10] The table shows total costs and benefits of the proposed Directive to the Decorative paints sector in 2010.[11]

Table 5 European Commission estimates of costs and benefits of the Directive to the United Kingdom, 2010[12]

Sector	Volatile organic compounds reduced (Kilotonnes per annum)	Monetised benefits, £ million per annum	Costs, £ million per annum		Net Benefit, £ million per annum	
Pessimistic/Optimistic			☹	☺	☹	☺
Decorative paints	30.1	40.5	10.6	6.7	29.9	33.8

There are clearly significant differences between the Commission's estimates and those of Entec. The Commission's cost estimates are much lower and benefit

[10] The estimates have been taken from a DG Environment report, "The costs and benefits of the reduction of Volatile Organic Compounds from paints", 2002.

[11] The Commission's estimates are based on slightly more stringent limit values than those proposed in the Directive – this might be expected to increase both the cost and benefit estimates. They are also based on estimated decorative paint consumption of 331Kilotonnes per annum in 1999 increasing to 369 Kilotonnes per annum in 2010. This compares to the Entec assumption of a flat market volume of 450 Kilotonnes per annum.

[12] These estimates have been converted from Euros into £ at an exchange rate of 1 Euro = £0.7089. The difference in cost estimates stems from some uncertainty about additional costs from exterior paints.

estimates significantly higher. These combine to give a positive net benefit for the United Kingdom which is at odds with the Entec estimate of a substantial negative net benefit.

An important difference is the quantity of volatile organic compounds expected to be abated as a result of the proposed Directive. The Commission report estimates a much larger per annum emissions reduction in 2010. **We will need to decide which estimate is more realistic and where the uncertainty lies as this will clearly impact on the magnitude of the benefits.** The Commission report estimates the benefits of the Directive using a marginal damage per tonne of volatile organic compounds emitted of €1,900 for the United Kingdom (£1,347).[13] Applying this marginal damage figure to the emission reductions predicted by Entec would generate benefits in the region of £11.8 million per annum. This is not greatly different to Entec's current upper bound benefit estimate of £8 million per annum. Thus, the approach taken to quantifying and monetising the reduction in damages does not seem to differ substantially – the main difference appears to lie in the reduction in volatile organic compounds estimated and the estimated costs of meeting the proposed Directive.

The Commission acknowledges that its analysis excludes some of the cost elements that might occur as a result of the Directive. These omissions are unlikely to entirely account for the large discrepancy in costs, however. **We will need to decide which of the cost estimates is the most realistic or what range we should use as this will be crucial in determining whether the proposed Directive offers net benefits or net costs to the UK.**

There is clearly a large amount of uncertainty surrounding the magnitude of costs and benefits resulting from this proposal. At this stage it is not clear that the benefits are sufficiently large to justify the costs.

11 Ministerial declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs

.....

.....

12 Contact Point

For further information on the proposed directive, please contact:

Ian Oldfield
Air and Environment Quality (AEQ1) Division
Ashdown House
123 Victoria Street
London
SW1E 6DE
020 7944 6283

[13] The Commission's marginal damage estimate is taken from the Commission's Benefits Table Database (BeTa), 2000. It includes health benefits for which the UK does not currently believe there is enough evidence to provide monetary values including respiratory hospital admissions, deaths brought forward, asthma attacks and minor restricted activity days.

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jan.oldfield@defra.gsi.gov.uk

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Annex 1

A. MAXIMUM VOC CONTENT LIMIT VALUES FOR DECORATIVE PAINTS AND VARNISHES

	Product Subcategory	Type	Phase I (grammes per litre*) (from 1.1.2007)	Phase II (grammes per litre *) (from 1.1.2010)
a	*Interior matt walls and ceilings (Gloss <25@60°)*	WB SB	75 400	30 30
b	*Interior glossy walls and Ceilings (Gloss >25@60°)*	WB SB	150 400	100 100
c	*Exterior walls of mineral substrate*	WB SB	75 450	40 430
d	*Interior/exterior trim and cladding paints for wood and metal*	WB SB	150 300	130 -
e	*Interior/exterior trim varnishes and woodstains, including opaque woodstains*	WB SB	150 500	100 400
f	*Interior and exterior minimal build woodstains*	WB SB	150 700	130 700
g	*Primers*	WB SB	50 450	30 350
h	*Binding primers*	WB SB	50 750	30 750
i	*One-pack performance coatings*	WB SB	140 600	140 500
j	*Two-pack reactive performance coatings for specific end use such as floors*	WB SB	140 550	140 500
k	*Multi-coloured coatings*	WB SB	150 400	100 100
l	*Decorative effect coatings*	WB SB	300 500	200 200

*g/l ready to use

B. MAXIMUM VOC CONTENT LIMIT VALUES FOR VEHICLE REFINISHING PRODUCTS

	Product Subcategory	Coatings	Volatile organic compound content/ grammes per litre* (1.1.2007)
a	*Preparation and cleaning*	Gun wash Pre-cleaner	850 200
b	*Bodyfillers/stoppers*	All types	250
c	*Primers / Sealers / Surfacers / Fillers*	General (metal) primers Wash primers	540 780
d	*Topcoat*	All types	420
e	*Special finishes*	All types	840

*grammes per litre of ready for use paint, discounting any water content of the coating

Nobel House
[redacted] Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

28 May 2003

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear John

IMPLEMENTING THE LARGE COMBUSTION PLANTS DIRECTIVE

I am seeking agreement to my recommendations on how the UK should implement the Large Combustion Plants Directive. I propose that we adopt an approach based on what is known as the 'national plan' approach. This would establish an emissions trading scheme under which plants could, within constraints, adopt a flexible approach to meeting their environmental obligations. I also propose that we adopt an interpretation of the Directive that allows us to reduce the cost of compliance for all sectors. Finally, I propose consulting on our proposed approach, including an allocation mechanism under a national plan. This consultation will also include a discussion of the alternative implementation options. I would be grateful for a response by 9 June.

Background

The Large Combustion Plants Directive (2001/80/EC) sets controls on emissions of sulphur dioxide, nitrogen oxides, and dust from power stations, from crude oil refineries, and from other large electricity generators. It affects all of the electricity supply industry, the crude oil refiners, and a number of companies – Alcan, Corus, British Paper, British Sugar – that generate some of their own electricity. The UK has transposed the Directive in a way that leaves open a number of interpretational issues and the choice given in the Directive regarding how to implement the Directive for plants that were "existing" in 1987. The most prominent of these are the big coal-fired power stations, and the crude oil refineries.

We need to take two decisions now on how to complete implementation. One is the central decision on the preferred route to implementation, the other is a subsidiary decision on the interpretation of this complex Directive.

The main decision

The main decision is on the implementation approach for the 'existing' plants. The choice is between the 'emission limits' approach, and a 'national plan'. Either would fully meet the requirements of the Directive:

a. The emission limits approach would apply values set in the Directive to each 'existing' plant from 1 January 2008 for each pollutant. Limits would apply at each individual plant.

b. A national plan would establish a national 'bubble' for each pollutant to be shared between the plants in the scheme. Plants would receive an allocation and then, within constraints, plants could trade emission allowances between themselves. The sum of the emissions at plant level would have to add up to a limit at the national level for each compliance period. A national plan would need to include all plants in the United Kingdom, and must come into effect no later than 1 January 2008.

I propose that our criteria for taking this decision should be: the environmental effect and the extent to which the measures deliver the environmental objectives of the Directive; the overall cost for UK industry; where the costs fall by sector and any potential employment consequences; how the decision interacts with other environmental obligations such as those under the National Emission Ceilings Directive; the risks inherent in each approach.

Costs and benefits

The costs and benefits are summarised in the table below, for the baseline assumption about future energy generation from coal. We cannot place a monetary value on the significant health benefits that follow from the expected reductions in emissions. We can cost other benefits. These show the emission limits approach as giving about £100 m of more benefits than the national plan approach.

The costs fall primarily on the electricity supply industry: we expect them to meet some £700 m of the £900 m cost under the emissions limits approach. Under a national plan approach we would expect some of the costs of abatement to be transferred between sectors year on year. However the electricity supply industry is likely initially to have to meet all of the £650 m costs.

Estimates for the period 2008 to 2024	Reductions in sulphur dioxide emissions (kilo tonnes) compared to a 'do nothing' option	Reductions in nitrogen oxide emissions (kilo tonnes) compared to a 'do nothing' option	Benefits, net present value, of those factors that can be given monetary values	Costs, net present value

Emission limits approach	1200	1000	£500 m	£900 m
National plan approach	700	950	£400 m	£650 m

Industry impacts

The electricity supply industry, the crude oil refiners, and coal producers are opposed to the national plan approach. In their view, it would be more costly and would provide less certainty for their investment decisions. They will react strongly if we adopt the national plan approach, and may seek to overturn the decision, possibly though legal action. On the other hand, companies such as Alcan and Corus and others, strongly prefer the national plan because they believe it offers useful flexibility and would lead to overall cost-savings. In general, this is because they believe that under this approach they would be able to buy emission allowances from others at a lower cost than the cost of investing themselves in abatement measures. A summary of the various industry views and an analysis of these views that has been prepared jointly by my officials and officials from the Department of Trade and Industry is included at Annex B.

All plants must also comply with the requirements of the Integrated Pollution Prevention and Control Directive, and local air quality controls. These requirements may change in the future and so the costs/impact attributable to the implementation of the Large Combustion Plants Directive may change.

How measures affect other environmental obligations

The National Emission Ceilings Directive requires the UK to achieve a set level of emissions of sulphur dioxide and nitrogen oxides from 2010. We expect to be able to meet these Ceilings under the current projections for energy production from coal. However, if these projections significantly underestimate the amount of energy generation from coal – and the electricity supply industry believe they do – then it is likely that emissions from the large combustion plant sector would rise and may threaten the Ceilings in the National Emissions Ceilings Directive.

If the Ceilings were threatened, it may be necessary to impose additional constraints above and beyond those required by the Large Combustion Plants Directive. There is a fuller discussion of these issues and possible consequences at Annex C. In summary there are potential benefits from adopting a national plan approach if current energy projections are valid, as a national plan would fully constrain emissions from at least part of the sector. However, a national plan approach under our baseline assumptions about energy production from coal would lead to higher emissions than under an emissions limit approach. I propose to review the position on additional measures in 2004 when we are clearer about which plants have opted to apply for the limited hours derogation from the Large Combustion Plants Directive; and in 2006 when site specific permits under the Integrated Pollution and Prevention and Control Directive have been agreed.

Risks and uncertainties

There are a number of risks which we need to consider:

a. Uncertainties in the energy projections. If the energy projections under-estimate coal burn, the cost of the national plan approach tends towards, and in the extreme exceeds, that of the emissions limits approach. At 120 terawatt hours of energy generation from coal in 2010 the costs of the two approaches are essentially the same, at lower levels of coal burn the national plan approach is expected to be cheaper. A coal burn of 120 terawatt hours in 2010 is not impossible but a lower level is more likely. The electricity supply industry consider that our projections are too low; if they are correct the costs of the national plan approach would be higher than we have predicted.

b. The Government cost model is wrong. Our model was prepared by an independent consultant. The electricity supply industry have prepared their own model which convinces them that the emission limits approach is the cheaper for their sector. Our cost model comes to a different conclusion. Differences between the two models come down to expectations about the level of coal burn, and some other technical differences. Officials from my Department and the Department of Trade and Industry have looked into these differences and believe that the Government cost model takes account of all significant factors. However, it is not going to be possible to point to simple factors to show that the electricity supply industry are wrong.

c. The trading scheme does not deliver the expected cost savings. The Large Combustion Plants Directive places constraints on a trading scheme under a national plan which are not present in existing trading schemes. For example, it may not be possible to have 'banking' between compliance periods and each 'bubble' has to reduce on the closure of a plant in the plan. The electricity supply industry and the crude oil refiners have claimed that these constraints will lead to sufficient uncertainty that even if a trading scheme were set up they would not participate. This seems unlikely if the trading scheme provides these operators with a revenue stream. However, if they were to refuse to participate then, in this worst case, the cost difference between the emissions limits approach and the national plan is reduced by about £170m to £60m for the baseline energy projection.

d. Changes to measures under the Integrated Pollution Prevention and Control Directive. The precise measures to be adopted at any site are influenced by guidance prepared by the Commission. That guidance is still in draft. If it results in measures more stringent than those currently adopted for the smaller operators, then they would have to invest in abatement equipment themselves, rather than being able to buy allowances. That would reduce the cost advantage of the national plan.

In summary, a national plan approach offers flexibility and cost-savings to industry as a whole that would not be available under an emissions limit approach. However the national plan also sets a legally binding upper limit to overall emissions from this sector of industry. This could lead to increased costs under this approach if Government projections regarding future energy generation from coal are too low. Cost-savings under a national

plan may also be reduced if operators face increased requirements under the Integrated Pollution Prevention and Control Directive. However, there is also the opportunity of additional cost-savings should the UK be successful in its attempts to secure an appropriate amendment to this Directive as discussed in earlier correspondence. Finally, it is possible, although unlikely, that operators themselves will not make use of the flexibility afforded to them by a national plan and this too could lead to lower cost-savings.

Timing

Any national plan must be submitted to the Commission by 27 November 2003. The Commission has 6 months during which to rule on whether a national plan is acceptable, and a Member State has a further 3 months to consider the Commission's comments. If we cannot agree a national plan with the Commission, we would have to revert to the emission limits approach.

My recommendation on the main decision

In my view the issues are very finely balanced between the emission limits approach and the national plan. On environmental grounds, the emission limits approach gives the better outcome under current projections for electricity generation from coal. However our costings also suggest that under this scenario it would be more expensive for industry. The cost of the national plan would increase if the projections under-estimate the future energy production from coal, or the savings expected from the emissions trading scheme were not fully realised.

The main attraction of the national plan approach is that it allows for an emissions trading scheme and the scope that offers for reducing costs. We have not previously proposed an emissions trading scheme to help control this particular type of pollution, but to do so is in line with our general approach to finding the most cost effective means of pollution control. I am therefore persuaded that we should give a clear steer that, subject to responses to the consultation paper, the UK intends to implement using the national plan approach, and that we will work towards submitting a national plan to the Commission before the 27 November 2003 deadline.

The subsidiary decision

The Directive fails to define a number of key terms; we agreed a line for most of these interpretation issues in February taking account of legal advice. One which we agreed to defer is what constitutes a combustion plant for the purposes of the Directive. There is a fuller discussion in Annex D.

Typically, there are a number of boilers in a power station, each with a separate flue. For engineering and planning reasons these flues are contained within a weather-shield (and look like a single chimney from the distance). The Directive defines a plant in terms of a 'common stack'. It is not clear what that translates to in practice, and there are respectable legal arguments for two approaches. The alternatives are:

a. In one view (the 'station' approach) all of the boilers and turbines associated with all of the separate flues should be regulated under the Directive as a single whole. This is current practice.

b. In the other view (the 'unit' approach) the boilers and turbines associated with each separate flue operate independently and each flue should be regulated under the Directive as a plant in its own right.

The Directive is written in terms that very large plants are expected to take more stringent measures to reduce emissions of sulphur dioxide than small ones. So the 'station' approach requires more investment in abatement measures than the 'unit' approach. We have taken advice from Leading Counsel who believes that there are respectable arguments in favour of both the 'station' and 'unit' approach – he prefers the 'station' approach which involves less legal risk – but this falls within the 'Falconer' guidelines for when it is permissible to act without legal certainty. We are establishing what approach other Member States adopt.

If we adopt the 'unit' approach, emissions of sulphur dioxide would be about 30 kilo tonnes a year greater than under the 'station' approach. That is a relatively small amount – about 4% of the total of national emissions of sulphur dioxide – but the environmental and health benefits will be lower than if we adopted the 'station' approach. However, taking additional abatement measures under the 'station' approach increases the cost to industry. The cumulative cost saving of the 'unit' approach is about £150 m to £200 m as compared to the 'station' approach. All industry sectors prefer the 'unit' approach. In my view, the right approach – in view of the marginal environmental loss – is to adopt the 'unit' interpretation.

Handling

We need to consult on the decisions – draft versions of a consultation paper and a regulatory impact assessment are attached. I ask for your agreement to publication of these documents subject to any amendments agreed between our officials. The consultation paper sets out the arguments in relation to the alternative implementation options, and gives a steer as to Government thinking. For this consultation to be credible, it must be completed in sufficient time to allow a national plant to be submitted to the Commission in November 2003.

If – as I would prefer – we allow the full 12 weeks for consultations, we need to start consultations as soon as possible. A starting date of the end of June would allow consultations to close towards the end of September. That does not give much time to finalise a national plan before it must be submitted at the end of November. I suggest therefore that we include a draft national plan in the consultation package. This will help stakeholders to come to an informed judgement on the proposed approach, and allow them to comment on the detail of the plan. Officials will still need to refine the plan during the consultation period so that we will be able to take a quick decision at the end of the consultations.

For the national plan to be meaningful, we need to outline how it would work. This includes proposing a mechanism on how to allocate the 'bubble' for each pollutant between plants. I propose that we adopt an approach for the purposes of the consultation paper that the allocation of emission allowances under a national plan is made on the basis of the contribution each plant made to the calculation of each 'bubble'. There are complex reasons why we seem to be constrained to this particular allocation mechanism and these are explained in Annex A.

I am copying this letter to the Prime Minister, members of the ENV Committee, Angela Smith in the Northern Ireland Office, and Sir Andrew Turnbull. I am writing separately to the Devolved Administrations.

Regards

Margaret

MARGARET BECKETT

ANNEX A

Factual position on implementation options

1. Unless otherwise stated, this summary assumes that we adopt the 'unit' approach, and that electricity production from coal is in line with the current forecast by the Department of Trade and Industry as set out in Energy Paper 68 and underlying the recent Energy White Paper. Figures for costs and benefits are taken from a consultancy study that ENTEC UK Ltd. undertook for Defra.
2. The baseline projection is that coal burn would generate some 84 terawatt hours of electricity in 2010 and fall thereafter. A sensitivity analysis has been undertaken assuming the same profile at higher levels of coal generation. Two other levels were considered: coal generation at 120 terawatt hours in 2010 and at 140 terawatt hours in 2010. The figures are for the UK as a whole. Current coal generation in the UK is about 120 terawatt hours a year but Government predictions are that this level is unlikely from 2008.

Emission limits/national plan

Environmental impact

3. Under the baseline projections of energy generation from coal, the emissions limits approach gives the better environmental impact saving 1200 kilo tonnes of sulphur dioxide and 1000 kilo tonnes of nitrogen oxides as compared to the position if no measures were taken over the years 2008 to 2024. By comparison the national plan approach saves 700 kilo tonnes of sulphur dioxide and 950 kilo tonnes of nitrogen oxides over the same period.
4. Translating these reductions in emissions into cost equivalents is difficult as we cannot put a monetary value on some of the health benefits. The monetary value of the reduction in damage to crops and buildings is some £500 m for the emission values approach as compared to £400 m for the equivalent national plan approach. That is the emissions limits approach has a cumulative benefit of some £120 m greater than the national plan over the period 2008 to 2024 in net present value terms.
5. If we could cost the other health benefits, the advantage of the emission limits approach would be seen to be larger still. The main benefits that have not been costed are the number of deaths not brought forward, which can be expressed in terms of the number of life years gained, and the number of deaths not brought forward due to the effects of the emissions.

Cumulative benefits (2008 to 2024)	Number of life years gained - long term effects - minimum	Number of life years gained - long term effects - maximum	Deaths not brought forward due to acute effects	Total of those benefits that can be given a monetary value, net present values
Emission limits – base case	600	1,600	550	£500 m

Emission limits – 120 terawatt hours	1,300	3,200	700	£700 m
Emission limits – 140 terawatt hours	2,000	4,900	800	£800 m
National plan – base case	400	1,000	450	£400 m
National plan – 120 terawatt hours	1,000	2,600	650	£600 m
National plan – 140 terawatt hours	1,700	4,100	750	£750 m

6. If the projections underestimate the level of electricity generation from coal, the environmental benefit of the national plan approaches, and eventually exceeds that of the emissions limit approach. At about 120 terawatt hours, the environmental benefits of the two options are essentially the same. At 140 terawatt hours, the environmental benefits of the emissions limit approach would be less than for a national plan.

Compliance costs

7. Under the baseline projections of energy generation from coal, abatement measures under the emission limits approach would cost about £900 m over the period 2008 to 2024. Over the same period, abatement measures under the national plan approach would cost some £650 m. So under this scenario, the national plan is cheaper by about £250 m. These costs fall primarily on the electricity supply industry: we expect them to meet some £700 m of the £900 m under the emissions limits approach. Under a national plan approach we would expect some of the costs of abatement to be transferred between sectors year on year but the electricity supply industry would probably have to meet all of the £650 m initial capital expenditure on abatement equipment.

8. For the electricity supply industry, about 25% of the costs under both implementation approaches would be incurred to comply with the likely obligations under the Integrated Pollution Prevention and Control Directive for standards to be met prior to 2008. The remaining 75% of the cost would be incurred to comply with more stringent standards that come in from 2016 for nitrogen oxides under the Large Combustion Plants Directive.

9. The national plan cost estimate assumes that there is a trading system, and that this ensures that costs are minimised at a national level. If trading does not deliver the expected savings, the costs of the two approaches are effectively the same. See paragraph 11 below.

10. If the projections underestimate the level of electricity generation from coal, the cost of the national plan approaches, and eventually exceeds that of the emissions limit approach. At about 120 terawatt hours, the costs of the two options are essentially the same. At 140 terawatt hours, the cost of the emissions limit approach is some £50 m less than for a national plan.

	Cumulative cost of emissions limits approach (net present values)	Cumulative cost of national plan approach (net present values)
Base case	£900 m	£650 m
120 terawatt hours	£1100 m	£1100 m
140 terawatt hours	£1250 m	£1300 m

Trading issues under a national plan

11. The national plan delivers cost savings by allowing operators with high costs of abatement the option of buying allowances from operators that have lower costs of abatement. That is not a big market – around 20 kilo tonnes of sulphur dioxide a year represents about 2% of total emissions. But preliminary analysis suggests that these reductions could be made by the larger operators at relatively low costs.

12. However, the Large Combustion Plant Directive places constraints on a trading scheme under a national plan which are not present in existing trading schemes. For example, it may not be possible to have 'banking' between compliance periods and each 'bubble' has to reduce on the closure of a plant in the plan. The electricity supply industry and the crude oil refiners have claimed that these constraints will lead to sufficient uncertainty that even if a trading scheme were set up they would not participate. This seems unlikely if the trading scheme provides these operators with a revenue stream. However, if they were to refuse to participate then in this worst case the cost difference between the emissions limits approach and the national plan is reduced by about £170m to about £60m for the baseline energy projection.

13. In addition, every plant will have to meet its site-specific requirements under Integrated Pollution Prevention and Control, including those related to local air pollution. This could lead to some legal restrictions which may prevent some plants (probably those from the electricity supply industry) from being buyers in the market but does place any legal restriction on the ability of operators to be sellers.

Allocation mechanisms

14. Under a national plan, there is a need to define the mechanism to allocate the 'bubble' for each pollutant between plants. In order for operators to come to an informed judgement about the relative merits of a national plan approach versus an emissions limit approach it is necessary to include at least a preliminary Government view in the proposed consultation.

15. Officials have looked at various options and found that the allocation mechanism seems to be constrained by requirements related to plant closure. This suggests that the only approach that maintains a reasonable degree of certainty regarding each plant's allocation from one year to the next is to use a mechanism whereby each plant receives an allocation equal to the contribution that plant made to the calculation of each 'bubble'. This has the disadvantage that it cannot take account of changes to operations before the scheme starts, and operators who chose to invest in abatement before 2000 may be disadvantaged. We expect that any free

allocation method, such as the one proposed, would require State Aid clearance from the Commission.

Views of Industry Sectors on national plan versus emission limit approach

1. The electricity supply industry is the main sector affected by this Directive and they are adamant that they prefer an emissions limit approach. The electricity supply industry are responsible for about 75% of the emissions from large combustion plants in the UK. Their modelling suggests that the emission limit approach will be less costly than a national plan approach to their sector in England and Wales by some £300m. They also believe that an emissions trading scheme leads to less certainty for operators than an emission limit approach. They do not believe an emissions trading scheme will deliver the anticipated cost-savings. Finally, they believe that the national plan approach will constrain future energy generation from coal.

2. The coal industry supports the emissions limit approach. It believes that this offers the best option for maintaining demand for indigenous coal beyond 2010 and hence for securing the future of the UK mining industry. It believes that the national plan approach in general and the mechanism to deal with closures under such a plan would encourage greater use of imported coal. The coal industry estimates that the net effect would be to restrict indigenous coal burn to 10 million tonnes per year by 2010, compared to 25 million tonnes in 2002. Whereas, under an emissions limit approach, the coal industry believes that generators would retain the flexibility to maintain their current level of consumption. It is also concerned that the national plan 'bubbles' are based on coal burn during 1996-2000, when consumption was lower than it has been more recently.

3. The crude oil refiners also prefer the emission limits approach. Their argument is that this gives them greater certainty for their future operations and investments. Additionally, they believe that the national plan approach would place more severe constraints on their operations than the emission limits approach.

4. Alcan is the world's number 2 aluminium company with 38 sites in the UK. Alcan strongly supports the national plan approach because emissions trading is in their view the most cost-effective and flexible way to achieve environmental improvements. In addition they claim that it would not be economically or technically feasible for all their plants to fit the abatement that would be required under the emission limits approach. A national plan would also allow Alcan to balance its own operations within a year to enable it to use different combinations of fuels at different times.

5. Corus (formerly British Steel) strongly supports the national plan approach. They believe the abatement that would be required by the emission limit approach is not economically or technically feasible for all plants. A particular problem to Corus is the emission limit value for dust. The imposition of this limit may lead to them having to move away from burning process oil as a fuel whereas the flexibility of a national plan approach would enable them to continue this practice by transferring allowances between their plants.

6. Other sector representatives who have expressed opinions include the Confederation of Paper Industries, British Sugar, the Combined Heat and Power Association and the Combustion Engineering Association. These are mainly

relatively small operators but the imposition of emission limit values with no flexibility would lead to significant negative impacts. This is because most industrial class boilers are much less able to accommodate stringent emission abatement measures than large combustion plant boilers and so would face proportionately higher compliance costs. Under the emission limit approach, operators may chose to replace existing boilers which could lead to a reduction in combined heat and power capacity. It is possible that the increased site operating costs of an emissions limit approach could jeopardise the future of the industrial site.

Government view

7. The electricity supply industry has put forward the strongest arguments for an emission limit approach, as they believe this is the cheaper approach for their sector in England and Wales under all reasonable scenarios. However, their analysis does not match up with the independent analysis performed for Defra by ENTEC which suggests that the electricity supply industry alone would obtain a minimum cost-saving of £50m under a national plan approach. The key differences between the two analyses are the assumptions of what are reasonable scenarios. In particular, the electricity supply industry assumes a level of energy generation from coal in the future which is higher than Government projections.

8. The position being held by the electricity supply industry is to be expected if they genuinely believe there is a relatively bright future for coal generation. But such a bright future is not assured, particularly in view of impending carbon trading, wider environmental pressures on coal and the general age structure of coal plants. Such considerations tend to argue for lower coal generation in the future and hence lower costs under a national plan approach. The electricity supply industry do however have a valid concern regarding the lack of certainty under a national plan approach where they will have to engage in a market but this should provide them with financial rewards for little extra abatement effort.

9. The position of the coal industry is understandable. Under a national plan approach there is a financial incentive to all plant operators to reduce their sulphur dioxide emissions as much and as cheaply as possible, and this would encourage greater use of lower-sulphur, imported coal. An approach which significantly reduced demand for indigenous coal would be at odds with the Coal Investment Aid scheme that seeks to secure the future of viable UK mines to 2010 and beyond. This scheme has already been announced by DTI Ministers and it will be formally launched in June.

10. However, assessments suggest that even under an emissions limit approach there will still be a reduction in the current level of consumption of UK coal. In addition, although the national plan will lead to a general incentive to move away from UK coal, there will be particular cases where the flexibility afforded by the national plan will allow operators to use UK coal when this would be impossible under the emission limit approach, e.g. they would be able to average their emissions across a year, rather than be bound by their operating limit at all times. Finally, the proposed mechanism to handle closures under a national plan should not lead to any pressures (positive or negative) on the consumption of UK coal since emissions allocations at remaining plants would be unchanged.

11. It is possible that future pit closures, particularly of mines in Yorkshire and South Wales which predominantly produce generating coal, could be blamed on the implementation of the Large Combustion Plant Directive, particularly under a national plan approach. The early closure of Ellington Colliery in Northumberland could also be blamed on the implementation of the Large Combustion Plants Directive under whichever approach, although a national plan approach would give Alcan flexibility to extend the life of this Colliery by some years. In addition, there is a specific problem in relation to Tower Colliery and Aberthaw but Peter Hain, Alun Michael and colleagues in the Welsh Assembly have a solution which is independent of the decision on implementation.

12. The position of the crude oil refiners is difficult to understand, especially when one considers the likely buyers and sellers in a national plan when allocations are based on contributions to the calculation of each 'bubble'. Analysis by ENTEC suggests this sector would be able to sell around 30 kilo tonnes of sulphur dioxide allowances each year and 1 kilo tonne of nitrogen oxide allowances. This sector is therefore unlikely to be worse off under a national plan approach. However, it appears that they would still prefer the certainty of an emissions limit approach over an emissions trading market.

13. It is difficult to fully assess the impacts on Alcan, Corus and other operators with smaller plants. It is unlikely that the additional compliance costs of the Large Combustion Plants Directive under either implementation approach will be the direct cause of sites being closed down and jobs being lost, however this could be seen as the final straw from the accumulating pressures of environmental legislation. The Alcan site at Lynemouth, with its associated power station, is perhaps one of the sites most at risk. This site directly employs 724 people (124 of which are for the power station) and indirectly 2500 people.

14. It is clear that for these operators there are considerable advantages from the national plan approach. Firstly, under a national plan operators have more flexibility to manage their emissions themselves during a year at a single plant or between different plants that they own. Secondly, a national plan provides operators with an alternative to large initial capital expenditure, by providing them with the choice of buying allowances from others that can abate more cheaply.

15. In a national plan when allocations are based on contributions to the calculation of each 'bubble', analysis by ENTEC suggests that operators with smaller plants (excluding the iron and steel sectors) would need to buy around 22 kilo tonnes of sulphur dioxide allowances each year and 5-7 kilo tonnes of nitrogen oxides. These are relatively low amounts when compared to the total annual emissions expected under a national plan of around 300 kilo tonnes in 2008.

National Emission Ceilings Directive.

1. The National Emission Ceilings Directive requires the UK to achieve a set level of emissions of sulphur dioxide and nitrogen oxides from 2010. The Ceiling for sulphur dioxide is 585 kilo tonnes and for nitrogen oxides 1200 kilo tonnes. Whether the UK can meet these Ceilings will depend in part on the emissions from the large combustion plants sector as they cause roughly 75% of sulphur dioxide and 25% of nitrogen oxide emissions in the UK but will also depend on emissions from other sectors. The level of emissions from the large combustion plant sector will depend on the actual amount of energy generation from coal, the implementation approach, and the number of plants that take up the limited-hours derogation on 1 January 2008. (The limited hours derogation allows the operator to decide that a plant will close after 20,000 hours of operation. The plant is excluded from both the emissions limits and national plan. While it is operating it may emit more pollution than under either of these approaches.)

2. There are a number of possible scenarios where the UK might be in danger of breaching the Ceilings and this might lead to the need in the future to place further controls on the large combustion plant sector. For example, emissions from other sectors may rise significantly and it may be felt appropriate to reduce further the emissions from the large combustion plant sector. Alternatively, emissions from existing large combustion plants themselves may increase significantly. Such significant increases from the large combustion plant sector are less likely under a national plan approach as total emissions from those plants within the plan will already be restricted by the national 'bubbles'.

3. If in the future a decision is taken to place additional controls on the large combustion plants sector in order to meet the Ceilings then this will require different action depending upon the implementation approach chosen. Under a national plan approach it would be relatively easy to reduce one of the 'bubbles' to whatever is the required level, however under the emission limit approach it would be necessary to put in place mass limits on each plant in addition to requiring them to meet the emission limit values. This would involve decisions regarding allocation similar to those being discussed with regards a national plan. However, neither implementation approach provides a simple mechanism to limit emissions from plants that opt for the limited-hours derogation or new plants.

4. Current projections of energy generation from coal suggest that emissions will be slightly higher under a national plan approach than under an emission limit approach. Unless these projections significantly underestimate the amount of energy generation from coal in the future it is unlikely that emissions from the large combustion plant sector will rise sufficiently to threaten the Ceilings in the National Emissions Ceilings Directive.

Interpretations issue – 'unit'/'station'

1. The Directive requires more stringent controls on sulphur dioxide emissions from larger plants than from smaller ones. At the baseline energy forecast, the difference between the two options is that the 'unit' approach would lead to about 20 to 30 kilo tonnes of additional sulphur dioxide emissions each year as compared to the 'station' approach. Over the period 2008 to 2024, the additional reduction under the 'station' approach would be 300 to 500 kilo tonnes. In the table below the emissions are shown for 2008, and the cumulative reductions under the two options for the period 2008 to 2024 as compared to the 'do nothing' case.

	Cumulative reduction in sulphur dioxide emissions compared to 'do nothing' in kilo tonnes	Sulphur dioxide emissions in 2008 in kilo tonnes	Cumulative cost in net present value
Emission limits – 'unit'	1100	250	£900 m
Emission limits – 'station'	1600	220	£1100 m
National plan – 'unit'	700	280	£650 m
National plan – 'station'	1000	260	£800 m

2. For comparison, current emissions are about 850 kilo tonnes a year. So the additional emissions under the 'unit' approach represent only some 3% of annual emissions.

3. Adopting the 'unit' approach would reduce the scope of the Directive as some boilers would no longer be considered plants in their own right. Boilers that fall out of the Directive would still need to comply with other pollution control measures under the Integrated Pollution Prevention and Control Directive. A particular beneficiary of the 'unit' approach is the combined heat and power sector where many plants would no longer be subject to the requirements of the Large Combustion Plants Directive.

DRAFT 22 MAY 2003

Consultation Paper on the implementation of the revised Large Combustion Plant Directive

Department for the Environment, Food and Rural Affairs
Department of the Environment (in Northern Ireland)
Welsh Assembly Government

June 2003

Executive summary

This consultation is about the way in which the UK should implement the Large Combustion Plants Directive (2001/80/EC). The paper sets out the background to the decisions that need to be taken, and outlines the options. It aims to provide a balanced presentation of the alternatives against which stakeholders are asked to comment on Ministers' preliminary view of the way forward.

This consultation paper covers England, Wales and Northern Ireland. Parallel consultations are taking place in Scotland.

The Directive leaves open a number of important interpretations. We sought views on these issues last year, and further views are welcome. One issue on which we did not previously come to a view is what is to be understood as a combustion plant, for the purposes of the Directive. On that our view, subject to consideration of consultation responses, is that we should adopt what has been called the 'unit' approach rather than the 'station' approach.

The central decision is whether to adopt the emission limits approach to regulate pre-1987 plants, or the national plan approach. Again subject to consideration of consultation, Ministers consider that the better approach for the UK is [*subject to Ministerial decision*] to adopt the national plan approach.

On some assessments the approach would allow the requirements of the Directive to be met at lower cost, while still providing a satisfactory environmental outcome. Under the national plan there would be a requirement that local environmental requirements are met, as well as other requirements under the Integrated Pollution Prevention and Control Directive (96/61/EC). The national plan allows trading and the experience so far with other emissions trading schemes is that they offer a more cost effective way of regulating emissions. If (as we hope) it become possible to extend emissions trading in the future, the national plan will provide a basis for doing so.

A draft national plan is attached for consideration and comment.

Consultations close at 9.00 am on 29 September 2003.

Chapter 1. Introduction

1.1. This consultation paper is about the implementation in the UK of Directive 2001/80/EC on the limitation of emissions of certain pollutants into the air from large combustion plants. This is known as the revised Large Combustion Plants Directive (the LCPD). Under the Directive, large combustion plants are those with a rated thermal input which is equal to or greater than 50 megawatt, irrespective of the type of fuel used.

1.2. The Directive will reduce acidification, ground level ozone and particles throughout Europe by controlling emissions of sulphur dioxide (SO_2), nitrogen oxides (NOx) and dust (particulate matter (PM)) from large combustion plants. These include power stations, and plants in petroleum refineries, and other industrial processes.

1.3. Sulphur dioxide and nitrogen oxides are major contributors to acid deposition, which acidifies soils and freshwater, damages plants and habitats, and corrodes building materials. Nitrogen oxides react with volatile organic compounds in the presence of sunlight to form ozone: ozone can damage human health and ecosystems. Emissions from combustion plants can travel long distances from their sources; a Europe-wide approach to reducing these pollutants is required.

1.4. The Directive supersedes Council Directive 88/609/EEC (the original Large Combustion Plants Directive) and takes into account advances in combustion and abatement technologies. It requires that:

- Newer combustion plants – those brought into operation after 1987 – meet the emission limit values given in the revised Directive.
- 'Existing' plants (i.e. those in operation pre-1987), either:
  - Comply with emission limit values for sulphur dioxide, nitrogen oxides, and dust. Or
  - Operate within a National Plan.

1.5. The purpose of this consultation paper is to:

- Outline the requirements of the Directive.
- Set out Ministers' preliminary view on how best to implement it for 'existing' plants, and the reasoning for that view.
- Seek views on the proposed approach to implementation.

Chapter 2. Main Features of the Directive

2.1. This is a complex Directive, which leaves a number of issues for interpretation. However the text itself is the best starting point and a copy of the Directive can be downloaded from:

http://europa.eu.int/eur-lex/pri/en/oj/dat/2001/l_309/l_30920011127en00010021.pdf

Constraints

2.2. Plants subject to the revised Directive are also subject to the provisions in other Community legislation. Regulators hope to be able to take account of all relevant legislation and, as far as possible, provide a single permit for a site. There are a number of requirements that need to be taken into account.

2.3. Plants subject to the Large Combustion Plants Directive must also comply with Directive 96/61/EC (the Integrated Pollution Prevention and Control (IPPC) Directive). The purpose of this Directive is to achieve a high level of protection of the environment as a whole through various measures concerning the operation of the installations it covers, in particular the application of Best Available Techniques (BAT). "Techniques" includes not only the technology and design of installations but also the way in which they are operated and maintained. Measures will be assessed on a plant by plant basis. The generic requirements for major parts of the large combustion plants sector have yet to be finalised by the European Commission, although recently a second draft of proposals was published for comment.

2.4. Directive 2001/81/EC on national emission ceilings for certain atmospheric pollutants establishes obligations for the United Kingdom to achieve by 2010 ceilings for the emissions of sulphur dioxide, nitrogen oxides, and for two other pollutants. We expect to comply with these Ceilings. The extent to which current policies will ensure that these ceilings are met is reviewed annually, and policies adjusted accordingly. The key dates for reviews are: 2004 when it will be known to what extent industry has taken up the limited life derogation – see 2.13 below – and 2006 when site specific measures to implement Integrated Pollution Prevention and Control Directive will have been agreed.

2.5. The national plan approach to implementation would of itself impose a mass limit on national emissions from large combustion plants which would provide a degree of confidence as to whether the UK would achieve its obligations under the Ceilings Directive, regardless of the future level of electricity generation from coal. The emission limits approach would not provide such a limit; in principle increases in activity in the sector could lead to a breach of the National Emission Ceilings Directive limits. If a breach seemed likely, regulators would be directed to impose a mass limit in permits, in addition to concentration limits required by the Large Combustion Plants Directive. These mass limits are likely to be applied to all plants in the sector, not just 'existing' plants, and regardless of whether a plant had opted for the limited hours derogation.

2.6. Obligations on greenhouse gases. The United Kingdom is committed to major reductions in the amounts of greenhouse gases – mostly carbon dioxide – that it produces. Those measures are likely to reduce coal fired electricity generation, although it is not yet clear by how much. The implementation measures being considered for the Large Combustion Plants Directive are compatible with the future obligations on reducing the production of greenhouse gases.

2.7. We must also avoid breaching air quality obligations. The Air Quality Framework Directive 96/62/EC and its "daughter directives" set limit values

for sulphur dioxide, nitrogen oxides, and particles. These limit values were established to provide protection to the public and to the environment.

Timetable for implementation of the Directive

2.8. 'New' Plants. These are plants licensed on or after 1 July 1987. These plants must meet the emission limit values for their class specified in the Directive from 27 November 2002, or when they start operating.

2.9. 'Existing' Plants. These are plants licensed before 1 July 1987. For 'existing' plants, Member States have the option of reducing emissions by either the emission limits approach or the national plan approach. In either case, the required level of emissions reductions must be achieved by 1 January 2008. A national plan must be communicated to the Commission by 27 November 2003.

2.10. Until the new arrangements come into effect in 2008, 'existing' plants will continue to be subject to existing legislation and requirements. These include the current UK Plan for the Reduction of Emissions into the Air of Sulphur Dioxide and Oxides of Nitrogen from Existing Large Combustion Plants. Of course, the detailed implications of those requirements may change between now and 2008 as, for example, the requirements of the Integrated Pollution Prevention and Control Directive take effect, and plants will need to respond to any such changes.

2.11. Special provisions apply if an 'existing' plant is extended by 50 megawatt thermal or more. In such cases, the plant will be caught by Article 10 of the Directive and the stringent emission limits for 'new' plants will apply to the extension. If the plant undergoes a 'substantial change' as defined by the Integrated Pollution Prevention and Control Directive, Article 10 again applies the stringent emission limits for 'new' plants.

Limited life derogation for 'existing' plants

2.12. As an alternative to meeting the emission limits or being included in a national plan, operators of 'existing' combustion plants can commit to close the plant within 20,000 operational hours starting from 1 January 2008. Plants opting for the derogation would still need to comply with their existing permits, and with any conditions introduced under the Integrated Pollution Prevention and Control Directive.

2.13. An operator must inform the competent authority of this decision before 30 June 2004. A plant that makes use of the derogations must close on reaching the end of its 20,000 hours of operation, or 31 December 2015 (whichever comes first). If it subsequently reopens, it then would be regarded as a 'new' plant. Any of the 20,000 hours not used by 31 December 2015 can then no longer be used. The competent authorities for notification are the Environment Agency, the Scottish Environmental Protection Agency, and the Chief Inspector appointed by DOE (NI).

Chapter 3. Implementation Options

Guidance on Interpretation

3.1. The text of the Directive leaves open a number of important interpretations. In some cases, different readings can have very significant effects on the costs of implementation, or the environmental impact of the Directive. However, what the Directive means is a matter of law and, if there are disputes, it is for the Courts to decide with the final decision resting with the European Court of Justice in Luxembourg.

3.2. The UK must implement the Directive adopting our best interpretation of its meaning. Our views on the main issues are attached in Annex A. These were the subject to earlier discussion with stakeholders and have been modified in the light of the views expressed. We would still welcome comments on our views, however it is essential that any comments argue from a legal perspective and consider how a court might approach the issue. Any arguments must, of course, also be compatible with the aims of the Directive.

QUESTION: Are there any further comments on the interpretations issues?

The understanding of 'combustion plant'

3.3. A key issue that was not addressed in the consultation last year is what the Directive means by a 'combustion plant'. This is, of course, again a matter of law, but it may assist stakeholders to know the view that, subject to consultation responses, we propose to take.

3.4. The interpretation we are adopting is that a 'plant' for the purposes of the Large Combustion Plants Directive discharges through a 'common stack'. However, there remains uncertainty as to what should be understood as a 'common stack' for existing plants for the purposes of the Directive. This uncertainty arises in part from the way in which many existing power stations are constructed. Many stations have a number of boilers and several flues that vent waste gases to the atmosphere.

- In one view (the 'station' approach) what people commonly call the 'chimney' for a power station should be regarded as just that: one chimney, one common stack, one plant. In this view, all the boilers, and turbines associated with all of the flues should be regulated under the Directive as a single plant.

- In the other view (the 'unit' approach) each flue (which may be connected to several boilers) is taken as a 'common stack'. What in the other view is called a chimney is in fact a weather-shield that protects the flues from the elements and provides stability. Multiple flues show separately at the top of the weather-shield. The flues are close together both to limit the visual impact and for operational reasons, but the 'units' operate independently: multiple flues, multiple common stacks, multiple plants. In this view, all the boilers, and turbines associated with each separate flue should be regulated under the Directive as a plant in its own right.

3.5. The practice in the UK has been to adopt the 'station' approach. However the new Directive has changed the significance of that decision as it applies more

stringent emission limits for sulphur dioxide to bigger stations by requiring lower concentrations of pollutants. We have looked at the alternatives and the effect is as set out in the table below. The emissions are shown for 2008.

	Expected sulphur dioxide emissions in 2008 in kilo tonnes	Extra emissions of sulphur dioxide under the 'unit' approach	Expected nitrogen oxide emissions in 2008 in kilo tonnes	Extra emissions of nitrogen oxides under the 'unit' approach	Cumulative cost in net present value	Cost saving under 'unit' approach
Emission limits – 'unit'	250	30	230	0	£900 m	£200 m
Emission limits – 'station'	220		230		£1100 m	
National plan – 'unit'	280	20	230	0	£650 m	£150 m
National plan – 'station'	260		230		£800 m	

3.6. In the light of this, we have reconsidered the approach that we should adopt. [*Say something about the position in other Member States*] The station approach is well tried, but is likely to be more expensive for operators. Crucially, it brings within the scope of the Directive many small plants – such as combined heat and power plants – that are located close together and share a weather-shield. Under the station approach, these are considered as a single plant and so exceed the 50 megawatt lower threshold to the Directive.

3.7. Subject to views expressed in response to this consultation, we proposed adopting the 'unit' approach as it is likely to be the cheaper for the UK as a whole by £150 m to £200 m, and leads to no more than a marginal increase in emissions of about 30 kilo tonnes of sulphur dioxide a year, with no increase in emissions of nitrogen oxides. The approach will provide extra flexibility in the operation where there is more than one unit.

QUESTION: Is there support for adopting the 'unit' rather than the 'station' approach?

Regulatory Impact Assessment

3.8. The costs and benefits of the implementation options are outlined in the Regulatory Impact Assessment (RIA) which is attached at Annex B. This takes into account a more detailed analysis of the costs and benefits than has

been available hitherto. Comments are welcome on all aspects of the Impact Assessment, including the approach adopted to assessing costs and benefits, and on the conclusions reached.

QUESTION: Are there any comments on the Regulatory Impact Assessment?

The emission limits approach for 'existing' plants

3.9. Under the emission limits approach all 'existing' plants that have not opted for the limited life derogation, will have to meet specific emission limits for sulphur dioxide, nitrogen oxides, and dust by certain dates. There are less stringent limits for plants operating at low load factors or with certain fuels.

Operational issues under an emission limits approach

3.10. The emissions limits approach is very direct: emissions must achieve the values set by the Directive. It is simple to see the changes required to the operation of individual plants. Emission limits set by the Directive for nitrogen oxides become more stringent from 2016. The approach gives rise to controls on emissions that are expressed as concentrations.

3.11. There will be a range of options available to operators to comply with emission limits. These will include any emission reduction technique including fuel switching, combustion modifications, abatement techniques, and load factor management.

3.12. Plants will also need to comply with their obligations under the Integrated Pollution Prevention and Control Directive. These requirements mean that plants not only have to use Best Available Techniques but would also have to meet local pollution requirements.

The national plan approach for 'existing' plants

3.13. Under a national plan the total emissions for all 'existing' plants in the UK are limited to a pre-determined level. We call this a 'bubble'. There is a separate 'bubble' for sulphur dioxide, nitrogen oxides, and dust. The size of the 'bubble' for each pollutant is the sum of what the emissions would have been if the emission limits values had applied to each existing plant averaged over the 5 year period 1996 to 2000. The calculation takes account of each plant's actual annual operating time, fuel used and thermal input averaged over that period.

3.14. A national plan must apply to all existing large combustion plants in the UK. The Directive does not permit a combination of the emission limits approach and the national plan approach, with some plants in and others outside a plan. All three of the pollutants must each be subject to a plan.

3.15. Plants will also need to comply with their obligations under the Integrated Pollution Prevention and Control Directive. These requirements mean that plants not only have to use Best Available Techniques but would also have to meet local pollution requirements.

Operational issues under a national plan

3.16. The intention of a national plan is to enable Member States to reduce emissions from existing plants in a more flexible way than would occur from a

strict application of the emission limits to individual plants. The approach will not necessarily give rise to the same level or pattern of emission reductions as would be introduced under the emission limits approach. The national plan approach gives rise to controls expressed as mass limits for each compliance period. Each plant would be given a mass limit in line with the allocation mechanism described in 4.10 below.

3.17. Compliance with the national plan can be achieved by any emission reduction technique including fuel switching, combustion modifications, abatement techniques, or load factor management. However, closing plants cannot be used as a compliance technique to meet the 'bubble'.

3.18. To deliver any cost saving, a national plan requires a means of moving the costs of abatement equipment between plants so that the overall cost is minimised at a national level. However plants are likely to be in competition with each other and mechanisms need to recognise this. The simplest approach would be to set up an emissions trading scheme. That would enable those who have made an investment to reduce emissions more than they require for their own purposes to recoup part of the cost from others who also need to reduce emissions. They would need to judge whether it would be cheaper for them to buy an allowance or install further abatement equipment. Details of how an emissions trading system might work in the UK under a national plan are in Chapter 4.

3.19. Under a national plan, there could be extra flexibility even without trading between companies. It would be open to a company to move allocations between their sites (within constraints), and to adjust the pattern of their emissions through the year to match their pattern of electricity generation e.g. emitting more during the winter when electricity demand is higher. Subject, as always, to ensuring that local air quality objectives are met.

Environmental benefits of the national plan approach

3.20. The 'bubble' is calculated on a particular historical mix of coal and gas fired stations in the 5 years to 2000. If more coal were to be burned in the future, under an emission limit approach, that could lead to a greater absolute level of emissions of sulphur dioxide as limits are expressed in concentrations. By contrast, under the national plan, where there are mass limits, increases in coal burn could only be accommodated by plants collectively introducing more stringent abatement techniques.

Detail required in a National Plan approach

3.21. The European Commission has issued guidance on what they would look for in a National Plan [*give link*]. On the basis of that guidance we have prepared the draft national plan at Annex C. The Plan has attempted to list the plants that might be included along with the average capacity of each plant and annual average consumption of fuel in order to calculate the emission bubble. Details of the assumptions made, and how the bubble would be calculated under those assumptions, are given in the Annex.

3.22. Information on fuel consumption, and the calorific values of the fuel is potentially commercially sensitive even though it relates to historical activity.

Figures have not been include in the annex as the final decision on the UK's approach will be taken only after consideration of the responses to this consultation. It could be unfair to make public commercially sensitive information when it may not be necessary to do so.

3.23. However any plan submitted to the Commission would need to include information on these factors. We have preliminary information and are writing to the companies concerned for confirmation. We would also to seek to validate this information from independent sources. We would expect comments on commercial confidentially of the information and the intention to include it in any plan submitted to the Commission.

3.24. Any national plan must also include information on the compliance methods that would be applied. The UK approach would be to adopt an emissions trading scheme, broadly along the lines of that set out in Chapter 4, modified in the light of comments received. It is the nature of the trading approach that the precise measures cannot be identified, and certainly not identified with particular plants. But the effect of ensuring compliance with the 'bubble' will be to ensure that suitable measures will be taken somewhere, and that overall sufficient measures will be taken. We have included in the draft plan, and in the Impact Assessment, a summary of what measures would be taken to comply with the limits established by the 'bubbles'.

Chapter 4. How a trading scheme might operate under a national plan

Introduction

4.1. Much of any cost saving from the national plan approach arises from abatement measures being taken where costs are lowest, at the national level. The simplest mechanism to encourage that is to introduce an emissions trading scheme. Subject to certain constraints, plant operators would be able to trade emission allowances for sulphur dioxide, nitrogen oxides, or dust.

4.2. Any such scheme would need to be defined in detail, and have clear rules. Developing such rules is likely to require close liaison with the potential participants, regulators, those administering the scheme, and other interested parties. That is likely to require considerable effort on the part of all, more effort than it would be appropriate to make such at this stage. On the other hand, to allow a judgement to be formed on the viability of the option, it is necessary to outline how a trading scheme might apply. Some general principles, and an initial assessment of the scope of a scheme, are set out below. If a national plan is adopted, we would expect there to be further consultations on the detail of any trading scheme, before it was adopted.

4.3. All 'existing' plants in the UK must participate in a national plan. However there would be no requirement for a plant to trade in allowances if it did not wish to enter the market.

4.4. We would expect to administer and operate a national plan under the powers in either the European Communities Act 1972 or those in the Pollution Prevention and Control Act 1999.

Constraints on trading

4.5. Only 'existing' plants may participate. That means that a plant that has taken up the limited hours derogation is not eligible. Neither is a 'new' plant.

4.6. All plants must hold sufficient allowances to cover their emissions of each pollutant within each year. Our interpretation of the Directive is that the UK must meet its 'bubbles' each year. Under this interpretation it is difficult to envisage a trading scheme that incorporates the 'banking' of allowances between years.

4.7. If a plant closes, there is a requirement to ensure that there is no increase in the total annual emissions from the remaining plants covered by the plan. Our interpretations of the Directive is that when a plant closes each 'bubble' has to reduce by the size of the contribution that plant made to original calculation of the 'bubble'. A mechanism is required to deal with plant closures under the national plan. This in turn has implications for the method of allocating allowances – see 4.10 below.

4.8. All plants within the scheme must comply, at all times, with the requirements of their permit under the Integrated Pollution Prevention and Control Directive. These permits are likely to include a requirement intended to protect the local environment. (There is also likely to be a requirement that plants must respect local air quality objectives.) The Integrated Pollution Prevention and Control requirements mean that plants not only have to use Best Available Techniques but would also have to meet requirements to protect the local pollution. Those requirements must be met even if they hold allowances that would otherwise enable them to emit more sulphur dioxide, nitrogen oxides or dust.

4.9. We recognise that the constraints on trading under a national plan are more far reaching than those under other current emissions trading schemes. It is possible, although we think unlikely, that such constraints may undermine the success of a trading scheme. We would welcome ideas on how best to structure any trading scheme within these constraints.

Allocation mechanisms

4.10. In principle, there are a number of possible different mechanisms that could be used to allocate emissions allowances under a national plan. Ranging from free allocation to auctioning.

4.11. A free allocation of allowances has the major advantage of providing emitters with a costless start to emissions trading, which should allow them to focus their funds on mitigation investments. However, a free allocation requires a process that at one extreme could be arbitrary (e.g. full grandfathering) or at the other bureaucratic (e.g. based on the pollution potential of each installation). Free allocation may constitute State Aid and as such must be agreed by the European Commission.

4.12. An auctioning approach has some advantages compared with a free allocation: activates participants; reduces costs for Government; greater equity; and is transparent. In addition, auctioning would entail a more neutral, market determined, revenue/cost balance as the difference between initial permit purchase cost and final selling price would probably be minimal.

However, the up-front purchase could cause financial difficulties for emitters who are on the margins of viability. Decisions would have to be made on an appropriate outlet for the revenue made from the auction.

4.13. However, the assumption that when a plant closes each 'bubble' has to reduce by the size of the contribution that plant made to original calculation of the 'bubble' limits the choice of allocations mechanisms. The difficulty of creating a suitable mechanism to deal with plant closures (see 4.14 below) means that in practice the allocation each plant receives must match the contribution it made to each 'bubble'. We have therefore come to the preliminary view that the allocation policy should be one that is based on this approach.

QUESTION: Are we correct that the Directive constrains the allocation mechanism? And are there any other ways around this?

Plant closures

4.14. A national plan therefore has to include an appropriate mechanism for dealing with the closure of a plant, which takes into account the fact that allowances could have changed hands, e.g. through trading. In addition, our interpretation is that certain periods of temporary closure could also lead to the need to adjust the size of each 'bubble'. This means that a mechanism must be provided which will enable each 'bubble' to be adjusted both when a plant enters into a state of temporary closure and when the plant return to the national plan.

4.15. The first issue is to determine exactly how many allowances need to be taken out of circulation on the closure of a plant. What is clear is if the closing plant received an allocation less than its original contribution to the calculation of that 'bubble' then the required reduction of the bubble could not be met simply by taking away the closing plant's allocation – it would require a reduction of the allocation received by other plants, perhaps all of the plants, in the plan. At the very least this would cause uncertainty from one year to the next for all operators regarding their allocation of allowances. This would introduce considerable uncertainty into the scheme and potentially lead to strategic closures. The only way around this problem is if all plants receive an allocation that exactly matches the contribution it made to each 'bubble', see 4.13 above.

4.16. Under the assumption that each plant receives an allocation of allowances that exactly matches its contribution to the calculation of that 'bubble', it is relatively easy to determine the appropriate number of that plant's allowances that need to be taken out of circulation on closure. Given that plants could re-enter the plant following a period of temporary closure it is necessary, for reasons of equity, to take out of circulation a number of allowances on a pro-rata basis. E.g. if a plant closes after 4 months of the compliance year then two thirds of the allowances it originally owned have to be taken out of circulation. Similarly if the plant returns to the plan it would receive an allocation on a pro-rata basis. E.g. if the plant returned to the plan with 4 months left of the compliance year then it would be given one third of the allowances it would have received for the entire period.

4.17. The next issue to determine a mechanism for taking this number of allowances out of circulation.

4.18. One possible mechanism would be to invalidate a certain number of allowances originally owned by the closing plant. This would place a large amount of risk in a trading market as buyers would have to evaluate the risk of the original owner of the allowances closing during the compliance period before making the purchase. This will reduce liquidity in the market and increase prices. In addition there would need to be some system of tracking individual allowances back to their original owners. This will add an otherwise unnecessary level of bureaucracy to the trading scheme.

4.19. An alternative mechanism is to require the closing plant to hand back to the regulator a specified number of unused allowances. This has the advantage that the risk is placed fully on the closing plant. If a closing plant ends up without enough unused allowances to hand back to the regulator then that plant would have to go on the open market to buy allowances from others to make up the shortfall. This would lead to a disincentive for a plant that knows it is likely to close to use itself, or sell to others to use, too many allowances during the initial phase of a compliance period, i.e. over-and-above those that would be used on a pro-rata basis.

4.20. Our preliminary view is that the most appropriate mechanism to deal with plant closures under a national plan is one which requires the closing plant to hand back unused allowances to the regulator on a pro-rata basis. This might be required within a given amount of time of the plant closing or it could be taken into account in the annual reconciliation that would occur at the end of each compliance period. In addition, if a plant re-enters the national plan after a period of temporary closure our preliminary view is that it should be given an allocation on a pro-rata basis depending on the amount of that compliance year remaining.

QUESTION: Have we correctly identified a suitable mechanism to handle plant closures? Are there better alternatives?

Expected market volume

4.21. Any trading scheme requires sufficient liquidity to operate. In this case, we are assuming that the main buyers in the market would be the operators in the 'other sector'. These are companies such as Alcan, British Paper, British Sugar, and Corus who have significant on-site power generation to supply their own need for electricity. We have made an estimate of how much these operators might need to buy in the market by comparing their current emissions with possible allocations under a national plan. This calculation is likely to give an upper limit to the demand, as future constraints on the plants under Integrated Pollution Prevention and Control are likely to be more, rather than less, stringent.

4.22. On the basis of this calculation, and it is provides a very rough estimate, we think it is possible that:

- The iron and steel sector is likely to be net sellers of about 5 kilo tonnes a year of emission allowances for sulphur dioxide, and about 2 kilo tonnes a

year of nitrogen oxides. They may be buyers of about 2 kilo tonnes a year of dust allowances.

- The rest of the 'other industry' sector would need to buy allowance for about 20 kilo tonnes of sulphur dioxide, and about 5 kilo tonnes a year of nitrogen oxides. They would not need to buy allowances for dust.

4.23. To put these figures in context, the total annual emissions from the large combustion plants sector are about 850 kilo tonnes of sulphur dioxide. A large power generation plant would emit 30 to 50 kilo tonnes of sulphur dioxide in a year, and 20 to 50 kilo tonnes of nitrogen oxides. If it changed its load factor, or changed the sulphur level in its coal, the emissions would alter in proportion.

4.24. A trading scheme would not, of course, be limited to the iron and steel, and 'other industry' sectors. A successful trading scheme would open up the possibility of a wide range of other trades, both within sectors – such operators within the Electricity Supply Industry trading with each other – and between sectors with the oil industry possibly entering the market of sulphur dioxide.

Non-compliance penalties

4.25. It is crucial for the success of an emissions trading approach that emissions are all covered by allowances, and surrendered allowances are equal to the emissions that have taken place. A tough compliance regime could help to ensure that emitters take their responsibilities seriously.

4.26. Financial penalties would need to be set for each unit that the emitter is out of compliance, e.g. set at a level several times higher than the expected market price. In addition, operators could face reduced allocations for the next allocation period in order to make good the environmental damage caused by the non-compliance. The Commission could take action against the UK for non compliance with the Directive, and is able to seek fines from Member States that are persistent offenders. If a trading scheme gave rise to such fines, there may be a case for passing them on to those not following the rules of the trading scheme.

4.27. There would also be the option of applying criminal penalties for emissions not covered by allowances, by analogy to the penalties that would be imposed under the emission limit approach.

QUESTION: Would a trading scheme deliver the costs savings expected? And, if not, what changes would be necessary to make this happen?

Chapter 5. Balance of advantage of the alternative approaches to implementation

Underlying assumptions

5.1. Unless otherwise stated, we have assumed for this Chapter that we adopt the 'unit' approach, and that electricity production from coal is in line with the current forecast by the Department of Trade and Industry as set out in Energy Paper 68, and underlying the recent Energy White Paper. Figures for costs

and benefits are taken from a consultancy study that ENTEC UK Ltd. undertook for Defra [*reference*].

5.2. The baseline projection is that coal burn would generate some 84 terawatt hours of electricity in 2010 and fall thereafter. A sensitivity analysis has been undertaken assuming the same profile at higher levels of coal generation. Two options were considered: coal generation at 120 terawatt hours in 2010 and at 140 terawatt hours in 2010. In all three cases, the figures are for the UK as a whole. Current coal generation is about [120] terawatt hours a year.

Environmental impact

5.3. The emissions limits approach gives the better environmental impact saving 1200 kilo tonnes of sulphur dioxide and 1000 kilo tonnes of nitrogen oxides as compared to the position if no measures were taken over the years 2008 to 2024. By comparison the national plan approach saves 700 kilo tonnes of sulphur dioxide and 950 kilo tonnes of nitrogen oxides over the same period.

5.4. Translating these reductions in emissions into cost equivalents is difficult as we cannot put a monetary value on some of the health benefits. The monetary value of the reduction in damage to crops and buildings is some £500 m for the emission values approach as compared to £400 m for the equivalent national plan approach. That is the emissions limits approach has a benefit some £100 m greater than the national plan. If we could cost the other health benefits, the advantage of the emission limits approach would be seen to be larger still.

5.5. The environmental benefits of the two approaches converge if the energy projections underestimate the likely coal burn in the electricity supply industry. The benefits under the emission limits approach are some £50 m greater than under a national plan at both levels explored in the sensitivity analysis of 120 & 140 terawatt hours of electricity generation from coal.

Cumulative benefits (2008 to 2024) compared to 'do nothing' option

	Cumulative reduction in emissions of sulphur dioxide in kilo tonnes	Cumulative reduction in emissions of nitrogen oxide in kilo tonnes	Number of life years gained - long term effects - minimum	Number of life years gained - long term effects - maximum	Deaths not brought forward due to acute effects	Total monetised benefits net present values
Emission limits - base case	1200	1000	600	1,600	550	£500 m
Emission limits – 100 TWh	?	?	1,300	3,200	700	£700 m
Emission limits – 120 TWh	?	?	2,000	4,900	800	£800 m

National plan – base case	700	950	400	1,000	450	£400 m
National plan – 100 TWh			1,000	2,600	650	£600 m
National plan – 120 TWh			1,700	4,100	750	£750 m

5.6. The monetarised benefits given in the table above underestimate the total benefits gained by reducing emissions as the methodology does not allow us to place a money value on certain benefits. These include human health effects, including the number of: deaths not brought forward; the number of respiratory hospital and cardiovascular emissions avoided; and the value of the number of life years gained.

Compliance costs

5.7. The emission limits approach would cost about £900 m over the period 2008 to 2024 on abatement measures. Over the same period, the national plan approach would cost some £650 m. So the national plan is cheaper by about £250m. The costs fall primarily on the Electricity Supply Industry: we expect them to meet some £700 m of the £900 m under the emissions limits approach. Under a national plan approach we would expect some of the costs of abatement to be transferred between sectors year on year. However the Electricity Supply Industry is likely to have to meet all of the initial capital expenditure under a national plan.

5.8. For the Electricity Supply Industry, about 25% of the costs under both implementation approaches would be incurred to comply with the likely obligations under the Integrated Pollution Prevention and Control Directive for standards to be met prior to 2008. The remaining 75% would be incurred to comply with more stringent standards that come in from 2016 for nitrogen oxides under the Large Combustion Plants Directive.

5.9. The national plan cost estimate assumes that there is a trading system, and that this ensures that costs are minimised at a national level. If trading does not deliver the expected savings, the costs of the two approaches are effectively the same.

5.10. If the projections underestimate the level of electricity generation from coal, the cost of the national plan approaches, and at high levels of coal based generation exceeds, the cost of the emission limits approach. At about 120 terawatt hours, the costs of the two options are essentially the same. At 140 terawatt hours, the cost of the emissions limit approach is some £50 m less than for a national plan.

	Emissions limits approach	National plan approach
Base case	£900 m	£650 m
120 terawatt hours	£1100 m	£1100 m

140 terawatt hours	£1250 m	£1300 m

An alternative view on costs

5.11. The Joint Environment Programme of the Electricity Supply Industry has undertaken a study [*reference*] of the compliance costs for their sector. This has come to significantly different conclusions to those in the ENTEC study. They conclude that:

- The national plan approach would be more expensive to implement than the emissions limit approach.
- ENTEC significantly under-estimates costs. Their estimate of the cost of the emission limits approach (for them) is [*give number*].

5.12. There is agreement between the two models that if the flexibility afforded by a trading scheme is not fully achieved the cost of the national plan increases, although from a different base as the two models disagree on the absolute costs of the options.

5.13. There are a number of major differences between the structures and frameworks underlying the two approaches:

- The Joint Environment Programme covers only the Electricity Supply Industry in England and Wales.
- The Joint Environment Programme are also assuming a higher level of electricity generation from coal. The consider that our assumption under-estimates future coal generation both in 2010, and subsequent years as a result of the profile assumed.
- Under ENTEC's analysis much of the benefit of the national plan comes from the 'other industry' sector, that is the smaller operators. This sector was not included in the analysis undertaken by the Joint Environment Programme.
- The analysis for the Joint Environment Programme stops at 2015, as they consider that the uncertainties beyond that point are too great. ENTEC have modelled to 2024 and included the costs of complying with the significantly more stringent requirements for nitrogen oxides from 2016.

5.14. Even allowing for these factors there remain differences in the predictions of cost. Some are technical in how the model is constructed. Some how the industry will operate. Others more a matter of parameters or variables such as the load factors that plant will achieve under a national plan, under the emissions limits approach, and under the limited hours derogation.

Energy scenarios

5.15. The Department of Trade and Industry set out its forecast of energy demand in Energy Paper 68, and the assumptions there underlay the recent Energy White Paper. Those forecasts (in the central-high option) are the equivalent of a energy production from coal burn of 84 terawatt hours in 2010. Our view is that a coal burn of 120 terawatt hours in 2010 (for the UK as a whole) is possible but unlikely. Even if there were that level of coal burn in 2010, we

would expect the level to fall in future years rather than following the flat profile assumed by the Joint Environmental Programme.

Risks and uncertainties

5.16. This is a finely balanced decision, and it must be recognised that there are considerable uncertainties underlying the information on which a decision must be taken. We have tried to reduce those uncertainties as much as possible. We have worked closely with industry (and other stakeholders) to identify the key issues, to refine our understanding of them, and to understand their position. There is no clear direct or simple answer. We have had to balance a number of risks and judge a number of uncertainties. Some of these are set out below.

5.17. Uncertainties in the energy projections. If the energy projections under-estimate coal burn, the cost of the national plan approach tends towards, and in the extreme exceeds, that of the emissions limits approach. A coal burn of 120 terawatt hours in 2010 is plausible, although likely to be on the high side. At that level of coal burn, the costs of the two approaches are essentially the same.

5.18. The differences between the ENTEC cost predictions and those from the Joint Environmental Programme. The modellers have worked together to identify the common ground and the differences between their two different approaches. Both models present a plausible – if different – view of the future outcome.

5.19. If trading does deliver the expected cost saving. If the flexibility to trade emissions within a national plan is not fully utilised, the national plan approach would cost the same as the emission limits approach. This could occur if there wasn't sufficient liquidity in the scheme, or if there are too many constraints and/or uncertainties to allow buyers and sellers to have confidence in the scheme. The design is significantly constrained as compared to existing trading schemes, and this may reduce the attractiveness.

5.20. Changes to measures under the Integrated Pollution Prevention and Control Directive. The precise measures to be adopted at any site are influenced by guidance prepared by the Commission. That guidance is still in draft. If it results in measures more stringent than those currently applied for the smaller operators, then they would have to invest in abatement equipment themselves, rather than being able to buy allowances. That would reduce the cost advantage of the national plan.

5.21. Looking at the position in the broad, a national plan where the flexibility afforded by a trading scheme is not fully achieved may be worse for industry than the emission limits approach. There would be no cost saving and there would be a mass limit cap to their operations that is set by European law and so cannot be changed in the same way that a nationally determined cap could be adjusted. Some industry sectors say that the business risk to them is less under the emissions limit approach.

5.22. That said, even without a large volume of trading, a national plan offers scope for extra flexibility. It would be open to a company to move allocations

between their sites (within constraints), and to adjust the pattern of their emissions through the year to match their pattern of electricity generation e.g. emitting more during the winter when electricity demand is higher. This flexibility can, of course, only be used provided local air quality objectives are met.

Longer term alternatives

5.23. We have also considered how decisions taken now might fit with possible development over the next few years. One problem with the national plan approach is that plants must comply with the Integrated Pollution Prevention and Control Directive and this may limit their scope for trading. An amendment to this Directive to disapply some measures for plants in a trading scheme would reduce this problem. This would require a relatively simple amendment analogous to that recently agreed for greenhouse gases in the Common Position on the Emissions Trading Directive.

5.24. An alternative would be to look for a broader solution and seek more extensive amendments that would not only address this issue, but also establish a more broadly based trading scheme by amending the Large Combustion Plants Directive. Under a national plan, the only plants that could be included would be the pre-1987 plants. Newer plants would need to comply with emissions limits, because they are subject to different rules under the Directive. To get the most out of a trading scheme, ideally we would want all plants to be included not just the 'existing' plants covered by a national plan. Here too to be acceptable any such scheme must ensure protection of the local environment.

5.25. Either implementation approach would be compatible with seeing these amendments as a long term development from our current decision.

Preferred approach

5.26. [*Subject to Ministerial decision*] The issues are finely balanced, and we have needed to come to a judgement on what is the better way of implementing the Directive. On balance our preference is for the national plan approach, not withstanding the results from the Electricity Industry model. The national plan allows trading and the experience so far with other emissions trading schemes is that they offer a more cost effective way of regulating emissions. If (as we hope) it become possible to extend emissions trading in the future, the national plan will provide a basis for doing so. (Provided, of course, local environmental requirements are met).

5.27. We are consulting on our provisional decision, and setting out the position as we see it, so that stakeholders can offer their views. We will look again at the issues and at the representations made to us following this consultation.

QUESTION: Do you agree that we should adopt the national plan approach?

Chapter 6. Summary

6.1. You are welcome to comment on any and all aspects of the matters set out in this consultation paper. We would be particularly interested in receiving comments covering the following points:

- Whether the UK should adopt the emission limits or national plan approach to implementing the Directive for 'existing' plants? Are there any other issues that need to be considered?(Page 17).
- The 'unit' vs. 'station' decision. (Page 5)
- Comments on the draft national plan, particularly the discussion of how any trading scheme might operate. We would particularly welcome views on:
    - Whether we are correct that the Directive constrains the allocation mechanism, and on any ways around this. (Page 10)
    - Have we correctly identified a suitable mechanism to handle plant closures? Are there better alternatives? (Page 11)
    - Would a trading scheme deliver the costs savings expected? And, if not, what changes would be necessary to make this happen? (Page 12)
- Any comments on the interpretations issues? (Page 4)
- Any comments on the approach and conclusions outlined in the Regulatory Impact Assessment. (Page 5)

6.2. Responses should be sent so that they are received no later than 9.00 am on 29 September 2003. It may not be possible to consider responses that are received after the deadline.

6.3. Comments should be sent to:

[ ],
Department for the Environment, Food & Rural Affairs,
4/G15 Ashdown House,
123 Victoria Street,
London SW1E 6DE or by email to [ ]@defra.gsi.gov.uk

In Wales, comments should be copied to:
[ ],
Environmental Protection Division,
Welsh Assembly Government,
Cathays Park,
Cardiff CF10 3NQ
Email environmental.protection.division@wales.gsi.gov.uk

In Northern Ireland, comments should be copied to:
[ ],
Department for the Environment, Environmental Policy Division,
13th Floor, River House,
48 High Street,
Belfast BT1 2AW
Email envpol@doeni.gov.uk

6.4. The Department may wish to publish responses to this consultation paper. All responses will be made publicly available unless a respondent specifically asks for their response to be treated as confidential. Any confidentiality disclaimer generated by your computer system in an e-mail response will not

be treated as such a request. Confidential responses will nevertheless be included in any statistical summary of numbers or comments received or views expressed. Following receipt and analysis of submissions we will come to a final view on the implementation option and, if appropriate, submit a national plan to the Commission by 27 November 2003.

6.5. Copies of this consultation paper are also available from the DEFRA web site at http://www.defra.gov.uk.

Annex A: Interpretation issues [not in this draft
Annex B: Regulatory Impact Assessment [
Annex C: Draft National Plan [

Draft for consultation on implementation proposals

REGULATORY IMPACT ASSESSMENT FOR IMPLEMENTATION OF DIRECTIVE 2001/80/EC ON THE LIMITATION OF EMISSIONS OF CERTAIN POLLUTANTS INTO THE AIR FROM LARGE COMBUSTION PLANTS

Purpose and Intended Effect of the Measure

Objective

1. The revised Large Combustion Plant Directive (2001/80/EC) aims to reduce acidification, ground level ozone and particles throughout Europe by controlling emissions of sulphur dioxide, nitrogen oxides and dust from combustion plants above 50 megawatts thermal capacity. The revised Directive will replace the original Large Combustion Plants Directive (88/609/EEC) adopted in November 1988, and takes into account advances in combustion and abatement technologies.

2. **Devolution**: measures apply to the whole of the United Kingdom. The measures described in this impact assessment complete implementation of the Directive.

3. On the 18th October 2002 the Directive was transposed by issuing a notice of directions from the Secretary of State for Environment, Food and Rural Affairs to the Environment Agency. An impact assessment accompanied this [*reference to web address*]. This current Assessment focuses on the choice of implementation option for 'existing' plant of the Directive. New combustion plant must meet the emission limit values given in the Directive.

Background

4. Sulphur dioxide, nitrogen oxides and particles can travel long distances from their sources before being deposited onto land, surface waters or oceans, or forming ozone (nitrogen oxides form ozone in the presence of organic compounds and sunlight). Emissions from the United Kingdom contribute to pollution problems in other Member States, while Germany, Netherlands, France, Ireland and Belgium are the principal non-domestic contributors to sulphur and nitrogen deposition, and ambient concentrations of pollutants, in the United Kingdom. A Europe-wide approach to reducing these pollutants and their impacts is therefore required.

5. The new Large Combustion Plants Directive requires more stringent measures to be introduced to reduce emissions from the sector. Combustion plants contribute very roughly some 25% of nitrogen oxides, 75% of sulphur dioxide, and 25% of particulate emissions in the UK.

6. The Commission estimated that the monetised benefits (of the emission limit values for new large combustion plant) in terms of less material damage, morbidity and mortality would amount to €38,444 million (some £25,000m). They did not attempt to monetise the ecosystem benefits. The Commission claimed a benefit to cost ratio of greater than seven for boilers and greater than twenty-six for gas turbines.

7. Plants subject to the revised Directive are also subject to the provisions in other Community legislation. These measures include:

a. Directive 96/61/EC concerning Integrated Pollution Prevention and Control. The requirement under this Directive is for plants to achieve a high level of protection to the environment as a whole. To do this, they are required to adopt best available techniques to reduce emissions. Measures will be assessed on a plant by plant basis. The generic requirements for major parts of the large combustion plants sector have yet to be finalised by the European Commission.

b. Directive 2001/81/EC on national emissions ceilings for certain atmospheric pollutants establishes obligations for the United Kingdom to achieve by 2010 ceilings for the emissions of sulphur dioxide, nitrogen oxides, and for two other pollutants. The extent to which current policies will ensure that these ceilings are met is reviewed annually, and policies adjusted accordingly. It will not be clear whether additional measures would be required from the combustion plant sector to help meet the ceilings for sulphur dioxide and for nitrogen oxides until 2004 (when it will be known to what extent industry has taken up the limited life derogation – see paragraph 12 below) and 2006 (when site specific measures to implement Integrated Pollution Prevention and Control Directive have been agreed).

c. Other air quality measures. A high degree of protection for human health and ecosystems from emissions of sulphur dioxide, nitrogen oxides and particles will be maintained by policies on air quality. These will include the Air Quality Strategy for England, Scotland, Wales and Northern Ireland.

d. Obligations on greenhouse gases. The United Kingdom is committed to major reductions in the amounts of greenhouse gases – mostly carbon dioxide – that it produces. Those measures are likely to reduce coal fired electricity generation although it is not yet clear by how much. The measures to implement the Large Combustion Plants Directive will fit within this framework, and should not hinder it.

Risk assessment

8. Reducing air pollution from large combustion plants will benefit public health reducing the number of deaths brought forward as a result of pollution, and reduce damage to ecosystems. Emissions of SO_2 and NO_x and dust are major contributors to acid deposition, which acidifies soils and freshwater bodies, damages plants and aquatic habitats, and corrodes building materials. NOx reacts with volatile organic compounds in the presence of sunlight to form ozone that can adversely affect human health and ecosystems.

Options

9. The UK has a mandatory requirement to implement the Directive within a statutory framework. Not to implement would trigger infraction proceedings and the UK would be subject to substantial penalties. There is therefore no 'do nothing' option, and no option of adopting a voluntary code.

'New' Plants (post 1987 plants)

10. There is only one compliance option for plants licensed in or after July 1987, that plants must comply with the emission limit values set out in the Directive.

'Existing' Plants (pre 1987 plants)

11. Member States have two options for controlling emissions from plants licensed before July 1987 ('existing' plants):

    a. To apply the emission limit values in the Directive to each 'existing' plant by 1 January 2008. Under this approach, all 'existing' plants that have not opted for the limited life derogation – see paragraph 12 below – will have to meet specific limit values for the three pollutants. Plants operating at low load factors or with certain fuels may be subject to less stringent limit values.

    b. To implement a national emissions reduction plan. A national plan must reduce the total annual emissions of each of the three pollutants from 'existing' plants to the levels that would have been achieved if the emissions limits for 'existing' plants, in operation in the year 2000, had been applied. The level that 'would have been achieved' takes the form of a 'bubble' for each pollutant based on each plant's actual annual operating time, fuel used and thermal input averaged over the five years of operation up to and including 2000.

12. As an alternative to having to meet the emission limits or be included in a national plan, operators of 'existing' combustion plants can commit to close the plant within 20,000 operational hours starting from 1 January 2008. The operator must inform the competent authority of this decision before 30 June 2004. Plants opting for this derogation must close by 31 December 2015.

Benefits

Business sectors affected

13. The sectors affected by the Directive are electricity generation, oil refining and other operators of large boilers such as chemical manufacturers, car manufacturers, sugar refiners, distillers, the primary and secondary iron and steel producers, aluminium production and paper manufacturers. The dominant impact of the new Large Combustion Plant Directive will be on the electricity supply industry, and the oil industry. Charities and voluntary organizations are unlikely to be affected directly.

Equity and fairness

14. The measures will apply equally to all plants within the sectors in the UK (and across Europe) in an equitable and fair manner. The cost of reducing emissions from large combustion plants may lead to increased costs to consumers.

Assumptions

15. The options for 'existing' plants have been assessed against an assumed level of electricity generation (the base case) from coal of: 84 terawatt hours in 2010, falling to 51 terawatt hours in 2020. The assumption represents a likely future level of generation from coal that is consistent with current Government energy projections; more details are given in the Annex. Sensitivity analysis has been undertaken of at 120 and 140 terawatt hours of electricity generation from coal in 2010 across the UK as a whole. The current level of electricity generation from coal is about 120 terawatt hours per year, but the level is expected to fall significantly. By 2010, a coal burn of 120 terawatt hours is not impossible.

Assessed benefits

'New' plants

16. All plants built since 1987, and any new plants built after the Directive comes into force, must meet the specified limit values. Since, in the UK, such plants are generally expected to meet the revised limit values already, there are not expected to be significant additional benefits as a result of implementing the revised Large Combustion Plants Directive for these plants, nor any additional costs for this sector.

'Existing' plants

17. All plant subject to the Large Combustion Plants Directive must also comply with the requirements of the Integrated Pollution Prevention and Control Directive. That is plants must comply with the requirement to use Best Available Techniques to control emissions. Best Available Techniques are applied in a site specific manner; it will not be possible to say for certain what they require for any specific plant until 2006. Currently all that is available is draft general guidance prepared by the European Commission, which is subject to confirmation in 2004/2005. For the purposes of this assessment, the total benefits and costs for existing plants are shown without attribution between the two Directives.

18. The benefits from controlling emissions from 'existing' plants depend on the implementation option. Both benefits and the costs are very sensitive to the assumptions made about the future generating load on the existing power plants and how the Directive will be interpreted. A factor will also be the extent to which operators choose to exercise the opt-out provisions under the Directive.

Table 1 Estimated emissions, 'unit', kilo tonnes in given year

Approach	2008 Compliance Year (kilo tonnes per annum)			2016 Compliance Year (kilo tonnes per annum)		
	Sulphur dioxide	Nitrogen oxides	Particles	Sulphur dioxide	Nitrogen oxides	Particles
Emissions under emissions limit approach at base case level of generation from coal – 'unit' approach	255	234	18	99	66	10
Emissions under national plan approach at base case level of generation from coal – 'unit' approach	282	234	18	127	84	10

Source ENTEC

19. Using the predicted emissions reductions it has been possible to estimate some of the monetary value of benefits for each approach (Table 2). There are in

addition significant health benefits on which it has not been possible to place an monetary value.

Table 2 – Minimum monetary value of benefits due to implementation of the Directive, from 2008 to 2024, pre-1987 plants only, £ million as net present value, 'unit'. The monetary value of benefits includes reductions in building soiling and damage, and reductions in crop damage, but not health effects.

Implementation	Base case level of electricity generation from coal	100 terawatt hours coal generation	120 terawatt hours coal generation (£m)
Emission limit– 'unit' approach	£500 m	£700 m	£800 m
National plan – 'unit' approach	£400 m	£600 m	£750 m

Source ENTEC

20. The monetary values of benefits of each compliance option shown in Table 2 underestimate the total benefits gained by compliance with the Directive because they do not take account of certain benefits as that cannot be given a monetary values. These include (see annex):

    a. Human health effects as a result of the reduction in emissions. Including the number of:

        i. Deaths not brought forward;

        ii. Number of respiratory hospital emissions;

        iii. Cardiovascular admissions avoided;

        iv. Life years gained.

    b. Reductions in damage to forestry and other ecosystems.

Table 3. Total monetarised non-health benefits of the main options

Option	Minimum number of life years gained	Maximum number of life years gained	Deaths not brought forward due to acute effects	Total monetarised benefits, net present value £ m, excluding health effects
Emission limit– 'unit' approach	650	1600	550	500
National plan – 'unit' approach	400	1000	450	400

Other benefits

21. Under our baseline assumptions an emissions limit approach is expected to deliver greater emission reductions than under a national plan approach. However, a national plan provides environmental certainty given the overall emissions cap. Under certain circumstances, such as higher coal electricity

generation, an emissions limit approach would lead to higher emissions compared to a national plan approach.

22. The emissions limit approach at the baseline level of electricity generation reduces the pressure on the national emissions ceilings because it gives lower emissions. But emissions would increase if the level of electricity generation from coal increased. The national plan approach gives greater certainty for planning purposes because it gives a fixed ceiling, whatever the level of generation from coal. In either case, the extent to which additional measures may be required for large combustion plants will be reviewed in 2004 and 2006.

Costs

Compliance costs

'New' plants

23. The revised Directive is not expected to impose significant incremental costs on plants built after 1987 and already in operation. The emission limits applied by the Directive are either the same as those they are committed to complying with already (under the original Large Combustion Plants Directive), or are not significantly more stringent and will be met, in general, by business as usual performance.

24. The type of plant most likely to be built in the future is a Combined Cycle Gas Turbine. These would not emit sulphur dioxide or dust, and are of a design that should be able to meet the requirements for nitrogen oxides. So the additional cost of this proposal would be zero.

'Existing' plants

25. The Directive will add to the cost of operating some older large combustion plants by requiring additional abatement measures to reduce emissions. The level of cost for 'existing' plants depends on whether the emission limits or national emissions reduction plan approach is adopted. While the assumptions underlying the costings are based on a good understanding of energy supply markets, anticipated life of plants and other influences, they should be recognised as predictions each with an associated uncertainty.

26. Costs of the emission limits approach can be calculated by determining the cost of additional control equipment required to meet the revised limits. The compliance costs for this approach are presented in Table 4.

27. Estimating the costs of a national plan is not so straightforward since the costs will depend on what plants are in the plan, how it is implemented and market influences. The assessment of the national plan approach must include consideration of whether practical difficulties can be overcome that might prevent taking full advantage of the flexibility that would be the benefit of this approach to allow compliance costs to be reduced.

Table 4 Incremental costs of compliance with the national plan and emission limits approaches from 2008 to 2024, pre-1987 plants, £ million in net present value, 'unit'

Implementation	Base case level of electricity generation from coal	100 Terawatt hours coal generation	120 Terawatt hours coal generation
Emission limits approach – 'unit' approach	£900 m	£1100 m	£1250 m
National plan approach – 'unit' approach	£650 m	£1100 m	£1300 m

Source ENTEC

Other costs

28. Operators already meet the costs of regulation under the existing pollution control regime, and will need to meet those to give effect to the regime implementing the Integrated Pollution Prevention and Control Directive which will eventually supersede it. These costs are unlikely to change as a result of the revised Large Combustion Plants Directive.

Costs for a typical business

'New' plants

29. In general, the revised LCPD will not require any additional abatement equipment or combustion technology improvements beyond those already required under pollution control regimes in force in the UK. In which case there will be no extra costs for 'new' plants.

'Existing' plants

30. There is no 'typical' 'existing' large combustion plant. Costs for operators will depend on which approach is taken to implement the revised Large Combustion Plants Directive. Costs will depend on the age of the plant, size of the plant, existing emissions control equipment, whether the plant opts for a derogation, and the type of fuel used. The best estimates of the costs, and the number of plants affected are given in the annex.

Consultation with Small Business - The Litmus Test

31. The revised Large Combustion Plants Directive sets standards for large industrial plant. It does not introduce any new requirements for small business.

Competition Assessment

32. We have applied the competition filter to the sectors affected and that suggests the proposals do not give rise to any significant competition issues. Plants across Europe will have to comply with the requirements of the Directive so operators in the UK will not be disadvantage as compared to their competitors.

Enforcement and sanctions

33. The Directive has already been transposed by the Directions to the Environment Agency (and its equivalents) to have regard to the Directive in applying the existing pollution control regime. They expect to do that by incorporating the requirements of the Directive in permits and authorisations. Sanctions for non-compliance are a maximum fine of £20,000 and/or up to six months'

imprisonment if convicted in a Magistrates Court or an unlimited fine and/or imprisonment for up to five years on conviction in the Crown Court. The fines and sentences in Scotland are the same, but in relation to summary and indictment conviction.

Monitoring and review

34. A requirement of the Directive is that the UK submits an annual report to the European Commission on emissions. The Commission is required to make recommendations to the Parliament by 31 December 2004 on the need for additional measures; the amounts of heavy metals emitted by plants covered by the Directive; the cost effectiveness of additional emission reductions; their technical feasibility; the environmental effects of the Directive; and any national emissions reduction plants submitted by Member States.

Consultation

35. In developing its policy, the Department for the Environment, Food and Rural Affairs has consulted: the Department of Health; the Cabinet Office, including the Better Regulation Bureau; the Department of the Environment for Northern Ireland; the Department of Trade and Industry; the Northern Ireland Office; the No. 10 Policy Unit; the Scottish Executive; the Scottish Office; the Treasury; the Wales Office; the Welsh Assembly Government; and the Environment Agency, the Scottish Environment Agency, and the Office of the Gas and Electricity Markets.

36. There was public consultation on the transposition measures in 2002; there were no substantive disagreements with the transposition approach proposed. There is currently public consultation on the implementation option [allowing the full 12 weeks consultation period].

Summary and recommendation

37. The costs and benefits of implementing the revised Directive depend on the implementation approach for existing plants. There are substantial uncertainties in the estimates of both the costs and benefits. In particular, there are significant benefits – largely in relation to protection of human health as a result of lower emissions – that cannot be given a monetary value. These benefits are higher under the emissions limit approach (because it leads to lower emissions) than under a national plan approach.

Table 5 Summary of estimated benefits and costs for the emission limits/national plan decision

Estimates for the period 2008 to 2024	Reductions in sulphur dioxide emissions (kilo tonnes) compared to a 'do nothing' option	Reductions in nitrogen oxide emissions (kilo tonnes) compared to a 'do nothing' option	Monetised benefits, net present value	Costs, net present value

Emission limits approach	1200	1000	£500 m	£900 m
National plan approach	700	950	£400 m	£650 m

38. [*Subject to Ministerial decision*] The issues are finely balanced, and a judgement is required on the risks under each approach. The costs of the options are sensitive to the assumptions about the future level of electricity generation from coal. On balance, and subject to consideration of the views expressed in response to the consultation, the preference is for the national plan approach. It provides for emissions trading and the experience so far with other emissions trading schemes is that they offer a more cost effective way of regulating emissions. Trading would not compromise local environmental requirements.

'Unit'/'station'

39. On the 'unit'/'station' approach, and subject to views expressed in response to the consultation, we proposed adopting the 'unit' approach as it is likely to be the cheaper for the UK as a whole by £150 m to £200 m, and leads to no more than a marginal increase in emissions of about 30 kilo tonnes of sulphur dioxide a year, with no increase in emissions of nitrogen oxides. The figures are in table 6. On balance, the preference is for the 'unit' approach.

Table 6: Summary of the costs and benefits for the 'unit'/'station' decision

	Expected sulphur dioxide emissions in 2008 in kilo tonnes	Extra emissions of sulphur dioxide under the 'unit' approach	Expected nitrogen oxide emissions in 2008 in kilo tonnes	Extra emissions of nitrogen oxides under the 'unit' approach	Cumulative cost in net present value	Saving under 'unit' approach
Emission limits – 'unit'	250	30	230	0	£900 m	£200 m
Emission limits – 'station'	220		230		£1100 m	
National plan – 'unit'	280	20	230	0	£650 m	£150 m
National plan – 'station'	260		230		£800 m	

Declaration

40. I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed.....

Date.....

Rt. Hon. Alun Michael MP
Minister of State – Rural Affairs and Urban Quality of Life
Department for Environment, Food and Rural Affairs

Contact point

Dr Michael Harryman, EU & International Branch,
Air and Environmental Quality Division,
Department for Environment, Food and Rural Affairs,
Zone 4/G15, 123 Victoria Street, London SW1E 6DE.
Telephone: 020 7944 6316
E-mail: michael.harryman@defra.gsi.gov.uk

Appendix

SUPPORTING INFORMATION

Baseline scenario

1. The baseline used for calculating mass emissions for each plant assumes business as usual without abatement measures being introduced to take account of the requirements of either the Integrated Pollution Prevention and Control Directive or the Large Combustion Plants Directive.

2. It is based on mass emission figures for 2001 for sulphur dioxide, nitrogen oxides, and dust, and 2001 load factors; these are the latest currently available. Where the data were not available on the Pollution Inventory, 2000 mass emission figures and 2000 load factors were substituted. 2000 mass emissions and load factors were substituted for the Drax power station as 2001 was not a representative year to use as a basis for future mass emission calculations. Future baseline mass emissions were projected for the years 2008, 2010 and 2016.

3. For the electricity supply industry the following assumptions were made:

   a. Electricity generation from coal power, but without the effect of the Large Combustion Plan Directive and the National Emission Ceiling Directive would be: 104 terawatt hours in 2000; 96 terawatt hours in 2005; 84 terawatt hours in 2010; 77 terawatt hours in 2015; and 51 terawatt hours in 2020. This is the base case.

   b. The baseline sulphur content of coal for the electricity supply industry would reflect the current penetration of imported coal (generally lower sulphur, assumed at 0.8% sulphur on average) to an eventual level of 50%.

   c. The Sulphur Content of Certain Liquid Fuels Directive imposes limits on the sulphur content of heavy fuel oil and gas oil. Compliance with this Directive will result in reductions in sulphur dioxide emissions from the manufacture and use of compliant fuels.

   d. Coal fired power stations that are committed to, or are seriously considering, the fitting of flue gas desulphurisation will proceed with their plans. These assumptions would equate to an assumed 12 gigawatt capacity by 2008.

   e. For the electricity supply sector all coal-fired power stations will have low nitrogen oxide burners and combustion optimisation in place by 2008. An exception is Aberthaw where the unique boiler design is assumed not to be suitable for low nitrogen oxide burners and is therefore projected to continue to achieve approximately 1150 mg/m^3.

   f. The only trends specifically affecting dust emissions considered in this work are reductions resulting from installation of flue gas desulphurisation.

4. For other industry sectors:

   a. Coal and oil fired plant are assumed to have been commissioned over a wide time period from the early 1960s to the late 1980s. Based on a 40 year assumed operating life this would result in closures over the period 2000 to 2030, with the rate of closures assumed to be steady over this period. Gas fired plant are assumed to have been commissioned from the early 1970s to

the mid 1990s. Based on a 40 year assumed operating life this would result in closures over the period 2010 to 2035, with the rate of closures assumed to be steady over this period.

b. *Iron & steel works and oil refineries:* The main large combustion plants within these sectors are integrated with the primary processes and hence the assumed closure date will equate to the closure date of the main process. For the purposes of this study the plants in this sector are assumed to operate indefinitely.

The effect of the Integrated Pollution Prevention and Control Directive

5. Two scenarios were modelled for each of the national plan and emission limit approaches:

   a. A stringent form of best available techniques would be applied to all plants in the electricity supply industry (the dominant element under the Large Combustion Plants Directive) whether or not a plant opted for the limited life derogation. These measures are: flue gas desulphurisation for sulphur dioxide abatement; and either overfire air or re-burn for nitrogen oxides abatement.

   b. These stringent techniques only apply to plants subject to the national plan or the emission limit approach, and that less stringent measures apply to plants that have opted for the limited life derogation. For these plants it is assumed that a 40% maximum load factor restriction would be placed on the plant together with a maximum sulphur content in coal of 0.6%. No additional measures would be imposed for such plants for nitrogen oxide abatement beyond low nitrogen oxides burners and combustion optimisation.

6. The models were run separately for both scenarios and for both implementation options making different interpretations about what was a 'common stack'. The interpretation we are adopting is that a 'plant' discharges through a 'common stack'. However, there remains uncertainty as to what should be understood as a 'common stack' for existing plants for the purposes of the Directive. This uncertainty arises in part from the way in which many existing power stations are constructed. Many stations have a number of boilers and several flues that vent waste gases to the atmosphere:

   a. In one view (the 'station' approach) what people commonly call the 'chimney' for a power station should be regarded as just that: one chimney, one common stack, one plant. In this view, all the boilers, and turbines associated with all of the flues should be regulated under the Directive as a single plant.

   b. In the other view (the 'unit' approach) each flue (which may be connected to several boilers) is taken as a 'common stack'. What in the other view is called a chimney is in fact a weather-shield that protects the flues from the elements and provides stability. Multiple flues show separately at the top of the weather-shield. The flues are close together both to limit the visual impact and for operational reasons, but the 'units' operate independently: multiple flues, multiple common stacks, multiple plants. In this view, all the boilers, and turbines associated with each separate flue should be regulated under the Directive as a plant in its own right.

7. This gave a total of 8 alternative scenarios:

a. Emission limit approach with stringent best available techniques applying to all plants under the 'unit' approach.

b. Emission limit approach with stringent best available techniques applying to all plants under the 'station' approach.

c. Emission limit approach with stringent best available techniques not applying to plants adopting the limited hours derogation, under the 'unit' approach.

d. Emission limit approach with stringent best available techniques not applying to plants adopting the limited hours derogation, under the 'station' approach.

e. National plan approach with stringent best available techniques applying to all plants under the 'unit' approach.

f. National plan approach with stringent best available techniques applying to all plants under the 'station' approach.

g. National plan approach with stringent best available techniques not applying to plants adopting the limited hours derogation, under the 'unit' approach.

h. National plan approach with stringent best available techniques not applying to plants adopting the limited hours derogation, under the 'station' approach.

Benefits

8. Mass emissions were calculated for the likely level of electricity generation from coal for each scenario to give the figures in table A1.

Table A1 Emissions estimates in kilo tonnes, at likely level of electricity generation from coal

Period	2008			2016			Cumulative Reductions 2008-2024		
Option	Sulphur dioxide	Nitrogen oxides	Dust	Sulphur dioxide	Nitrogen oxides	Dust	Sulphur dioxide	Nitrogen oxides	Dust
Without measures	405	267	18	164	218	11	N/A	N/A	N/A
a.	126	227	14	74	72	8	2,365	1,118	46
b.	117	228	14	65	66	8	2,522	1,173	51
c.	255	234	18	99	66	10	1,186	1,029	11
d.	221	234	17	71	53	8	1,571	1,109	21
e.	154	227	14	126	121	11	1,840	954	40
f.	155	228	14	126	122	11	1,840	970	40
g.	282	234	18	127	84	10	704	957	7
h.	259	234	18	123	84	9	1,024	981	10

9. The benefits have been calculated using the best available information, sound statistical techniques and common valuation methods. The human health benefits have been quantified following the approach advised by the Committee on the

Medical Effects of Air Pollutants using the dose-response relationships recommended for quantification of acute effects of exposure to sulphur dioxide, particles and ozone. The values associated with reductions in damage to crops and buildings are taken from the European Commission ExternE project.

10. A monetary valuation can be placed on the benefits of reductions in emissions of air pollutants where sufficiently robust exposure-response relationships and valuation methods have been developed. Where monetary valuation is not possible, the benefits may still be able to be quantified, for example, in terms of reductions in deaths brought forward or reductions in hospital admissions. Some environmental impacts are relatively straightforward to monetise, e.g. market loss due to damage to crops, while others require the use of valuation techniques which can be applied to non-market benefits. Valuation of such impacts is often estimated using studies of the public's 'willingness to pay' to reduce the risks of specific health or environmental effects . Due to a lack of agreed estimates of willingness to pay to reduce the risks associated with air pollution, the health benefits have been quantified but have not been expressed in monetary terms. As such, the monetary benefits presented within this report are likely to underestimate the total 'societal benefits' of reducing emissions from implementation of the Directive.

11. The human health and environmental benefits that are sufficiently robust to be considered within a cost benefit analysis are presented in Table A2 in terms of the quantified and where possible monetised benefits per unit emission reduced.

Table A2 Quantified Benefits per unit Emission Reduced base case

Type of Benefit	Quantified Benefits per unit Emission Reduced		
	Sulphur dioxide	Nitrogen oxides	Dust
No. of deaths not brought forward – acute effects	0.0002/t	0.0003/t	0.0003/t
No. of respiratory hospital admissions avoided or not brought forward – acute effects	0.0002/t	0.0004/t	0.0003/t
No. of cardiovascular admissions avoided - acute effects	-	-	0.0001/t
No. of life years gained - long term effects	-	-	0.06 to 0.15/t
Reductions in building damage (2002 prices)	£505/t	-	-
Reductions in crop damage (2002 prices)	-	£422/t	-
Reductions in building soiling (2002 prices)	-	-	£258/t

Source ENTEC

12. The quantified benefits shown in Table A2 are likely to represent an underestimation of the total benefits gained by implementing the emission reduction strategy because they do not take account of those types of benefits which cannot readily be quantified with confidence. These include reductions in:

    a. Chronic health effects of pollutants, which could be significant.

    b. Health effects directly due to nitrogen oxides.

    c. Other morbidity effects, which might be less significant but which could affect a larger number of people.

    d. Damage to forestry and other natural ecosystems.

13. Applying the benefits per unit of emissions presented in Table A2 to the emissions calculated gives the benefits set out in table A3.

Table A3 – Cumulative monetarised non-health benefits (2008 to 2024) from emissions reductions at base case level of electricity generation from coal.

Option	Minimum number of life years gained	Maximum number of life years gained	Total monetarised benefits, net present value £ m
a.	2732	6890	883
b.	3056	7641	930
c.	646	1615	519
d.	1237	3092	637
e.	2409	6021	729
f.	2408	6020	731
g.	417	1043	393
h.	627	1568	489

Source ENTEC

14. The pollutants that would be reduced by implementing the Directive are trans-boundary air pollutants including acid gases, particulates, and also (indirectly) persistent organic pollutants (e.g. dioxins) and heavy metals. The impacts of air emissions on the North Sea and mainland Europe would be reduced. In addition, there would be benefits to the United Kingdom environment of emission reductions being made by other Member States.

Costs

15. Cost estimates were calculated for the likely level of electricity generation from coal, for each scenario, to give the figures in table A4. The costs are in net present value terms and have been calculated by applying a 3.5% discount rate.

Table A4 Comparison of costs of complying with the Large Combustion Plants Directive for likely level of electricity generation from coal (net present value £m)

Option	Cost of applying best available techniques to the electricity supply industry (£m)	Cost of applying any additional measures to meet Large Combustion Plants Directive to the electricity supply industry (£m)	Cost of applying measures to meet Large Combustion Plants Directive to other industry sectors (£m)	Total cost, net present value (£m)
a.	952	551	182	1684
b.	952	551	244	1746
c.	167	544	182	893
d.	294	543	244	1081
e.	953	432	0	1385
f.	953	434	0	1387
g.	167	488	0	655
h.	294	488	0	782

16. These estimates assume that under the national plan approach that abatement measures are taken where costs are least at a national level. The most direct means of doing that would be an emissions trading scheme. If trading does deliver the expected cost saving, the cost for the national plan becomes equal to the cost of the emission limits approach.

Cost of abatement techniques

17. The assumptions on the cost of abatement are given in table A5 below

Table A5. Costs of abatement techniques

Technique	Emission reduction	Capital cost (pence/kilowatt electric)	Operating cost (pence/kilowatt electric)
Closure or load factor reduction, and bring forward new gas plant	Pro-rata to load factor	450	0.24

Low sulphur coal	Reduction to 0.6% S	2	0.03
Flue gas desulphurisation	90%	72	0.08
Refinery fuel switching		10 (/kilowatt thermal)	0.01 (/kilowatt thermal)
Over fire air	20% reduction beyond level achieved by low nitrogen oxide burners	7	0.01
Selective catalytic reduction	80% reduction beyond level achieved by low nitrogen oxide burners	65	0.13

Source ENTEC

18. The model suggest that the number of plants required to adopt particular abatement techniques will depend on the scenario.

Table A6 Predicted action to comply with Directive, base case level of electricity generation

	Number of plants opting for limited life derogation	Number of plants that:		
		Install selective catalytic reduction	Close early	Operate at lower load factor
a.	4	3.5	8.5	0
b.	4	3.5	8.5	0
c.	9.5	3.5	3	0
d.	9	3	4	0
e.	0	2.5	0	8
f.	0	2.5	0	9
g.	6.5	3	0	3
h.	6	3	0	4

Source ENTEC

Sensitivity analysis

19. The model was also applied to two higher levels of coal fired generation to test the results for sensitivity to that assumption. The levels used are shown in Table A7.

Table A7: Alternative electricity scenarios of coal generation modelled

Scenario	Electricity generation, TWh, in 2008	Electricity generation, TWh, in 2010	Electricity generation, TWh, in 2016
Base case level of generation			
England and Wales	76	69	61
UK	89	84	72
120 TWh Scenario			
England and Wales	107	100	86 (73) (see note)
UK	124	119	102 (85) (see note)
140 TWh Scenario			
England and Wales	127	120 (118) (note 1)	103 (73) (note 1)
UK	147	139 (138) (note 1)	119 (85) (note 1)

Note: The figure in brackets is the level of electricity generation (TWh) modelled. This is lower than the projected electricity generation in the scenario due to the constraints of the number of plants remaining in operation and maximum load factors.

20. The scenarios modelled were c. and g. in paragraph 6 above. The costs of both increase as levels of electricity generation increase. However, their relative costs change as baseline electricity generation increases. While at electricity generation levels such as those in the likely level of generation from coal, the national plan option (scenario g.) is cheaper for the UK, when electricity generation levels increase the relative cost difference reduces and the emission limits approach (scenario 3c. can become cheaper above a certain level. The level of electricity generation in 2008 at which this reversal occurs is estimated to be approximately 125 TWh for the UK (or approximately 105 TWh in England and Wales). This compares with average levels of electricity generation from coal during the 1996 to 2000 National Plan reference period of 116 TWh, delivered by a greater number of power stations. The figures are given in table A8.

Table A8 Comparison for alternative levels of coal generation from electricity, in net present value terms, £m

Scenario	Cost of applying best available techniques to the electricity supply industry (£m)	Cost of applying any additional measures to meet Large Combustion Plants Directive (£m)	Total cost of both requirements, net present value, £m	Monetarised non-health benefits (£m)
Emission limit, 'unit', at baseline	167	725	893	519
Emission limit, 'unit', at 100 TWh generation in 2010 (Eng and Wales)	187	902	1,089	667
Emission limit, 'unit', at 120 TWh generation in 2010 (Eng and Wales)	199	1,049	1,249	799
National plan, 'unit', at baseline	167	488	655	393
National plan, 'unit', at 100 TWh generation in 2010 (Eng and Wales)	187	903	1,090	620
National plan, 'unit', at 120 TWh generation in 2010 (Eng and Wales)	199	1,112	1,311	760

Source ENTEC

21. The reason that the emission limits approach (scenario c.) becomes relatively cheaper and the national plan approach (scenario g.) relatively more expensive as electricity generation increases is a function of the necessary compliance responses to the scenarios at the higher levels of electricity generation.

References

ENTEC: Consultancy study for the Department for the Environment, Food and Rural Affairs. April 2003.

File

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

MH

C JK

The Rt Hon Margaret Beckett MP
Secretary of State
Department of Environment Food and Rural Affairs
Noble House
17 Smith Square
LONDON
SW1P 3JR

28 May 2003

John Morgan

ENV CORRESPONDENCE: ADDITIONAL SPECIAL AREAS OF CONSERVATION

This letter gives you ENV clearance to forward 19 possible Special Areas of Conservation to the European Commission and to consult on 3 additional and amended SAC sites, as proposed in your letter of 10 April.

Thank you for your letter of 10 April. Angela Smith responded.

Angela has no comments on the particular sites you propose, as they are located in England. She describes similar work being undertaken in Ireland. They have identified a further 9 terrestrial sites which qualify as SACs, and have forwarded details to your officials for inclusion in the next UK tranche of possible SACs for submission to the European Commission. She welcomes the continuing move towards completing the UK SAC list and looks forward to receiving confirmation that the Commission is content.

You may therefore take it that you have ENV clearance for the sites you propose.

I am copying this letter to the Prime Minister, members of ENV and to Sir Andrew Turnbull. I assume that you will convey the outcome of this correspondence to the Devolved Administrations.

JOHN PRESCOTT

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

020 7238 6465

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

File

defra
Department for Environment Food and Rural Affairs

To: All members of DA(RR)

28 May 2003

Top: PD(MH)
cc PD(JK)
PD(AA)

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear Colleague,

DELIVERY MECHANISMS IN RURAL AREAS

You will recall that last Autumn Lord Haskins was asked to undertake a review of Defra's delivery mechanisms in rural areas. The terms of reference for his review were:

> 'To make recommendations on how best to improve the effectiveness of delivery arrangements for Defra's rural policies with a view to:
> - simplifying or rationalising existing delivery mechanisms and establishing clear roles and responsibilities and effective co-ordination;
> - achieving efficiency savings and maximizing value for money;
> - providing better, more streamlined services with a more unified, transparent and convenient interface with end customers;
> - identifying arrangements that can help to deliver Defra's rural priorities and Public Services Agreement target cost-effectively.'

The terms of reference called for an interim report. Lord Haskins is planning to publish his emerging principles on 5 June, and we will circulate them shortly. I do not think a formal Government response is appropriate at this stage. We expect to receive the final report in the ~~summer~~ autumn. There will probably need to be a fairly swift Government response at that time - Lord Haskins' report will be high profile. A preliminary discussion at our meeting on 5 June will help us begin to form our thoughts - I hope that you will make it a priority to attend the meeting.

It is likely that Lord Haskins' report will affect a number of departments. For example, he is looking at how we might devolve rural delivery services to regional and/or local level, involving Regional Development Agencies, local authorities and the Small Business Service more closely. The whole report will chime in well with the Government's agenda on public service reform as well.

SKP 29/5/03

In addition to this, over the summer, we expect to be completing our review of the Rural White Paper. Both this and the Haskins' review have implications for the Government's rural policy strategy, and as key partners in that your input will be invaluable.

Finally, at the June meeting, we will be having a discussion about the Countryside Agency's annual rural proofing report - which will be published on 3 June. Again, this is an important document for the Government, which contains some potentially far reaching recommendations, including how we can set more extensive targets for the delivery of rural services through the PSA mechanism. I look forward to hearing your views on them and how we can continue to develop policy across Government to make real differences to the lives of rural people.

I look forward to seeing you on 5 June.

Sincerely

Margaret

MARGARET BECKETT

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

28 May 2003

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear John,

OSPAR MINISTERIAL MEETING: 25-26 JUNE

I am writing to seek ENV agreement to the proposed UK line as the basis for negotiation at the Ministerial Meeting of the OSPAR Commission for the Protection of the Marine Environment of the North East Atlantic, including our position on five proposed Recommendations. I would be grateful for agreement by 16 June.

The OSPAR Commission will meet at Ministerial level in Bremen, Germany, on 25-26 June 2003 for the first time since Sintra in 1998. Michael Meacher and Elliot Morley will be representing the UK. The aim is to review progress made towards implementing the strategies agreed at Sintra to better protect the marine environment and to agree a Declaration for future action. This year's meeting will also see a joint Ministerial meeting between OSPAR and HELCOM, which deals with protection of the Baltic Sea. This will focus on matters of common concern and explore how greater co-operation might be achieved.

The OSPAR strategies that will be reviewed cover hazardous substances, eutrophication, biodiversity, radioactive substances and offshore oil and gas. Many objectives agreed in these strategies were long term, such as phasing out discharges of hazardous chemicals by 2020. In general, the experience of the last five years indicates that there is no scope for advancing the deadlines agreed at Sintra. Consequently I propose that we should resist any proposals to reopen questions on whether the level of ambition agreed in 1998 should be changed and consider only those changes that are needed to reflect the passage of time.

On hazardous substances, we should acknowledge that a number of measures to achieve the OSPAR objectives are now in place in various EC Directives and Regulations and that future work in OSPAR should be directed at those activities which have a clear added value, particularly where additional controls are needed to protect the marine environment.

The only issue of contention at the Ministerial meeting is likely to be the relationship between OSPAR and the EU, where I propose that we continue to press for the right balance between EU action and OSPAR action. I do not expect hazardous substances to be a high profile topic at this year's meeting.

On eutrophication, OSPAR will review the results of the first application of the Comprehensive Procedure to assess the eutrophication status of each part of the OSPAR maritime area. This is to be welcomed as a step to achieving greater transparency in assembling evidence although it has become apparent that different OSPAR members have different views about what constitutes a eutrophication problem. I propose that we resist any suggestion that the UK has been insufficiently precautionary in assessing our marine waters and resist pressure to commit to costly and potentially unnecessary measures.

However, in order to justify our assessments for the more contentious areas, where our nutrient inputs are relatively high, and where some other Contracting Parties might have identified a problem, we will need to make a positive statement that we will review - and enhance as necessary - the UK's monitoring effort in such areas. This may involve committing additional resources to fund the monitoring agencies concerned but would not impact on the agricultural or water industries.

There is also an issue about the extent to which nutrient inputs from the UK, particularly from the Thames and Humber, are contributing to eutrophication problems in the eastern North Sea. This will require research which hopefully will substantiate our claim that the UK does not contribute materially to marine eutrophication problems remote from the UK. Although eutrophication is a contentious issue, it currently looks unlikely that it will come to a head in Bremen provided that we give a positive undertaking in respect of our monitoring and research intentions.

For the offshore oil and gas industry, OSPAR will carry forward work on setting environmental goals for this sector for controlling produced water and the use and discharge of chemicals by the offshore industry. I propose that we support this. The meeting will also be asked to note the agreement already reached in OSPAR by written procedure on the review required under the Decision on returning decommissioned installations to land. It was agreed that there was insufficient evidence for reducing the derogation categories that allow concrete and the footings of the largest fixed steel structures to be left in place if this is the best environmental solution. Overall I do not expect offshore industry issues to be contentious.

On biodiversity and ecosystems, I propose that we adopt the criteria for identifying species and habitats in need of protection and the initial list based upon this criteria. The UK has been a key player in developing this initiative and I propose that we maintain the momentum and work to quickly put mechanisms in place to protect these vulnerable species and habitats, principally through the designation of Natura 2000 sites as we implement the Habitats Directive offshore.

I also propose that we strongly support proposals to develop guidance on developing offshore wind energy, which can help to tackle climate change and meet obligations under

the Kyoto Protocol. I also propose that we support the piloting of a suite of ecological quality objectives in the North Sea whilst emphasising that any commitment to widespread roll-out must depend on cost-effectiveness and the successful completion of the pilot stage. In addition, the UK has played a lead role in OSPAR in working up proposals for developing and applying the ecosystem approach based on our Marine Stewardship initiative. We should therefore strongly support OSPAR's proposals on how this might be developed whilst avoiding duplication of effort in the work that the European Commission will take forward in this area as part of the development of its Marine Thematic Strategy.

On radioactivity, Michael Meacher has been corresponding separately with Brian Wilson. At the Bremen meeting, Norway and Ireland will claim that discharges from Sellafield are harming the marine environment and will argue that what the UK is doing is inadequate to ensure that the OSPAR strategy will be met. Norway will complain about continuing discharges of technetium-99. Greenpeace is trying to promote a Decision about reprocessing, but it is not yet clear whether this will be taken up by any Contracting Party. The German hosts are keen to try to avoid a row about radioactivity, but this may not be achievable. Ministers will be asked to settle a long-running argument about the baseline against which reductions in radioactive discharges should be measured. The options are the average for the period 1996-2000, favoured by most Contracting Parties, and 1993-2001, put forward as a compromise by the UK and France. We have succeeded in eliminating other unacceptable options. Although 1993-2001 would be preferable, realistically it is unlikely to be achievable. We could live with 1996-2000 although, if this is the eventual choice, it will be difficult in the coming years to convince OSPAR that the UK has met the targets agreed at the Sintra meeting in 1998.

The OSPAR meeting will also endorse a number of specific Recommendations to better protect the marine environment. OSPAR Recommendations are not legally binding in international law although we are expected to make every effort to meet them if we endorse them. The Recommendations proposed for adoption are 1) controlling the dispersal of mercury emissions from crematoria, 2) to promote the use and implementation of environmental management systems by the offshore industry, 3) a network of marine protected areas, 4) a framework for reporting encounters with marine dumped conventional and chemical munitions and 5) the strategy for the Joint Assessment and Monitoring Programme. More information on each Recommendation, together with considerations of the regulatory impacts, is attached at Annex A. I propose that we support each of these Recommendations.

I also propose that we press for text in the Ministerial Declaration to include a proposal to explore the sequestration of carbon dioxide in the sea or sea-bed. This could offer a promising method of disposing of carbon dioxide. I propose that we press for OSPAR to consider in detail its permissibility under international law and to undertake an environmental risk assessment.

The joint OSPAR/HELCOM meeting will agree a Declaration on matters of common concern. This part of the meeting is informal in the sense that it is not covered by the legal text of the OSPAR Treaty. It is relatively straightforward. A key element of the discussion will be the role that OSPAR and HELCOM should play in the EU Marine Thematic Strategy. Whilst welcoming the Marine Strategy and proposals for increased co-

operation, we should continue to press for the right balance between EU action and action taken at the regional seas level. More generally we should take the opportunity to remind the European Commission of the UK's views on the Communication leading to the Marine Strategy, as agreed in my letter of 25 November 2002 to Jack Straw. We should also welcome Russia, as a member of HELCOM, into the discussion. Russia will have a significant part to play if the objectives of the EU Marine Strategy are to be achieved in the Baltic and the far North Atlantic.

The joint meeting will also make proposals for a co-ordinated approach to creating a network of marine protected areas, particularly through the implementation of the Habitats Directive, which I strongly support. It will also consider fisheries and shipping issues, both of which fall outside the OSPAR Treaty. On fisheries issues, I propose that we use the meeting as another opportunity to promote the further integration of environmental issues into fisheries management and to put forward priority areas for action. On shipping issues, there will be further discussion of oil transport following the sinking of the *Prestige* although good progress has been made in implementing the December 2002 Transport Council conclusions and, in particular, the EC Regulation accelerating the phase-out of single-hull tankers and banning the carriage of heavy oils in single-hull tankers is expected to come into force in July. I propose that we resist any calls for unilateral action to be taken at the regional level on shipping issues where action is already being taken within the IMO.

I also propose that we press for a joint OSPAR/HELCOM commitment to confine genetically modified marine organisms to secure, self-contained land-based facilities. This reflects the potentially severe, irreversible and transboundary effects that release of these organisms could have and is fully in line with Directive 2001/18/EC and an identical commitment we gave at the 5th North Sea Conference last year.

My officials will, of course, continue to liaise with those in other Departments in the run-up to the meeting and I am grateful for the valuable input they have already made in helping to prepare for this important meeting. A copy of the current draft Declaration text and the five Recommendations for adoption are attached at Annex B.

I am copying this letter to the Prime Minister, other members of ENV Committee and Sir Andrew Turnbull. I am writing separately to Ross Finnie (Scottish Executive) and Carwyn Jones (Welsh Assembly Government).

Regards

Margaret

MARGARET BECKETT

ANNEX A

Recommendation on controlling the dispersal of mercury emissions from crematoria

The UK has taken the lead in preparing this Recommendation. It will require OSPAR Contracting Parties to ensure that the operators of crematoria apply Best Available Techniques (BAT) at their crematoria to prevent the dispersal into the environment of mercury in human remains, especially from dental amalgam.

Crematoria in the UK are already regulated under controls which require the use of BAT, although we have not yet determined the extent to which BAT for crematoria warrants action to tackle mercury emissions. Defra is currently consulting on this. The Recommendation includes specific derogations for small sites. The Recommendation will therefore impose no additional burdens on crematoria in the UK and consequently a RIA has not been prepared. The Federation of British Cremation Authorities has been consulted during the development of the Recommendation.

Recommendation to promote the use and implementation of environmental management systems by the offshore industry

This Recommendation sets a goal for Contracting Parties that by the end of 2005 all offshore oil and gas operators in the OSPAR area should have in place Environmental Management Systems that are in accordance with the principles of internationally recognised standards. It asks Contracting Parties to promote the use of such systems and for goals set within OSPAR to be covered by them. The Recommendation will fulfill the call in OSPAR's Offshore Strategy for environmental management mechanisms, including elements for auditing and reporting, which are designed to achieve both continuous improvement in environmental performance and the environmental goals of the strategy.

For the UK, the Recommendation should present no burden as UK operators are already seeking to meet a target set by themselves of having all UK oil and gas production covered by an independently verified Environmental Management System by the end of 2002. Their 2002 progress report said that 84% of production was covered by the end of 2001 and that, although there had been some delays, they expected 97% of production to be covered by the end of 2002. (Information on the current position is not yet available). On the basis of this initiative by the industry itself, a RIA is unnecessary and has not been produced. The Recommendation will ensure that other Contracting Parties apply similar standards.

Recommendation on a network of marine protected areas

This Recommendation is designed to give a framework and timetable within OSPAR to what has previously been agreed at the 5th North Sea Conference and the World Summit on Sustainable Development. It seeks to create a network of representative and well-managed marine protected areas in the OSPAR maritime area by 2010. The costs and benefits will depend on the number of sites, their location and the activities that might be

prohibited once sites have been designated. These have yet to be specifically defined and costs will need to be considered on a case-by-case basis before we decide how and where to implement the OSPAR Recommendation.

There are also likely to be enforcement and monitoring costs if sites are to be well managed, although these costs would fall upon Government rather than businesses. By way of illustration, the JNCC undertook management, surveillance and monitoring activities on 12 marine Special Areas of Conservation which cost £3.4 million over 5 years. This was part EU funded although was from a standing start. Work on other sites can draw on this experience.

The main mechanism for meeting the OSPAR Recommendation will be the designation of Natura 2000 sites offshore under the EU Habitats and Birds Directives. Public consultation on the regulations to extend these directives offshore will be undertaken later this year and this consultation will be accompanied by a draft RIA.

The identification and protection of additional marine protected areas that might be designated through OSPAR (ie above and beyond those specified under the Habitats and Birds Directives) both inshore and offshore is possible. New legislative backing could be needed for this. In the UK, this will take place within the framework of the Defra-sponsored Review of Marine Nature Conservation and its associated Regional Seas Pilot Project in the Irish Sea. This is likely to conclude in early 2004. There will be full public consultation and associated impact assessment on any proposals for new marine conservation legislation.

Recommendation for a framework for reporting encounters with marine dumped conventional and chemical munitions

The purpose of this Recommendation is to promote the reporting of encounters with dumped conventional and chemical munitions by fishermen and other users of the sea and its coastline, and to establish a record of such encounters. This record would be used to help identify unknown or previously unrecorded dumping sites, identify the extent of areas around known dumping sites where dumped munitions etc are to be found, facilitate the designation on navigational charts of areas where there is a high risk of encounters and facilitate more informed decision-making on options for managing dumping sites.

The reporting of encounters is entirely voluntary and does not place a requirement on users of the sea to report encounters. The cost of reporting an encounter, including related paperwork, is expected to be minimal. For these reasons a RIA has not been produced. The benefit will be that users of the sea have greater access to information on where dumped munitions and chemical weapons are located. A UK point of contact for collating reported encounters and the likely costs involved has yet to be determined.

Recommendation on the strategy for the Joint Assessment and Monitoring Programme

This Recommendation will agree a new framework for harmonised monitoring for the next seven years. It defines, for various areas of concern, the contaminants and effects

that will be monitored and assessed and, to this end, prompts the development of new and improved assessment tools. It provides for a co-ordinated strategy between OSPAR Contracting Parties to progressively assess the quality of the marine environment of the North East Atlantic with a view to producing an overall Quality Status Report at the end of the decade. It will also ensure that we can regularly check the progress of OSPAR's strategies and measure improvements to the state of our marine environment.

The Recommendation will not have any measurable impact on industry but it is clear that we will need to consider our priorities in taking forward the different strands of the programme. The UK's marine environmental monitoring group (MPMMG) is currently examining proposals for better co-ordination of marine monitoring in the UK to ensure that we are able to meet the needs of OSPAR and various European Directives in as cost effective way as possible. It is clear that our national resource devoted to marine monitoring is limited and there is an increasing pressure, particularly taking account of the introduction of the Water Framework Directive, to provide a better evidence base. Given the developing nature of monitoring commitments and the scope for challenges in OSPAR and the EU, it is not possible to determine at this stage what additional Governmental funding could be required to ensure that our marine monitoring programme is sufficient, especially in contentious areas where we may need to defend our position in international forums.

ANNEX B

MINISTERIAL MEETING OF THE OSPAR COMMISSION
25 JUNE 2003
DRAFT BREMEN STATEMENT

WE, THE MINISTERS AND THE MEMBER OF THE EUROPEAN COMMISSION, meeting within the framework of the OSPAR Commission for the Protection of the Marine Environment of the North-East Atlantic, adopt this statement to set out the work of the Second Ministerial Meeting of the Commission:

1. Five years ago in Sintra, Portugal, Ministers set new and challenging objectives for OSPAR for the period up to 2020, aimed at bringing our marine environment within one generation to a healthy and sustainable condition.

2. OSPAR has responded to these new challenges by generating innovatory approaches, by exploring new areas in depth and by creating new partnerships with industry and environmental organisations. These path-finding initiatives have shown how some difficult problems in environmental protection can be addressed, and have influenced thinking in other forums.

OUR PURPOSES

3. With our colleagues from the Baltic Sea, we have sought to develop and integrate these approaches within wider frameworks, both

   a. through supporting the creation of a European Marine Strategy, aimed at orchestrating the actions of all European States, the European Union and international bodies towards ambitious, clear and coherent objectives in all the fields affecting the marine environment; and

   b. through developing Atlantic-Baltic cooperation, particularly in the common foundation of an ecosystem approach to management, as the basis of our strategies and of integrating our work, in a joint network of marine protected areas and in jointly implementing global agreements relevant to protecting the marine environment in both regions.

4. We now focus on issues of a special concern to the OSPAR Convention and the North-East Atlantic. Our purpose, within the specific framework of OSPAR, is to review the first five years' work towards the goals set at Sintra, to reaffirm our commitments, and to renew the mandates for further work.

5. These strategies, together with the Strategy for a Joint Assessment and Monitoring Programme, set the course for the sectors within OSPAR's competence crucial for protecting and conserving the North-East Atlantic, and provide OSPAR's contribution to wider work to that end.

6. We endorse the conclusions of the evaluation of the OSPAR strategies, re-affirm their objectives and on that basis up-date them to take account of the past five years' developments within OSPAR, the European Union and other international organisations. On this basis, we detail the work required up to 2010 to implement them and commit ourselves to providing resources. This further work will form OSPAR's contribution to the European Marine Strategy, thus providing effective support for its development.

BIODIVERSITY AND ECOSYSTEMS

7. In the new field of protecting the marine environment against adverse impacts other than pollution, we have brought into force, with effect from 30 August 2000, the new Annex V to the OSPAR Convention on the conservation and protection of marine biodiversity and ecosystems. We look forward to the early completion of ratification by the three remaining Contracting Parties.

We endorse the Texel/Faial Criteria for the Identification of Species and Habitats in Need of Protection and the initial OSPAR List of Threatened and/or Declining Species and Habitats[1] based upon them, in order to pursue the goals of Annex V and the related Strategy for the Protection and Conservation of Marine Biodiversity and Ecosystems,. This List identifies the species and habitats on which we need at the moment to concentrate our efforts of conservation and protection. We shall now examine the ways and means by which we can achieve the necessary protection for these species and habitats and, where the action lies within the competence of OSPAR, develop any necessary programmes and measures for these purposes. We shall also keep the list under review using the agreed criteria.

9. The second implementation process in this field addresses the candidate list of human activities[2] capable of causing adverse impacts on the marine environment. As a result of analyses of these activities, we confirm the candidate list as the basis for further work. Based on the OSPAR background document on tourism, we accept that the aspects of tourism and recreational activities identified in that document as requiring analysis of the need for action to protect the marine environment against their impacts In view of the growing interest in the placement of carbon dioxide in the sea or sea-bed as a means of sequestration, we shall consider, in the light of studies of its permissibility under international law, whether to add this activity to the candidate list of human activities for analysis of the possible adverse impact on the marine environment[3]..

10. As further products from analyses of these human activities, we endorse:

a. the Guidance on a Common Approach for Dealing with Applications for the Construction and Operation of Offshore Wind- Farms. We shall work further on what is needed in this sector, in order to facilitate and encourage the further development of such installations in an environmentally sensitive and sustainable way. These developments can offer a significant new source of renewable energy which will help Contracting Parties to combat climate change by implementing their obligations under the Kyoto Protocol;

b. an agreement on controlling sand and gravel extraction.

We shall pursue the analysis of these human activities and the measures necessary in the light of this analysis. By 2010, we shall complete an assessment of the impact of all these activities and conclude what programmes and measures are required.

11.[4] The third line of action to protect marine biodiversity and ecosystems is to protect specific areas. For this purpose, we endorse the Recommendation on a Network of Marine Protected Areas.

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1 *The EC has a reservation on the List of threatened and/or declining species and habitats while it contains commercial species that are managed by fisheries management authorities. Norway has a reservation on the list while it contains such a high proportion of entries that have not yet been reviewed by ICES.*

2 The candidate list of human activities for analysis, and the state of play on each, are as follows:

Construction or placement of artificial islands, artificial reefs, installations and structures (*Guidelines on artificial reefs for the purposes of living marine resources were adopted (with a reservation by one Contracting Party) in 1999; this group of activities is now to be reviewed further in five years' time in respect of activities other than oil, gas and wind-energy; action has started on wind-energy farms*);

Dredging for navigational purposes, other than within harbours (*now to be handled within a revision by 2004 of the OSPAR Guidelines on the Management of Dredged Material*);

Exploration for oil, gas and solid minerals (*Based on information from Contracting Parties, OSPAR will review in 2004 the need for any new programmes or measures*);

Introduction of alien or genetically modified species, whether deliberately or unintentionally (*now to follow the timetable flowing from the IMO Convention*);

Land reclamation (*to be reviewed further in 2006*).

Placement of cables and pipelines (*now programmed for 2005*);

Placement of structures for the exploitation of oil and gas (*Based on information from Contracting Parties, OSPAR will review in 2004 the need for any new programmes or measures*); and

Sand and gravel extraction (*action now taken*).

3 *Belgium, Germany, the Netherlands, Portugal, Spain and Sweden have a study reserve on this sentence.*

4 *Germany maintains a study reserve on the wording of this paragraph.*

working with HELCOM and the European Community, we shall identify the first set of such areas by 2006, establish what gaps then remain and complete by 2010a joint network of well-managed marine protected areas that, together with the NATURA 2000 network, is ecologically coherent..

12.[5] Fourthly, we shall create an effective tool for integrating action across the whole field, including action against pollution, in accordance with the ecosystem approach, by taking up the invitation of the Fifth North Sea Conference to complete the North Sea pilot project for a coherent suite of ecological quality objectives, and then further developing this approach for the whole maritime area.

13. Finally, we shall do our utmost to take measures to eliminate the problem of marine litter by, for example, supporting the OSPAR Marine Litter Monitoring Work Programme, considering the need for the development of an environmental quality objective for marine litter and for collective action within the International Maritime Organisation to have parts of the OSPAR maritime area designated as a Special Area for the purpose of Annex V (garbage) to MARPOL 1973/78[6] and welcoming the initiatives undertaken under the Save the North Sea Project.

14. On the basis of these five strands of action, we shall cooperate with other relevant organisations to achieve a coherent and comprehensive programme of work, which will deliver specific protection for vulnerable species, habitats and areas. We invite the industries involved to join us in these efforts.

EUTROPHICATION

15. The 2003 integrated report on the eutrophication status of the OSPAR maritime area identifies, partly on the basis of shared criteria, the areas which the coastal Contracting Parties identify as threatened by eutrophication, or likely to be so threatened if preventive action is not taken. These shared criteria will improve the consistency of our approaches to eutrophication, but there is room for further improvement and for better delivery of the 50% reduction commitments that apply to problem areas identified[7] in this way. Those of us who have identified such areas will:

a. in respect of problem areas, report further by 2005 on measures taken to reduce or eliminate the anthropogenic causes of eutrophication, including the achievement of the 50% reductions where relevant. This information will then be assessed in accordance with the Joint Assessment and Monitoring Programme;

b. report by 2005 on the preventive measures taken on potential problem areas;

c. determine by 2008 the status of the areas identified as potential problem areas.

We shall all review how to achieve greater consistency in identifying these areas.

16. We re-emphasise the importance of common quantification and reporting procedures for calculating the reduction of nutrient inputs, and will continue to improve, and complete by 2006, the Guidelines on Harmonised Quantification and Reporting Procedures for Nutrients (HARP-NUT).

17. We shall use the development of the European Marine Strategy to integrate the OSPAR work on eutrophication with activities in other European and international bodies, through *inter alia* the development of ecological quality objectives, by 2005 for the North Sea and thereafter for other areas, and the harmonisation of reporting procedures, taking into account the OSPAR Guidelines (HARP-NUT).

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5 *France maintain a study reserve on this paragraph.*

6 the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978

7 In accordance with PARCOM Recommendation 88/2.

18. We emphasise the importance, for achieving the goals of the OSPAR eutrophication strategy, of achieving an integrated approach across all the policy areas, including agriculture, that substantially affect the nutrient levels of European seas.

HAZARDOUS SUBSTANCES

19. The dynamic selection and prioritisation mechanism, developed in accordance with the Hazardous Substances Strategy, has enabled the creation and publication of a List of Substances of Possible Concern and significant up-dating of the OSPAR List of Chemicals for Priority Action.

20. We welcome the series of OSPAR background documents[8]. Through these, we identify in detail the reasons why the chemicals for priority action are causes of concern for the marine environment, the ways that they are used, the quantities in question and their route to the marine environment, what protective action is already in hand, and the most appropriate further action to achieve the target of cessation of discharges, emissions and losses of these chemicals to the marine environment.

21. We confirm this twin-track approach as the appropriate way to pursue the objective of the hazardous substances strategy. Concerns for the marine environment are not, however, the only driver of work on hazardous substances. For nearly all OSPAR Contracting Parties, the EC Water Framework Directive and the development of the EC Chemicals Policy are also crucial. Switzerland is likewise developing complementary policies in this field. We shall therefore use the development of the European Marine Strategy to align the approaches to policy on hazardous substances in the different fields and to focus OSPAR work on the specific areas in which OSPAR can add value.

22.[9] In this context, we note that further efforts are required to meet the objectives of the OSPAR Hazardous Substances Strategy and its 2020 cessation target. We acknowledge that different, but complementary, one-generation targets have been included in the Plan of Implementation of the World Summit on Sustainable Development and in the EC Water Framework Directive. In the further development of the EC Chemicals policy we encourage the European Community:

a. to take full account of the need to protect the marine environment;

b. to take account of our commitments to move towards the cessation of emission, discharges and losses of hazardous substances;

c. to promote the substitution of hazardous substances with safer alternatives, including promoting and facilitating the development of such alternatives where they do not currently exist;

d. to ensure that purchases and consumers are provided with information on hazardous substances in goods, to help reduce the risks from them.

23. We shall ensure that

a. OSPAR continues to make certain that hazardous substances that cause concern for the marine environment continue to be identified,

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[8] Background documents (prepared with the specified Contracting Party in the lead) have been approved for publication on: brominated flame retardants (Sweden); cadmium (Spain); dicofol (Finland); dioxins and furans (Belgium and Denmark); endosulphan (Germany); lead and organic lead compounds (Norway); lindane (Germany); mercury and organic mercury compounds (United Kingdom); methoxychlor (Finland); musk xylene and other musks (Switzerland); nonylphenol and nonylphenol ethoxylates (Sweden); octylphenol (United Kingdom); organic tin compounds (the Netherlands); pentachlorophenol (Finland); polychlorinated biphenyls (Belgium and Germany); polycyclic aromatic hydrocarbons (Norway); short-chain chlorinated paraffins (Sweden); 4-tert-butyltoluene (Germany); trichlorobenzene, 1,2,3-trichlorobenzene and 1,2,4-trichlorobenzene (Belgium and Luxembourg); triphenylphosphine (Germany) and 2,4,6-tri-*tert*-butylphenol (United Kingdom).

[9] *The EC, Spain and Sweden maintain a study reserve on this paragraph.*

b. the range of measures adopted by the various authorities and bodies concerned are adequate both to deliver the general obligations of the OSPAR Convention to protect and conserve the marine environment and to move by 2020 towards the cessation target;

c. a comprehensive and coherent assessment is made of progress towards the objectives of the OSPAR Hazardous Substances Strategy and its 2020 cessation target;

d. .where a shortfall is identified, action is taken to make it good.

OFFSHORE OIL AND GAS INDUSTRY

24. Since the adoption of the offshore industry strategy, we have:

a. achieved a harmonised mandatory control system for chemicals used and discharged offshore;

b. tightened the measures regulating the use of drilling fluids and the discharge of cuttings contaminated by them. These re-affirm the limits on the use of diesel-based drilling fluids and on the discharge of cuttings contaminated with oil-based drilling fluids. The Decision also limits the use of organic-phase drilling fluids (OPF) and the discharge of cuttings contaminated with OPF;

c. establishing a goal of reducing by 15% the total quantity of oil discharged into the sea in produced water (that is, the water coming up from oil and gas wells) as compared with the figures for 2000. This reduction is to be achieved in 2006, despite the expected increases (as a result of ageing wells) in the total amount of produced water to be discharged. It forms a first step towards ensuring that by 2020 discharges of produced water will present no harm to the marine environment.

25. In line with the strategy, we now endorse the Recommendation establishing a goal that all operators of offshore installations in the OSPAR area will have in place by the end of 2005 environmental management systems that conform to internationally recognised standards. We have not achieved the complementary aim of specifying by 2003 all the environmental goals to be achieved, but we endorse the timetable that has been adopted to ensure the specification of such goals by 2004.

26. We confirm that this mixture of action is effectively pursuing the objectives of the offshore industry strategy.

RADIOACTIVE SUBSTANCES

27. We welcome the development by all Contracting Parties of national plans showing how they intend to deliver the objective of the OSPAR Strategy with regard to Radioactive Substances. These detailed and specific national plans are an essential part of the way in which we implement the strategy.

[27bis.[10] We are concerned, however, that assessments of the progress made in achieving progressive and substantial reductions in discharges have not convincingly demonstrated that the combined effects of national plans are sufficient to achieve the objective of the strategy.]

[27ter.[11] We also note the concerns expressed by a number of Contracting Parties about technetium-99 discharges from Sellafield and their view that these discharges are not in accordance with the objective of the Strategy and that they should cease immediately.]

28. The individual Contracting Parties concerned confirm that they will ensure the continued evolution and implementation of their national plans so as to achieve the objective of the strategy[12] in accordance with its time frame for 2020[13,].

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10 *New paragraph proposed by Denmark, Ireland and Norway.*

11 *New Paragraph proposed by Denmark, Ireland and Norway.*

29. At the same time, we shall progressively assess collectively whether or not the combined effects of the national plans are sufficient to achieve that objective within that time frame. To this end, we adopt the revised programme for the implementation of the radioactive substances strategy, to ensure that OSPAR collectively is kept informed about the progress of the national plans and can form an overview of performance, [judged against the agreed baseline][14].

30. Within this process, and in the light of the MARINA II study by the European Commission[15], we shall ensure that discharges, emissions and losses of radioactive substances from sources outside the nuclear industry equally comply with the Radioactive Substances Strategy.

ASSESSMENT AND MONITORING

31. We welcome the completion of the Quality Status Report 2000, and its five sub-regional reports. This was a innovatory exercise, creating a detailed, scientifically based evaluation of the state of a major region of the world's oceans. We welcome the progress achieved in some fields, but we must take to heart the serious problems which the reports reveal – in particular, the environmental impacts of fisheries, hazardous substances, the impact of climate change, the introduction of non-native species through ballast-water discharges, and the need to improve our knowledge base. These give a firm basis for the actions that we are pursuing.

32. We adopt the Strategy for a Joint Assessment and Monitoring Programme (JAMP), and endorse the recommendation to promote its implementation. We shall aim to ensure that the implementation of the JAMP is consistent with the approaches to monitoring coastal waters under the EC Water Framework Directive. The acid test of the success of the OSPAR thematic Strategies and the over-arching ecosystem approach is whether the state of the marine environment is actually improved. This strategy will ensure that we can regularly check the progress of our thematic strategies in improving the state of the North-East Atlantic.

33. To that end, and following the Joint Assessment and Monitoring Programme, we shall examine in 2010 a further Quality Status Report of the whole OSPAR maritime area, as the culmination of a series of thematic assessments examining in detail the various themes of OSPAR's work.

ACHIEVING OUR AIMS

34. Neither OSPAR nor its Contracting Parties on their own can ensure that the North-East Atlantic will be in a healthy and sustainable condition. This requires a sustained effort in many forums. But OSPAR provides the essential focus, both by covering many crucial sectors and by monitoring and assessing the quality status of the whole North-East Atlantic in all its aspects. We reiterate our commitment to ensuring the continuation of high-quality, dedicated efforts within the framework of OSPAR to achieve the goals that we have set.

35. We shall individually use the annual reports of OSPAR as a tool to evaluate regularly progress towards the goals of these strategies, and collectively we shall meet again in 2010 to review progress and set the agenda for the ensuing decade.

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[12] The objective is "to prevent pollution of the maritime area from ionising radiation through progressive and substantial reductions of discharges, emissions and losses of radioactive substances, with the ultimate aim of concentrations in the environment near background values for naturally occurring radioactive substances and close to zero for artificial radioactive substances. In achieving this objective, the following issues should, *inter alia*, be taken into account: (a) legitimate uses of the sea; (b) technical feasibility; and (c) radiological impacts on man and biota."

[13] This timeframe is that "by the year 2020 the Commission will ensure that discharges, emissions and losses of radioactive substances are reduced to levels where the additional concentrations in the marine environment above historic levels, resulting from such discharges, emissions and losses, are close to zero."

[14] *This phrase assumes a successful outcome to the debate on establishing a baseline.*

[15] Making allowances for some uncertainty that attaches to certain estimates in this study of certain discharges of radioactive substances.

DRAFT DECLARATION FOR THE JOINT MINISTERIAL MEETING OF THE HELSINKI AND OSPAR COMMISSIONS

WE, THE MINISTERS AND THE MEMBER OF THE EUROPEAN COMMISSION, meeting jointly as the Baltic Marine Environment Protection Commission (the Helsinki Commission – HELCOM) and the OSPAR Commission for the Protection of the Marine Environment of the North East Atlantic (OSPAR), stress the benefits from our friendly collaboration on issues of great concern to all members of those Commissions, which encompass both the European Community and twenty-one participating States – differing widely in their size, in their economic bases and interests, and in their relationship to the sea, spreading across Europe from Archangel to Cape St Vincent and Greenland and including Member States and candidate countries of the European Union, Member States of the European Economic Area and States outside both those organisations. We have been assisted by the active participation of many non-governmental organisations as observers.

2. The fruits of this innovative first joint meeting of two regional seas organisations will help us work together more effectively in fulfilling our long-standing commitments to work for the conservation and sustainable use of the world's oceans and seas and, in particular, of the North East Atlantic and the Baltic Sea.

3. Changes in Europe – the enlargement of the European Union; the increasing interdependence of the marine environments of different countries; the ever-growing public interest in, and concern for the seas; the development of a European Marine Strategy – make it essential for us to develop and improve the ways in which we work together in HELCOM and OSPAR. Through such developments, we must exploit the possibilities for synergy between all the international bodies and national authorities involved. These developments will also enable us to deliver the commitments that we re-affirmed at the World Summit on Sustainable Development to strengthening regional cooperation and coordination between regional organisations and programmes dealing with the seas.

4. Further initiatives are needed to ensure the improved and sustainable marine environment that we and our fellow citizens want to see. Collaborative efforts from all the relevant international bodies, national authorities and other stakeholders are needed. To our long-standing tradition of international cooperation on individual issues, we must add a new and decisive impetus, based on an approach which matches the interlinkages within the marine ecosystems, on a determination to ensure that policies interface effectively with each other, and on clear-cut understandings of which organisation will do what. We shall integrate within our countries, the European Union and the European Economic Area the policies affecting the oceans and seas. We shall ensure that the potential impact on the marine environment is taken into account in ***all*** policies and programmes and we recognise that marine environment policy cannot on its own redress the problems of the marine environment resulting from pressures created by other policies – these must be tackled at source.

5. We set out here the results of our fruitful discussion on how to promote these combined aims of protection, sustainability, concerted regional action and integration. Our joint meeting has concentrated on four issues where these aims are particularly relevant and where cooperation between the two Commissions would be productive and increase synergy – applying the ecosystem approach, conserving biological diversity, species and habitats, and the environmental impacts of

sheries and of shipping. Other major issues – eutrophication, hazardous substances, the environmental impact of the offshore oil and gas industry, radioactive substances, and monitoring and assessment of the marine environment – vary more between the two regions, and have been addressed in the separate HELCOM declaration and OSPAR statement.

Ecosystems at the centre of our approach

6. Better integration of environmental objectives with economic and social goals is a basic requirement for advancing and strengthening the three interdependent and mutually reinforcing pillars of sustainable development. Our work on the conservation and protection of the marine environment must therefore form part of our management of the full range of human activities, demands and pressures placed on the North East Atlantic and the Baltic Sea Area. Since it is the ecosystems as a whole that are affected by these impacts, we must use those ecosystems as the focus of our integration.

7. We have already made commitments to develop and apply ecosystem approaches to management of human activities ("the ecosystem approach"), *inter alia*, within the Convention of Biological Diversity and at the World Summit on Sustainable Development. North Sea States reinforced their undertakings at the Fifth International Conference for the Protection of the North Sea. The Member States of the European Union have made further commitments in this field, including their support for the European Commission's proposal for a European Marine Strategy with an emphasis on an ecosystem approach. Other HELCOM and OSPAR States have made similar further commitments.

8. We will therefore by 2010 apply and further develop the measures necessary to implement an ecosystem approach, in order to give concrete effect to our commitments and help maintain and, when practicable, restore ecosystem health, integrity and services. HELCOM and OSPAR have this week adopted the statement "*Towards an ecosystem approach to the management of human activities*", setting out their intentions, in particular:

a. to continue to contribute, through our monitoring and assessment programmes, to the scientific understanding of marine ecological processes and to evaluating human impacts on the marine environment;

b. to ensure that our programmes and strategies reflect the ecosystem approach. This will involve developing sets of coherent and integrated ecological quality objectives as a tool for this purpose, while taking account of the different needs of sub-regional areas as shown by the HELCOM 4th Periodic Assessment of the Baltic Sea and the five sub-regional reports of the OSPAR Quality Status Report 2000 on the North East Atlantic;

c. to implement our programmes and strategies across the whole range of the competences of the Helsinki and OSPAR Commissions, and identifying and acting on newly-emerging issues where human activities and pressures in those fields threaten marine ecosystems;

d. to draw the attention of competent authorities and international bodies to threats and pressures in other fields affecting the ecosystems of the North East Atlantic and the Baltic Sea Area;

e. to involve stakeholders effectively in developing and applying the ecosystem approach, both at Commission and national levels.

9. We are convinced that the current state of scientific knowledge, coupled with a sound application of the precautionary principle[16], allows the immediate adoption of certain further environmental and nature-protection measures. We invite the competent authorities and international bodies in the HELCOM and OSPAR maritime areas to develop and implement progressively specific policies and measures in line with the ecosystem approach.

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[16] It is understood that the "application of the precautionary principle" has the same result as the application of the precautionary approach in the context of the management of fisheries, as referred to in, for example Article 6 of the 1995 UN Fish Stocks Agreement. *[All Contracting Parties except Iceland have a study reservation on this footnote. Iceland maintains a reservation on this paragraph if the footnote is not included.]*

Towards a European Marine Strategy

10. Integration is needed across a wider field than those covered by HELCOM and OSPAR. We therefore welcome the development of the European Marine Strategy[17], as one of the means to promote the coherence and integration of the efforts of the international bodies in which the Contracting Parties to HELCOM and OSPAR participate, of the European Union and of our national authorities. This will enable all States and international organisations across the whole of Europe to focus their efforts better.

11. We call for the start of an inclusive debate between all stakeholders on the objectives and contents of the European Marine Strategy. HELCOM and OSPAR will support that debate in all ways that they can. In our view at this stage:

a. the European Marine Strategy should ensure that it covers all the actions needed to ensure that all human activities with an impact upon the oceans and seas are so managed that marine biological diversity and critical habitats are conserved and our use of them is sustainable;

b. we are committed to the objectives set in the HELCOM recommendations and OSPAR strategies. The European Marine Strategy should build upon these foundations and should make a contribution to the achievement of their objectives;

c. the aim of the European Marine Strategy should be to cover all the seas around Europe (the Arctic Ocean, the Baltic Sea, the Black Sea, the Mediterranean Sea and the North East Atlantic Ocean), but also the impact that Europe makes on the rest of the world's oceans and seas. In addition, the relevant elements of the strategy should be pursued globally.

12. The oceans and seas around Europe share many problems and face many common threats. But they also have numerous problems special to each of them. While we aim to address threats common to all European seas through common, cooperative approaches, the regional seas organisations will continue to have important individual roles to play . An important task for the European Marine Strategy is to set out the framework for these continuing tasks and their relationships with work in other forums. To this end, HELCOM and OSPAR have this week set out, in the statement "*What HELCOM and OSPAR can bring to the European Marine Strategy*", the contributions that they can make at regional level to this common enterprise.

13. At the regional level, we have already covered many crucial issues and integrated our approaches to them. We are convinced, however, that the European Marine Strategy should bring together all the issues relevant to the marine environment, including those mentioned in the statement by HELCOM and OSPAR.

14. Starting from the ecosystem approach to management, the debate on the European Marine Strategy needs to weld together the contributions from the Contracting Parties of HELCOM and OSPAR, other national administrations and the relevant international organisations to produce coherent and comprehensive commitments to deliver the objectives of the Strategy.

Conservation of biological diversity, habitats and species

15. We remain concerned that pressures on the marine environment from human activities will result in the destruction and loss of sensitive marine habitats or reductions in, or losses of, populations of key or sensitive species, in spite of the good work already done under the Helsinki and OSPAR Conventions, through the EC Birds and Habitats Directives, and by North Sea Conference commitments and many national measures, to conserve, protect and restore the ecosystems of the North East Atlantic and the Baltic Sea Area.

16. Where species and habitats are identified as threatened, declining or in need of protection, we will take action to develop programmes and measures for their protection, where this is within the competence of HELCOM and OSPAR, and to seek action by the competent authorities in other cases, offering those authorities our full cooperation in complementary actions within the competence of HELCOM and OSPAR.

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[17] See the communication of the European Commission to the European Parliament and Council of Ministers "Towards a strategy to protect and conserve the marine environment" (COM (2002) 539 final).

17. The marine protected areas will be an important tool to protect the species and habitats identified as threatened, declining or in need of protection. We reaffirm our commitments to establish a network of well-managed marine protected areas. Based on the progress made by HELCOM in establishing a system of coastal and marine Baltic Sea Protected Areas, and OSPAR's agreement to a Recommendation and guidelines for selecting and managing an OSPAR Network of marine protected areas, we agree that the two Commissions will collaborate to achieve by 2010 an ecologically coherent network of well managed marine protected areas covering the maritime areas of both regions. We shall also coordinate this work with developments in the European Union in this field.

18. To this end, HELCOM and OSPAR have adopted a joint Work Programme to ensure that this work is done consistently across their maritime areas. They will also seek to cooperate with the Arctic Council and the Barcelona Convention in this work. In 2010, and periodically thereafter, we shall assess whether an ecologically coherent network of well managed marine protected areas has been achieved and maintained in both the North East Atlantic and the Baltic Sea.

19.[18] Recognising that the release of genetically modified marine organisms presents an inherent threat of potentially severe, irreversible and transboundary effects, and the need to apply the precautionary principle, we agree to take all possible actions, in accordance with the requirements of the Directive 2001/18/EC and comparable national legislation, to ensure that the culture of genetically modified marine organisms is confined to secure, self-contained, land-based facilities in order to prevent their release to the marine environment.

Environmental impact of fisheries[19]

20. The environmental impact of fisheries gives us special concerns about the conservation of biological diversity, habitats and species and emphasises the need for fisheries to be better managed, including through better integration of fisheries and environment policies.

21. The majority of the commercially important fish stocks in many parts of the North-East Atlantic and the Baltic Sea are already, or are being fished in a way which will put them, outside "safe biological limits". Some fish stocks and species have been extirpated in some areas. The current intensity of commercial fishery has put under pressure the marine ecosystems of much of the North-East Atlantic and of the Baltic Sea, and has changed the species composition and the population composition of the main target species. Some non-target species and parts of the physical environment are also threatened by excessive fishing pressure. This has put some populations and some habitats in danger, reduced biodiversity, and may affect the productivity of marine ecosystems.[20]

22. The policy objectives for fisheries, for nature conservation and for the protection of the marine environment are complementary. Their integration is an on-going process, which should be intensified for each others' benefit. In this field, as in others, we stress the importance of cooperation among governments and relevant international bodies across all the issues related to the management of human activities affecting the maritime areas and to the conservation and protection of the marine environment, in order to ensure an integrated, holistic approach. We shall ensure that HELCOM and OSPAR work to promote such cooperation.

23. Where assessments of the quality of the marine environment in future demonstrate problems relating to questions of fisheries management, HELCOM and OSPAR will continue to draw their concerns to the attention of the competent national authorities and international bodies, offering those authorities their full cooperation in complementary actions within the competence of HELCOM and OSPAR.

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[18] *Denmark, Ireland and Spain maintain a study reservation on this paragraph.*

[19] *The European Community maintains a study reserve on all aspects of the draft Declaration relating to fisheries.*

[20] All this is documented in the HELCOM 4th Periodic Assessment "Environment of the Baltic Sea Area 1994-1998", the OSPAR Quality Status Report 2000 on the North East Atlantic, the EC Green Paper on the Future of the Common Fisheries Policy (COM(2001) 135 final), the Baltic Sea Environment 1999-2002, and the 2003 report "Environmental Status of the European Seas" prepared by the International Council for the Exploration of the Sea.

24. Cooperation would be particularly beneficial in the areas of:

a. promotion of research aiming at the definition of undisturbed areas;

b. identification, protection and conservation of potentially vulnerable habitats, such as cold-water coral reefs;

c. development of methods for assessing the environmental impact of fisheries and developments in fishing practices[21].

25. We welcome in general the movement of fisheries policy and management towards incorporating ecosystem considerations within a holistic, multi-annual and strategic context. The aims and methods of this movement were well captured by the Reykjavik Declaration of October 2001 on Responsible Fisheries in the Marine Ecosystem.

26. We also note with satisfaction the outcome of the reform of the EU Common Fisheries Policy, as a significant first step towards integrating an ecosystem approach into that policy.

27. We are convinced that the current state of scientific knowledge, coupled with a sound application of the precautionary principle[22], allows the immediate adoption of measures to safeguard the sustainability of fishing activities. We invite the competent authorities and international bodies in the HELCOM and OSPAR maritime areas to develop and implement progressively specific policies and measures in line with the ecosystem approach.

28. Aquaculture makes an important contribution to the nutrition and the economic and social well-being of communities in both the HELCOM and OSPAR Convention areas. It is still developing as a sector of the food industry. We shall ensure, however, that the potential impacts of aquaculture on the environment are minimised.

Environmental impact of shipping

29. Recent disasters have emphasised how significant the environmental impact of shipping can be. This is another field which will benefit from a more integrated approach.

30. Much recent effort has gone into reinforcing measures within the framework of the UN Convention on the Law of the Sea aimed at strong and uniform safeguards for the environment against the large and increasing movements of cargo, which are so important to our economies. Action has been taken, and is under way, in the International Maritime Organization (IMO) and the UN Environment Programme at global level, within the European Union and at the regional level. We must now match this effort with intensified implementation and enforcement of these measures. We shall therefore work together on these different levels, as appropriate, to ensure that all the controls that we have agreed, and are developing, are applied effectively. We shall focus our efforts on the significant risks, drawing on assessments of the environmental impact and threats from shipping for the marine ecosystems, including the assessments of HELCOM and OSPAR.

31. In particular, we welcome:

a. the progress at various levels (including the [adoption] of an EC Regulation and the proposal to IMO to amend Annex I to MARPOL 1973/78) for limiting the use of single-hulled oil tankers and, in particular, towards banning their use for carrying the heaviest grades of oil;

b. the other aspects of the packages of measures adopted by the EU Council of Ministers on 6 December 2002 and 27 March 2003;

c. the progress towards the adoption of the International Convention on Ballast Water Management, as an important means to control the unintentional introduction of non-native species;

d. the designation of the Wadden Sea as a particularly sensitive sea area (PSSA);

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[21] *Belgium, Germany, the Netherlands and Norway have a study reservation on this subparagraph. Pending the outcome of the EC study reservation on this whole section, Spain has a reservation on this subparagraph.*

[22] See footnote 1. *[Spain also maintains a reservation on the reference to the precautionary principle in this paragraph].*

e. the proposal from France (on behalf of itself, Belgium, Ireland Portugal, Spain and the United Kingdom and with the broad support of the European Union) that large areas of the Atlantic off the coasts of those States should be declared a PSSA;

f. the development of a proposal by the States in the Baltic Sea Area to declare [all] [parts] of the Baltic as a PSSA;

g. the investigation by Norway of the possibility that parts of the Barents Sea should be declared a PSSA;

h. the "clean ship concept".

32 To build further on this recent effort:[23]

a. we support the development of measures within the IMO to amend Annex I to MARPOL 1973/78 to limit the use of single-hulled oil tankers and, in particular, ban their use for carrying the heaviest grades of oil;

b. we shall make efforts to achieve the early entry into force of the International Convention on Ballast Water Management, and shall take steps to prepare for its speedy implementation within our regions;

c. we support moves within the IMO to enhance compensation funds for the benefit of victims of oil pollution and to improve the liability rules. We shall seek entry into force as soon as possible of:

i. the 1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (HNS)

ii. the 2001 International Convention on Civil Liability for Bunker Oil Pollution Damage;

we shall also consider the progress made generally on accountability and liability for the economic, environmental and social impacts of marine disasters, with a view to exploring further solutions if adequate progress is not being made;

d.[24] we join the efforts within IMO to develop a flag-State code and a compulsory model audit scheme aimed at ensuring that flag States carry out their duties under international conventions;

e. we also join the efforts in IMO to establish mandatory pilotage where requested by relevant coastal States in narrow or restricted waters;

f.[25] we support the declaration of PSSAs, and the adoption of appropriate associated measures, through the IMO machinery and in accordance with the UN Convention on the Law of the Sea, to enhance the protection of such areas;

g. we also support efforts, through the IMO and other international and non-governmental organisations, to improve the training, certification and awareness of ships' officers and crew, particularly in order to ensure that they are able to make full use of the information made available by coastal states on navigational developments that may create hazards for ship safety or the marine environment;

h. we urge the signatories of the Paris Memorandum on Port State Control to give effect to the call from the EU Council of Ministers for improved ship inspection, and to consider what further action would be appropriate to address the problems of ships, and of fleets whose members, are persistently found to be in breach of international rules and standards established to safeguard the safety of life at sea and the protection of the marine environment;

i. we urge all Contracting Parties to ratify as soon as possible the International Convention on The Control of Harmful Anti-Fouling Systems on Ships. We also support the initiative of the Fifth North Sea Conference to develop by 2004 a North Sea strategy for the further reduction of the harmful effects of anti-fouling systems based on substances other than organotin. We will

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23 *The EC maintains a study reserve on this paragraph*

24 *Germany has a study reservation on this subparagraph.*

25 *Spain has a study reservation on this subparagraph.*

investigate the possibilities of expanding the strategy to the Baltic Sea and to other OSPAR regions.

33. We recognise that in a number of fields, including the implementation regional measures in accordance with the IMO guidelines on ballast water, the designation of particularly sensitive sea areas and the control of air pollution from shipping, there will be common interests between HELCOM and OSPAR. We shall therefore ensure appropriate arrangements for joint efforts by HELCOM and OSPAR to enable such common interests to be promoted effectively.

34. Those of us who work within the framework of HELCOM also agree the measures and conclusions set out in the "*HELCOM Ministerial Declaration on Baltic Shipping*"[26], in order to address problems specific to the special circumstances of the Baltic Sea Area.

Achieving our aims

35. Conserving our oceans and seas is crucial for present and future generations. Over the past three decades, HELCOM and OSPAR have made significant progress in helping to achieve cleaner seas and better protection of the marine environment. But much remains to be done, particularly in improving integration both between international forums and within national administrations. The developments in hand, particularly in relation to the European Marine Strategy, have the potential to meet these needs. We shall work to turn this potential into reality.

36. We shall hold a further joint meeting of HELCOM and OSPAR at Ministerial level in 2010 to take stock of developments and review the need for new initiatives.

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[26] *To be drafted separately.*

Draft OSPAR Recommendation 2003/? on Controlling the Dispersal of Mercury from Crematoria*

RECALLING Article 2(1) of the Convention for the Protection of the Marine Environment of the North-East Atlantic ("OSPAR Convention");

RECALLING that PARCOM Recommendation 89/3 on Programmes and Measures for Reducing Mercury Discharges from Various Sources recommends that alternative materials to dental amalgam should be used where appropriate and where excessive cost can be avoided;

RECALLING that mercury was identified by OSPAR in 1998 as a chemical for priority action;

RECALLING that the OSPAR document "Mercury Emissions from Crematoria and their Control in the OSPAR Convention Area", published in [2003][27], identified crematoria as a significant source of mercury to the environment, identified several options for preventing mercury from reaching the environment, and gave examples of mercury removal efficiency of different types of abatement technology;

[28]RECOGNISING that the practice of cremation raises sensitive cultural and societal issues, and that there are different attitudes and approaches among Contracting Parties that need to be respected in addressing the problem of discharges, emissions and losses of mercury from crematoria;

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic RECOMMEND:

1. Definitions

1.1 For the purpose of this Recommendation:

[29]

"crematorium"	means an establishment for the disposal of human remains by cremation;
"BAT"	means best available techniques as defined in Appendix 1 to the OSPAR Convention;
"dental amalgam"	means a preparation[30] containing mercury that has been used for the purpose of dental surgery.

2. Purpose and Scope

2.1 This Recommendation covers BAT approaches, which could be taken at crematoria to prevent the dispersal into the environment of mercury from human remains, especially from dental amalgam.

2.2 This Recommendation does not apply to a Contracting Party that is a regional economic integration organisation.

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* *Belgium, Denmark, Germany, Iceland, Portugal, Spain and the UK entered a study reservation.*

27 *Subject to agreement of OSPAR 2003 on publication of a revised background document.*

28 *JL is of the opinion that both recitals can be deleted; the former because this is inherent to the selection of mercury as priority substance (see third recital); the latter because it is likely that atmospheric emissions of mercury will reach the marine environment directly (direct deposition to the marine environment) or indirectly (deposition on land and inland waters).*

29 *JL is of the opinion that "Contracting Party" as in the Convention should be used throughout the Recommendation (see paragraph 2.2 under "Purpose and scope").*

30 *JL proposes alternative wording as amalgam is not a compound.*

3. Programmes and Measures

3.1 Contracting Parties should ensure that the operators of crematoria apply BAT at their crematoria to prevent the dispersal into the environment of mercury from human remains, especially from dental amalgam.

3.2 The specific techniques to be applied will depend not only on the size, construction, economic feasibility, location and age (new or existing) of the crematorium furnace, but also on the societal and cultural practices associated with cremation in the Contracting Party, or the region of the Contracting Party, concerned.

3.3 In deciding what is BAT, either in general or in individual cases, Appendix 1 provides examples of techniques that could be used, and examples of the levels of mercury abatement that can be achieved.

3.4 It is recognised that some crematoria[31] will not apply BAT. Contracting Parties should use the implementation report to indicate their approach, particularly where BAT is not applied to new crematoria.

4. Entry into Force

4.1 This Recommendation has effect from [27 June 2003].

5. Implementation Reports

5.1 Contracting Parties should submit a first implementation report on estimated loads of mercury released into the environment from crematoria to OSPAR by 30 September 2005.

5.2 Further implementation reports should be submitted by 30 September 2009 and every 5 years thereafter.

5.3 When reporting on implementation, the format as set out in Appendix 2 should be used as far as possible.

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[31] Particularly those crematoria that have a very low level of activity where installing mercury abatement equipment is not economically feasible. In other cases it is not culturally acceptable to remove dental amalgam prior to cremation.

Appendix 1

Examples of Techniques

1. Introduction

1.1 This appendix describes a number of techniques and practices identified in the OSPAR document "Mercury Emissions from Crematoria and their Control in the OSPAR Convention Area", published in [2003][32] which can either prevent or reduce mercury emissions from crematoria. The list is not exhaustive, and additional factors such as the temperature at various stages in the cremation cycle, the residence time of the flue gas in the afterburn chamber, and the height of the stack which emits waste gases may also need to be considered. Steps should be taken to ensure that mercury removed from flue gases is not transferred to other environmental compartments.

2. Removal of mercury-containing substances prior to cremation

2.1 The removal of dental amalgam from human remains before cremation, followed by its recycling or safe disposal in a way which prevents mercury from being dispersed into the environment, will remove the main source of mercury emissions from crematoria. However, it is recognised that this practice may not be societally or culturally acceptable.

3. Removal of mercury from flue gases during the cremation cycle

3.1 There are a number of methods, which limit the emission of mercury via flue gases. The following section describes those which are currently available.

The Co-flow filter

3.2 In this process an adsorbant is injected into the flue gases, after which adsorption of the mercury takes place in the flue gas channel or in an installed reaction chamber. The adsorbent is removed from the flue gases in an "end of pipe" cloth filter. An adsorbent layer is formed on the cloth filter, so that extra filtering of the flue gases takes place. Removal efficiencies in excess of 98% and mercury concentrations in flue gas in the range of 0,001-0,1 mg/Nm³ are reported for this technique in large installations.

The Solid-bed filter

3.3 In this process, the flue gases are guided through the filter material, whereby the pollutants are left behind in the adsorbent. The filter must be regularly replaced or regenerated on site. In practice, solid-bed filters, with adsorbents such as cokes or zeolites, are applied for the removal of mercury and dioxins. It is reported that this type of filter can also achieve a removal efficiency of well over 90% (up to 99,9 % for mercury concentration in flue gas of 0,005 mg/Nm³).

Gas Scrubbing

3.4 Traditional gas scrubbing and quenching are also effective for reducing emissions to air. Emission measurements for the flue gas treatment show that this technique reduces the mercury concentration in the flue gases to approximately 0,1-0,2 mg/m³.

Honeycomb Catalytic Adsorber

3.5 This precious metal (gold/platinum) catalytic adsorber is specially designed for mercury removal (honeycomb structure). The functional principle is based on a catalytic reaction with an operating temperature of 75 °C. An upstream removal of particulates (e.g. fabric filter) is also required. A removal efficiency of 99,9 % (mercury concentration of flue gas of 0,005 – 0,013 mg/Nm³) is reported.

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[32] *Subject to agreement of OSPAR 2003 on publication of a revised background document.*

Appendix 2

Format for implementation reports concerning OSPAR Recommendation 2003/? on Controlling the Dispersal of Mercury from Crematoria

(Note: In accordance with paragraph 5.3 of Recommendation 2003/?, this format should be used as far as possible in implementation reports)

I. Implementation Report on Compliance

Country:	
Reservation applies:	yes/no*
Is measure applicable in your country ?	yes/no*

If not applicable, then state why not (e.g. no relevant plant)

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Means of Implementation:

by legislation	by administrative action	by negotiated agreement
yes/no*	yes/no*	yes/no*

Please provide information on:

a. specific measures taken to give effect to this measure;

b. any special difficulties encountered, such as practical or legal problems, in the implementation of this measure;

c. any reasons for not having fully implemented this measure should be spelt out clearly and plans for full implementation should be reported.

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* Delete whichever is not appropriate.

II. Implementation Report on Effectiveness

Loads of mercury reaching the environment from crematoria

Please estimate the load of mercury entering the environment from crematoria in your country, if possible according to the following tables:

Number of crematoria in the country which apply mercury removal techniques	**Number of cremations in year of reporting**	**Load of mercury dispersed into environment from crematoria** (kilograms of mercury)	**Comments**

Number of crematoria in the country not applying mercury removal techniques	**Number of cremations in year of reporting**	**Load of mercury dispersed into environment from crematoria** (kilograms of mercury)	**Comments**

Note: Please provide a clear description of the calculation of the load, and emission factors used to calculate the loads exactly and in a transparent way so that approaches used by different countries can be compared.

DRAFT OSPAR RECOMMENDATION 2003/? TO PROMOTE THE USE AND IMPLEMENTATION OF ENVIRONMENTAL MANAGEMENT SYSTEMS BY THE OFFSHORE INDUSTRY

RECALLING Article 2 (1) and Article 5 and Article 2 of Annex III to the Convention for the Protection of the Marine Environment of the North-East Atlantic ("OSPAR Convention");

RECALLING ALSO the OSPAR Strategy on Environmental Goals and Management Mechanisms for Offshore Activities ("Offshore Strategy") in which it was agreed, *inter alia:*

a. that environmental goals should be set for the offshore oil and gas industry;

b. to promote the development and implementation by that industry of environmental management mechanisms, including elements for auditing and reporting, which are designed to achieve both continuous improvement in environmental performance and environmental goals;

RECOGNISING the importance of Environmental Management Systems for the effective application of a goal setting approach;

RECOGNISING ALSO that:

a. the majority of operators have already had systems in place for many years in relation to health, safety and environmental management;

b. such environmental management systems contain many of the elements of the most recently introduced internationally recognised standards such as:

(i) ISO 14001: 1996, environmental management systems - specifications with guidance for use;

(ii) Regulation (EC) No 761/2001 of the European Parliament and the Council allowing voluntary participation by organisations in a Community eco-management and audit scheme (EMAS)[33];

c. international industrial guidelines for establishing environmental management systems have been published by the International Association of Oil and Gas Producers (OGP);

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic RECOMMEND:

1. Definitions

1.1 For the purpose of this Recommendation:

'environmental goal' means a performance objective, quantified and measurable, where practicable, including those established under the Offshore Strategy;[34]

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[33] *JL: needs abbreviation for the table in Appendix 1(II).*

[34] *JL: already abbreviated in the second recital and used throughout the Recommendation.*

'environmental performance'	means the extent to which environmental goals have been achieved;
'Environmental Management System'	means the part of the overall management system applied by an operator that includes organisational structure, planning activities, responsibilities, procedures, processes and resources for developing, implementing, achieving, reviewing and maintaining their environmental policy;
'operator'	means a company controlling the operations of an offshore installation in a part of the maritime area which is under the jurisdiction of a Contracting Party.

2. Purpose and Scope

2.1 The purpose of this Recommendation is to promote the use and implementation by the offshore oil and gas industry of environmental management mechanisms which are designed to achieve the environmental goals established in fulfilment of the objectives of the Offshore Strategy and continual improvement in environmental performance. These mechanisms should include elements for auditing and reporting.[35]

2.2 This Recommendation does not apply to a Contracting Party that is a regional economic integration organisation.[36]

[37]3. Programmes and Measures

3.1 Contracting Parties should promote and encourage the use by operators within their jurisdiction in the maritime area of Environmental Management Systems that are in accordance with the principles of internationally recognised standards. Verification that this is the case should be carried out by bodies possessing recognised competence in the area and not connected with the operator.

3.2 The goal of this Recommendation is that by the end of 2005 all operators in the OSPAR area should have in place Environmental Management Systems that are in accordance with the principles of internationally recognised standards.

3.3 These Environmental Management Systems should be designed to achieve:

a. the environmental goals of the prevention and elimination of pollution from offshore sources and of the protection and conservation of the maritime area against other adverse effects of offshore activities (Offshore Strategy, § 3.2.c);[38]

b. continual improvement in environmental performance;

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35 *JL proposes this editorial change to make clear that "which" refers to "mechanisms".*

36 *JL proposes this addition to exclude the EC from the application of this Recommendation, which appears to be its intention.*

37 *JL is of the opinion that the text under "3. Goal" is better placed under "Programmes and Measures".*

38 *JL proposes to spell out these environmental goals for clarity.*

and more generally to achieve the objectives of the Offshore Strategy.

3.4 Auditing of the application of Environmental Management Systems should be carried out by bodies independent from the operation under audit.

3.5 Such systems should provide for operators to report to the relevant authorities of Contracting Parties on compliance with legislation, progress made in achieving environmental goals and continual improvement in environmental performance.

3.6 Contracting Parties should also encourage operators to make publicly available an annual statement setting out:

a. a brief description of the Environmental Management System;

b. the environmental policy of the operator including environmental goals, objectives and targets set for significant environmental aspects and impacts, and

c. a summary of performance in relation to that environmental policy, those goals, objectives and targets, and any relevant legislative requirements.

The first such statement should be produced for the operator's reporting period ending in 2006.[39]

4. Entry into Force

4.1 This Recommendation has effect from [27 June 2003].

5. Implementation Report

5.1 Contracting Parties with offshore installations should report by 31 October 2006[40] on the implementation of this Recommendation using, as far as possible, the format as set out in Appendix 1.

5.2 If necessary, subsequent reports on implementation should be made on a regular basis.

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39 *JL proposes this alternative wording as first reports from operators may only become available in the course of 2006 (e.g. covering a whole year during the period 2005-2006).*

40 *JL proposes not to mention a name of an OSPAR subsidiary body as they may change, and to include a date for reporting that leaves sufficient time for preparing material for OIC 2007.*

Appendix 1

Format for Reporting on Implementation of OSPAR Recommendation 2003/? to Promote the Use and Implementation of Environmental Management Systems by the Offshore Industry

(Note: In accordance with paragraph 5.1 of the Recommendation, this format should be used as far as possible in implementation reports)

I. Implementation Report on Compliance

Country:

Reservation applies yes/no*

Is measure applicable in your country? yes/no{ NOTEREF _Ref27283845 \h }

If not applicable, then state why not (e.g. no relevant installation)

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Means of Implementation:

by legislation	by administrative action	by negotiated agreement
yes/no{ NOTEREF _Ref27283845 \h }	yes/no{ NOTEREF _Ref27283845 \h }	yes/no{ NOTEREF _Ref27283845 \h }

Please provide information on:

a. specific measures taken to give effect to this measure;

b. any special difficulties encountered, such as practical or legal problems, in the implementation of this measure;

c. the reasons for not having fully implemented this measure should be spelt out clearly and plans for full implementation should be reported;

d. if appropriate, progress towards being able to lift the reservation.

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* Delete whichever is not appropriate

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II. Implementation Report on Effectiveness

NOTE: The following data and information should be reported to the extent possible. Please state the reasons, if some required data and information cannot be provided.

	2003	2004	2005	2006	[41]
Total number of operators to which this Recommendation applies					
Total number of operators with EMS in place					
Number with EMS registered according to EMAS					
Number with EMS certified according to ISO 14001					
Number with EMS according to other standards					
Number of operators making annual public statement					

[41] *In accordance with the timing for reporting in § 3.6 and § 5.1, JL proposes to delete the column for 2007.*

DRAFT OSPAR RECOMMENDATION[1] ON A NETWORK OF MARINE PROTECTED AREAS

RECALLING Article 2(1) of the Convention for the Protection of the Marine Environment of the North East Atlantic (" the OSPAR Convention"),

RECALLING Annex V to the OSPAR Convention on the protection and conservation of the ecosystems and biological diversity of the maritime area, and in particular its Article 3(1)(b)(ii), which makes it a duty of the OSPAR Commission to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites or related to specific species or habitats, together with its Article 4, which provides that no programme or measure concerning a question relating to the management of fisheries shall be adopted under that Annex,

RECALLING the commitment made in the Sintra Statement, adopted by the Ministerial Meeting of the OSPAR Commission at Sintra, Portugal, on 22-23 July 1998, that the OSPAR Commission will promote the establishment of a network of marine protected areas to ensure the sustainable use and protection and conservation of marine biological diversity and its ecosystems, and

RECALLING the declaration on sustainable development of the European Council, meeting at Gothenburg, Sweden, in June 2001, together with the parallel commitments of Iceland, Norway and Switzerland,

NOTING the agreement of the OSPAR Commission to develop by 2010, and to evaluate, an ecologically coherent network of well managed marine protected areas in the maritime areas, including a preliminary evaluation by 2006, a full evaluation in 2010, the maintenance of a publicly available data base of such areas and action to identify and fill any gaps in the network and to develop practical guidance on management and evaluation;

NOTING also the agreement of the OSPAR Commission to consider proposals for the inclusion of areas in the part of the maritime area beyond the jurisdiction of Contracting Parties as components of that network, and, if appropriate and after consulting other relevant intergovernmental organisations, to include such areas in the network and to explore approaches to achieving the aims of the network in respect of such areas;

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic RECOMMEND[42]:

1. Definitions

1. For the purposes of this Recommendation:

"the identification and selection guidelines" means the Guidelines for the Identification and Selection of Marine Protected Areas in the OSPAR Maritime Area, [set out at Appendix 1][adopted by the OSPAR Commission on [27 June 2003]] .

"the management guidelines" means the Guidelines for the Management of Marine Protected Areas in the OSPAR Maritime Area. [set out at Appendix 2] [adopted by the OSPAR Commission on [27 June 2003]].

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42 BDC 2003 has left unamended the description of the status of the instrument in the title and the original draft of the words of adoption, but does not thereby express any position on the appropriate status of the eventual OSPAR instrument on a network of marine areas.

"marine protected area" means an area within the maritime area for which protective, conservation, restorative or precautionary measures, consistent with international law have been instituted for the purpose of protecting and conserving species, habitats, ecosystems or ecological processes of the marine environment.

the OSPAR Network of Marine Protected Areas" means the areas which have been, and remain, reported by a Contracting Party under paragraph 3.1, paragraph 3.3 or paragraph 4.4 below, together with any other area in the maritime area outside the jurisdiction of the Contracting Parties included as a component of the network by the OSPAR Commission.

2. Purpose and Scope

2.1 The purpose of this Recommendation is to establish the OSPAR Network of Marine Protected Areas and to ensure that by 2010 it is an ecologically coherent network of well-managed marine protected areas which will

a. protect, conserve and restore species, habitats and ecological processes which have been adversely affected by human activities;

b. prevent degradation of, and damage to, species, habitats and ecological processes, following the precautionary principle;

c. protect and conserve areas that best represent the range of species, habitats and ecological processes in the maritime area.

2.2 This Recommendation applies to Contracting Parties which are coastal States of the maritime area.

3. Programmes and Measures

3.1 Each Contracting Party should

a. consider whether any areas within its jurisdiction justify selection as marine protected areas under the criteria set out in the identification and selection guidelines and, if so,

b. report to the OSPAR Commission the areas that it has selected as components of the OSPAR Network of Marine Protected Areas

3.2. An initial consideration should be completed as soon as practicable, and at the latest by 31 December 2005. It may be carried out by stages, in which case the Contracting Party should report to the OSPAR Commission by the end of each calendar year the areas that it has selected under those criteria.3.3 The relevant Contracting Party should

a. develop for each area selected under paragraph 3.1 a management plan, in accordance with the management guidelines, to achieve the aims for which the area has been selected,

b. determine what management measures would be appropriate in the light of those guidelines, and either:

i. where it has the competence to adopt such measures, initiate the processes under its domestic legislation to establish such measures; or

ii. where the competence to adopt such measures lies with another authority or international organisation, or where the consent of an international organisation is needed for the adoption of such measures, take steps to seek the adoption by the international organisation of those measures or, as the case may be, the consent of the international organisation to those measures. Any cases covered by this sub-paragraph should be reported to the OSPAR Commission.

3.4[43] Each Contracting Party should thereafter periodically:

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[43] *The substance of this paragraph was previoulsy paragraph 4.4.*

a. review whether any areas within its jurisdiction justify selection as components of the OSPAR Network of Marine Protected Areas under the criteria set out in the identification and selection guidelines,

b. report to the OSPAR Commission any such areas which it has selected, and

c. develop management plans and implement them in accordance with paragraph 3.3, subject to the provisions of paragraph 3.5.

3.5 Where a Contracting Party is required, under the EC Birds Directive[44] or the EC Habitats Directive[45], to designate any area in the maritime area (whether wholly or partly) as a Special Protection Area or a Special Area of Conservation,

a. the Contracting Party may report that area to the OSPAR Commission as a component of the OSPAR Network of Marine Protected Areas, as if the Contracting Party had selected it as such; but

b. the Contracting Party should be under no obligations under this Recommendation to take any action in respect of that area, subject to sub-paragraph (c) below; and

c. where the Contracting Party has reported that area to the OSPAR Commission as a component of the OSPAR Network of Marine Protected Areas, it should send to the OSPAR Commission copies of any reports which it makes to the European Commission about that area.

4. Entry into Force

5.1 This Recommendation has effect from [27 June 2003].

6. Implementation reports

6.1 In 2005, Contracting Parties should report by 31 December to the OSPAR Commission on their implementation of this recommendation in general.

6.2 In other years, Contracting Parties should report by 31 December to the OSPAR Commission on any OSPAR marine protected areas that they have selected (or deselected) in that year, on any management plans that they have adopted or substantially amended in that year and on any other issues that the OSPAR Commission has identified for reporting in that year.

6.3 When reporting on implementation, the format as set out in Appendix 3 should be used as far as possible.

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44 EC Directive 79/409/EEC on the conservation of wild birds.

45 EC Directive 92/43/EEC on the conservation of habitats and wild fauna and flora.

APPENDIX 1

GUIDELINES FOR THE IDENTIFICATION AND SELECTION OF MARINE PROTECTED AREAS IN THE OSPAR MARITIME AREA

1 Introduction

At Sintra, Portugal, in 1998 the Ministerial Meeting of the OSPAR Commission adopted a new Annex V 'On the Protection and Conservation of the Ecosystems and Biological Diversity of the Maritime Area' and an accompanying OSPAR Strategy. The objective of the Commission is to take the necessary measures to protect and conserve the ecosystems and the biological diversity of the maritime area which are, or could be, affected as a result of human activities, and to restore, where practicable, marine areas which have been adversely affected.

2. The Commission will, *inter alia*, promote the establishment of a network of marine protected areas ("MPAs") to ensure the sustainable use, protection, and conservation of marine biological diversity and ecosystems – the OSPAR Network of Marine Protected Areas ("the OSPAR Network").

3. The establishment of the OSPAR Network will also contribute to and take account of Contracting Parties' obligations under other international Conventions and Directives, including EC Directives (and in particular the Council Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna and the Council Directive 79/409/EEC on the conservation of birds), and measures taken under the Berne, Bonn (including its regional agreements) and Ramsar Conventions, the Convention on Biological Diversity, the Helsinki Convention, the Barcelona Convention, the Trilateral Wadden Sea Co-operation and and the commitments made, *inter* alia, at the World Summit on Sustainable Development and the North Sea Conferences.

2 The aim of the OSPAR Network

4. The components of the OSPAR Network of Marine Protected Areas will, individually and collectively, aim to:

- protect, conserve and restore species, habitats and ecological processes which are adversely affected as a result of human activities;
- prevent degradation of and damage to species, habitats and ecological processes, following the precautionary principle;
- protect and conserve areas that best represent the range of species, habitats and ecological processes in the OSPAR area.

5. The OSPAR Network should take into account the linkages between marine ecosystems and the dependence of some species and habitats on processes that occur outside the MPA concerned. These relationships are often more complex, and occur on a larger scale, than those of terrestrial ecosystems.

6. The OSPAR Network should form an ecologically coherent network of well-managed MPAs. This is particularly important for highly mobile species, such as certain birds, mammals and fish, to safeguard the critical stages and areas of their life cycle (such as breeding, nursery and feeding areas).

3 The process of identification and selection of MPAs

3.1 STAGE 1: IDENTIFICATION OF POSSIBLE SITES

7. For this stage, the ecological criteria/considerations listed in Attachment A should be applied.

8. In some cases, this stage will identify a number of possible sites, for example to protect a certain species, and it may not be possible to establish them all as MPAs. On the other hand, it may be necessary to select priority sites from a number of possible sites that each meet one or several, but not the same, ecological criteria. For these reasons, sites that meet the ecological criteria/considerations need to be further prioritised at Stage 2.

3.2 Stage 2: Prioritisation of sites for designation

9. In this second stage of the process, the ecological criteria/considerations listed in Attachment A should be reapplied to help prioritise the identified sites. For example, an area that holds a higher population of the species concerned, or that meets additional ecological criteria, may warrant a higher priority. In addition, at this stage, the practical criteria/considerations given in Attachment B should be taken into account in developing a prioritised list of sites. For instance an area with a comparatively higher level of support from stakeholders and political acceptability will be more suitable to be established as an MPA.

3.3 Use of the criteria to meet the aims of the OSPAR Network

10. The table in Attachment C provides guidance on which criteria should be used to select areas as components of the OSPAR Network in relation to the identified aims given above.

4 Information on each proposed MPA

11. Information to support the selection of an MPA within national jurisdiction should be compiled on the proforma given in Attachment D. The information should be reported to the OSPAR Commission. Any proposals for action by the OSPAR Commission in respect of areas outside national jurisdiction should be submitted in the same way.

Attachment A

ECOLOGICAL CRITERIA/CONSIDERATIONS

1. An area qualifies for selection as an MPA if it meets several but not necessarily all of the following criteria. The consideration and assessment of these criteria should be based on best available scientific expertise and knowledge.

(1) THREATENED OR DECLINING SPECIES AND HABITATS/BIOTOPES

2. The area is important for species, habitats/biotopes and ecological processes that appear to be under immediate threat or subject to rapid decline as identified by the ongoing OSPAR (Texel-Faial)selection process.

(2) IMPORTANT SPECIES AND HABITATS/BIOTOPES

3. The area is important for other species and habitats/biotopes as identified by the ongoing OSPAR (Texel-Faial) selection process.

(3) ECOLOGICAL SIGNIFICANCE

4. The area has:

- a high proportion of a habitat/biotope type or a biogeographic population of a species at any stage in its life cycle;
- important feeding, breeding, moulting, wintering or resting areas;
- important nursery, juvenile or spawning areas, or
- a high natural biological productivity of the species or features being represented.

(4) HIGH NATURAL BIOLOGICAL DIVERSITY

5. The area has a naturally high variety of species (in comparison to similar habitat/biotope features elsewhere) or includes a wide variety of habitats/biotopes (in comparison to similar habitat/biotope complexes elsewhere).

(5) REPRESENTATIVITY

6. The area contains a number of habitat/biotope types, habitat/biotope complexes, species, ecological processes or other natural characteristics that are representative for the OSPAR maritime area as a whole or for its different biogeographic regions and sub-regions.

(6) SENSITIVITY

7. The area contains a high proportion of very sensitive or sensitive habitats/biotopes or species.

(7) NATURALNESS

8. The area has a high degree of naturalness, with species and habitats/biotope types still in a very natural state as a result of the lack of human-induced disturbance or degradation.

PRACTICAL CRITERIA/CONSIDERATIONS

(1) SIZE

1. The size of the area should be suitable for the particular aim of designating the area, including maintaining its integrity, and should enable the effective management of that area.

(2) POTENTIAL FOR RESTORATION

2. The area has a high potential to return to a more natural state under appropriate management.

(3) DEGREE OF ACCEPTANCE

3. The establishment of the MPA has a comparatively high potential level of support from stakeholders and political acceptability.

(4) POTENTIAL FOR SUCCESS OF MANAGEMENT MEASURES

4. There is a high probability that management measures and the ability to implement them (such as legislation, relevant authorities, funding, and scientific knowledge) will meet the aims for designation.

(5) POTENTIAL DAMAGE TO THE AREA BY HUMAN ACTIVITIES

5. It is an area where significant damage by human activity may happen in the short term.

(6) SCIENTIFIC VALUE

6. The area has a high value for scientific research and monitoring.

Attachment C

USE OF THE CRITERIA TO MEET THE AIMS OF OSPAR MPAS

The following table provides a correlation between the ecological and practical criteria/considerations and the aims of OSPAR MPAs:

Aims of the OSPAR Network	**Protect, conserve and restore species, habitats and ecological processes which are adversely affected as a result of human activities**	**Prevent degradation of and damage to species, habitats and ecological processes following the precautionary principle**	**Protect and conserve areas which best represent the range of species, habitats and ecological processes in the OSPAR area**
Ecological considerations	(A1) High priority habitats & species which meet the Texel-Faial criteria of 'Decline'	(A1) High priority habitats & species which meet the Texel-Faial criteria of 'high probability of a significant decline' (A2) Important habitats & species which meet the other Faial criteria (global importance, local (species)/regional (habitats) importance, rarity, sensitivity, keystone species, ecological significance) (A6) Sensitivity	(A3) Ecological significance (A4) High natural biological diversity (of species within a habitat and of habitats in an area) (A5) Representativity, including of the biogeographic regions (A7) Naturalness
Practical considerations	(B1) Size (B2) Potential for restoration (B3) Degree of acceptance (B4) Potential for success of management measures (B6) Scientific value	(B1) Size (B3) Degree of acceptance (B4) Potential for success of management measures (B6) Scientific value (B5) Potential damage to the area by human activities	(B1) Size (B3) Degree of acceptance (B4) Potential for success of management measures (B6) Scientific value

Note: Numbers in brackets refer to the specific criteria in the Guidelines for the Identification and Selection of MPAs in the OSPAR maritime area

Attachment D

PROFORMA FOR COMPILING THE CHARACTERISTICS OF A POTENTIAL MPA

A General information

1. Proposed name of MPA

2. Aim of MPA
(Indicate aims:

- protect, conserve and restore species, habitats and ecological processes which are adversely affected as result of human activities;
- prevent degradation of and damage to species, habitats and ecological processes following the precautionary principle;
- protect and conserve areas that best represent the range of species, habitats and ecological processes in the OSPAR area.)

3. Status of the location
(Indicate: territorial sea, Exclusive Economic Zone, or outside national jurisdiction)

4. Marine region
(e.g. North Sea, English Channel, Skagerrak)

5. Biogeographic region
(Indicate, when appropriate, after: Dinter, W.P. (2001.): Biogeography of the OSPAR Maritime Area. A synopsis and synthesis of biogeographical distribution patterns described for the North-East Atlantic. – Angewandte Landschaftsökologie Vol. 43, German Federal Agency for Nature Conservation, Bonn. 166 pp.)

6. Location
(Draw delimitation of the proposed MPA on a navigational map of the most appropriate scale with geographical co-ordinates clearly indicated and attach to the proforma. Co-ordinates should also be submitted in electronic form.)

7. Size
(The size (e.g., in hectares) of the area should be suitable for the particular aim of designating the area, including maintaining its integrity, and should enable the effective management of that area.)

8. Characteristics of the area
(ecological characteristics, human uses, etc.)

B Selection criteria

a. Ecological criteria/considerations

1. Threatened and declining species and habitats
(Indicate whether the area is important for species, habitats and ecological processes that appear to be under immediate threat or subject to rapid decline as identified by the ongoing OSPAR (Texel/Faial) selection process)

2. Important species and habitats
(Indicate whether the area is important for the other selected species and habitats identified by the ongoing OSPAR (Texel/Faial) selection process).

3. Ecological significance
(Indicate whether the area has:

- a high proportion of a biogeographic population of a migratory species
- important feeding, breeding, moulting, wintering or resting areas
- important nursery, juvenile, or spawning areas
- a high natural biological productivity of the species or features being represented.)

4. High natural biological diversity
(Indicate whether the area has a naturally high variety of species in comparison to similar habitat features elsewhere, or includes highly varied habitats or communities in comparison to similar habitat complexes elsewhere.)

5. Representativity
(Indicate whether the area contains a number of habitat/biotope types, habitat complexes, species, ecological processes or other natural characteristics that are typical and representative for the OSPAR-Area as a whole or for its different biogeographic units.)

6. Sensitivity
(Indicate whether the area contains a high proportion of very sensitive or sensitive habitats or species.)

7. Naturalness
(Indicate if the area has a high degree of naturalness and species and biotopes are still in a very natural state as a result of the lack of human-induced disturbance or degradation).

B. Practical criteria/considerations

1. Potential for restoration
(Indicate whether the area has a high potential to return to a more natural state under appropriate management.)

2. Degree of acceptance
(Indicate whether the establishment of the MPA has a comparatively high level of support from stakeholders and political acceptability.)

3. Potential for success of management measures
(Indicate whether there is a high probability that management measures and the ability to implement them such as legislation, relevant authorities, funding, and scientific knowledge will meet the aims for designation.)

4. Potential damage to the area by human activities
(Indicate whether in or around the area damage by human activity may happen in the short term.)

5. Scientific value
(Indicate whether there is a high value for research and monitoring.)

C. Proposed management and protection status

1. Proposed management

(Indicate which actual or potential human activities taking place in the area might need regulation through a management plan)

2. Any existing or proposed legal status

I National legal status (e.g., nature reserve, national park):

II Other international legal status (e.g., NATURA 2000, Ramsar):

Presented by

Contracting Party:

Organization:

Date:

DRAFT OSPAR RECOMMENDATION ON AN OSPAR FRAMEWORK FOR REPORTING ENCOUNTERS WITH MARINE DUMPED CONVENTIONAL AND CHEMICAL MUNITIONS

RECALLING Article 2(1) of the Convention for the Protection of the Marine Environment of the North East Atlantic (" the OSPAR Convention"),
RECALLING Annex V to the OSPAR Convention on the protection and conservation of the ecosystems and biological diversity of the maritime area, and in particular its Article 3(1)(b)(ii), which makes it a duty of the OSPAR Commission to develop means, consistent with international law, for instituting protective, conservation, restorative or precautionary measures related to specific areas or sites;
AWARE of the problems that can arise from encounters at sea and on the coastline[46] with dumped conventional and chemical munitions and of the need to improve knowledge of the risks of such encounters,
WISHING to provide a means through which Contracting Parties can exchange information on such encounters and thus promote discussion and informed decisions on the management options for munitions dumpsites,

The Contracting Parties to the Convention for the Protection of the Marine Environment of the North-East Atlantic RECOMMEND:

1. Definitions

1.1 "Conventional and chemical munitions" includes all types of conventional and chemical weapons and munitions. "Chemical munitions" includes chemical warfare agents in any type of container, weapon or munition[47].

1.2 "Dumped conventional and chemical munitions" means conventional and chemical munitions that have been dumped in the OSPAR maritime area.

1.3 "Dumping sites" means areas of the maritime area where conventional or chemical munitions have intentionally been dumped.

2. Purpose and Scope

2.1 The purpose of this Recommendation is to promote the reporting of encounters with dumped conventional and chemical munitions by fishermen and other users of the sea and its coastline, and to establish a record of such encounters, with the aim of facilitating:

a. discussion and informed decisions on the management options for dumping sites;

b. identification of the extent of areas around known dumping sites where dumped conventional and chemical munitions are to be found;

c. the identification of previously unknown, or unrecorded, dumping sites;

d. the designation on navigational charts of areas where a high risk exists of encounters on the seabed with dumped conventional and chemical munitions.

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[46] *Addition proposed by KIMO*

[47] *The UK , supported by KIMO, proposes this amendment in order to ensure that 'chemical warfare agents' not in munitions/weapons are covered. These agents may simply be in storage containers.*

2.2 This Recommendation applies to Contracting Parties which are coastal States of the maritime area.

3. Programmes and Measures

a. Action by individual Contracting Parties

3.1 Contracting Parties should maintain systems whereby

a. fishermen and other users of the sea and its coasts, can readily report to an appropriate authority or body any encounters at sea or on the coast with dumped conventional or chemical munitions, and are encouraged to do so;

b. those making such reports are encouraged to provide for each such encounter information on the location and nature of the encounter, the type and state of the device encountered, the action taken with the device and, if the device was released at sea, the location of the release;

c. such reports are collected at a central point;

d. public authorities which have to deal with any dumped conventional or chemical munitions found at sea or on shore should report such encounters to the same central point, giving the information specified in subparagraph (b).

3.2 Contracting Parties should report the information collected under these systems by their central points to the OSPAR Commission. The first report should be made by 1 September 2005 [2006][48], and reports should be made every three years thereafter[49] Contracting Parties are encouraged to report clusters of encounters within a short time frame to the OSPAR Commission as soon as they are aware of these clusters and not wait until the next report is due to be submitted to the OSPAR Commission[50].

3.3 Contracting Parties should use the reporting format at Appendix 1 for their reports to the OSPAR Commission. The information requested in the shaded columns of the reporting format is optional.

3.4 Contracting Parties should notify their central points and their contact details to the OSPAR Secretariat by 1 January 2005.

3.5 Contracting Parties which are Member States of the European Union should ensure that systems operated for the purpose of this Recommendation are consistent with the provisions of the Decision of the European Parliament and the Council of 20 December 2000 setting up a Community framework for cooperation in the field of accidental or deliberate marine pollution[51].

b. Actions by the OSPAR Commission

3.6 The OSPAR Commission should

a. create and maintain a database of encounters with dumped conventional and chemical munitions reported by Contracting Parties;

b. make the information in this database available to the public.

---

[48] *France will only be able to report their data for the first time in September 2006 as implementation of this recommendation would require a new administrative procedure to be put in place.*

[49] *Following discussions at BDC, Ireland suggests to introduce a review clause on the need to review, in the light of experience after a set time period, if the reporting procedure should be continued or modified.*

[50] *Addition proposed by the UK, supported by KIMO, in accordance to the note to item I.1 in the explanatory notes in Appendix 1 on the basis of the example of the Beauforts Dyke experience.*

[51] 2850/2000/EC

3.7 If the OSPAR Commission receives any report direct from fishermen or other users of the sea of an encounter with dumped conventional or chemical munitions, it may include the information in the database, but should give notice of it to the Contracting Party whose territory or jurisdiction includes the dumping site or is nearest to it.

4. Entry into Force

4.1 This Recommendation enters into force on the last day of the first ordinary meeting of the OSPAR Commission in 2004, in order that its entry into force may be synchronised with the adoption of a framework for developing national guidelines for fishermen on how to deal with encounters with dumped conventional and chemical munitions.

5. Implementation reports

5.1 By 1 September 2005, Contracting Parties should present to the OSPAR Commission:

a. a short description of the system that they have established to meet the aims of this Recommendation; or

b. an explanation why they have not established such a system.

APPENDIX 1

REPORTING FORMAT FOR REPORTS OF ENCOUNTERS WITH DUMPED CONVENTIONAL AND CHEMICAL MUNITIONS

1	2	3	4	5	6	7	8
ID No.	**Location of the encounter (longitude and latitude)**	**Nature of encounter**	**Type of device**	**Action taken**	**State of device**	**Release location**	**General remarks**

Explanatory Notes to the OSPAR Reporting Format on

Encounters with Conventional and Chemical Munitions

I. When filling in the reporting format, Contracting Parties are kindly requested to adhere the following terminology:

1. The column "**ID No**" should comprise the country code[52] and a consecutive number.

2. The column "**Location**" should be completed by giving the decimal degrees[53] of longitude and latitude '(in WGS84)[54] in that order. Where the exact coordinates are unknown, approximate coordinates should be given. If the encounter is in or near a known dumping site for munitions, a reference to this should be given in the "General remarks" column (preferably by a cross-reference to the OSPAR Overview on Dumping sites of Conventional and Chemical Munitions).

   Note: This information will enable encounters to be located, GIS maps to be created, and 'clusters' of encounters within a short time-frame to be identified.

Alternative text proposed by Germany

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[52] It is convenient to use BE (Belgium), DE (Germany), DK (Denmark), ES (Spain), FR (France), IE (Ireland), IS (Iceland), NL (the Netherlands), NO (Norway), PT (Portugal), SE (Sweden) and UK (the United Kingdom).

[53] Decimal degrees should be calculated by dividing minutes of a degree by 60 and adding to it seconds of a degree divided by 3 600, and expressing the result to two decimal places

[54] *Addition proposed by the UK*

2.bis The location should be given in WGS84 (the World Geodetic System 1984) whereby it should be specified in degrees, minutes and decimals of minutes (e.g. 54° 40,25'). If reporting is done on a different geodetic reference basis, this should be reported.

3. In completing the column "**Nature of encounter**", the choice of description should be limited to:

- entanglement in nets
- dredging activities
- laying pipelines/cables
- found on shore
- other

4. In completing the column "**Type of device**" the choice of description should be limited to:

- chemical
- conventional (that is, explosive)
- unknown

5. In completing the column **"Action taken"** the choice of description of the action should be limited to:

- destroyed
- released at sea
- disposed of on land
- other

II. In additional to the information above, it is optional for Contracting Parties to give the information requested in the shaded columns. When this information can be given, it is useful to limit the choice of description to the following::

6. "**State of device**":

- partly corroded - *cases where the contents cannot yet escape*
- seriously corroded - *cases where substantial parts of the content can escape*
- heavily corroded - *cases where most of the content could escape*
- completely corroded - *cases where the contents can escape freely*

7. If the munition has been released at sea, the "**Location of release**" should be given in the same way as for the location of the encounter..

III. Finally, in reporting information on encounters to OSPAR, Contracting Parties should also consider including notes in the column

8. "**General remarks**" on:

- the proximity of the location of encounters to the nearest known dumpsite;
- known activities that may have resulted in disturbance of dumpsite, e.g. pipe/cable laying, changes in fishing practices;

- other information deemed relevant.

IV.. The column **"General remarks"** should also include any necessary notes of details where the category *"other"* has been used, as well as any description that can be given of the substances contained in the devices that may have been identified.

Draft OSPAR Recommendation 2003/? on the Strategy for the Joint Assessment and Monitoring Programme

RECALLING Article 6 of, and Annex IV to, the OSPAR Convention, which require the Contracting Parties to undertake and publish at regular intervals joint assessments of the quality status of the marine environment and of its development, and to cooperate in carrying out monitoring programmes, as well as other obligations under the Convention to carry out monitoring and make assessments,

NOTING with satisfaction the contribution which the Joint Assessment and Monitoring Programme, approved by the joint Recommendation 95/1 of the Oslo and Paris Commissions, made to assessment of the quality status of the maritime area in the Quality Status Report 2000 and its five supporting sub-regional reports,

DESIRING to ensure sound, scientifically based evaluations of the effectiveness of the implementation of the five OSPAR thematic strategies on biodiversity and ecosystems, on eutrophication, on hazardous substances, on the offshore oil and gas industry and on radioactive substances and the effective identification of priorities for future action,

INTENDING to maintain regular, sound, scientifically based assessments of the overall quality status of the maritime area, its regions and sub-regions,

The Contracting Parties to the Convention for the Protection of the marine Environment of the North East Atlantic RECOMMEND that:

1. Definitions

1.1 For the purposes of this Recommendation:

"the Joint Assessment and Monitoring Programme" means the programme of that name approved by the OSPAR Commission on [27 June 2003], as from time to time amended by the OSPAR Commission;

"assessment" means a statement of the whole or part of the current knowledge of the health of the environment of an area of the sea and its coastal margin, and of the human activities affecting it. The evaluation of the effectiveness of measures taken and planned for the protection of the marine environment and the identification of priorities for action should also form part of it;[55]

"monitoring" means the repeated measurement of:

a. the quality of the marine environment and each of its compartments, that is, water, sediments and biota;

b. activities or natural and anthropogenic inputs which may affect the quality of the marine environment;

c. the effects of such activities and inputs.

---

[55] *JL proposes to delete the detailed description of what a full statement should contain (since the definition recognises that the assessment may well be only partial) and to replace it by "and of the human activities affecting it".*

2. Scope and Purpose

2.1 This Recommendation applies to the monitoring and assessment of the quality status of the maritime area, its regions and sub-regions, as well as to other collection of data and its evaluation as set out in the Joint Assessment and Monitoring Programme.

2.2 The purposes of this Recommendation are:

a. to fulfil the obligations under the OSPAR Convention in relation to monitoring and assessment;

b. as part of that, in particular to evaluate the progress in the implementation of the thematic strategies adopted from time to time by the OSPAR Commission;

c. to support an integrated approach to the protection and conservation of the marine environment through establishing the quality status of all its aspects and identifying priorities for action.

3. Programme

3.1 The Joint Assessment and Monitoring Programme should be implemented. Such implementation implies the commitment by each Contracting Party of an appropriate level of resources in order to achieve the common purposes.

4. Reporting

4.1 The preparation and publication of the assessments specified in the schedule of assessments in the Joint Assessment and Monitoring Programme should proceed on the timetable there identified, in order to report on the monitoring and other data collection, and on the assessment of the aspects of the marine environment and the evaluation of the implementation of the thematic strategies there envisaged.

4.2 Where an authority or international body other than the OSPAR Commission are competent for some aspect of the marine environment where reasonable grounds for concern are shown by an assessment under the Joint Assessment and Monitoring Programme, those grounds of concern should be drawn to the attention of that authority or body.

5. Entry into Force

5.1 This Recommendation has effect from [27 June 2003].

020 7238 6465

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

Rt. Hon Dr John Reid MP
Leader of the House of Commons
and President of the Council
2 Carlton Gardens
London
SW1Y 5AA

Your ref. 0017510
Our ref.
Direct Line
Fax
28th May 2003

MH

cc JK
CS

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear Dr. Reid,

PRIVATE MEMBER'S BILL: MUNICIPAL WASTE RECYCLING

Your letter of 17 April 2003 invited me to seek LP approval for government's proposed approach for the future handling of the Municipal Waste Recycling Bill (Ruddock Bill). I am writing to summarise developments since then – which have prevented me from writing sooner – and recommending that Government should support a compromise approach in this Bill which Joan Ruddock has agreed in principle. As we will need to signal our position when Committee starts on 4 June, I would therefore be grateful for a response by 2 June.

On 23 May Joan Ruddock tabled a series of amendments which reflect progress with the provisions of government's Waste and Emissions Trading (WET) Bill (which has been modified to include two of her three original provisions) and which alter radically the substance of her published Bill. In summary her Bill as amended would provide :

- an obligation on all waste collection authorities to provide **by 2010 separate collection of at least four types of recyclable waste to every household**;
- reduce the requirement to three types of recyclable waste by 2010 if **local authorities have provided households with facilities or collections to enable composting of biodegradable garden and kitchen waste**;
- the option of a **maximum 5 year derogation** from this obligation for local authorities, subject to approval by the Secretary of State.

She has removed :

- the requirement for the Secretary of State to produce a **UK strategy** for securing a target of **50%** of municipal waste composted or recycled by **2010**, (and to set new local authority targets in line with this);

- the a duty on local authorities to produce **waste management strategies** promoting minimisation, re-use and recycling and enabling all householders to dispose of waste sustainably at or near the home, and publish annually relevant statistics (now in the WET Bill);

- the **power of direction** for waste disposal authorities to direct waste collection authorities on how to collect waste (now in the WET Bill in a modified form).

The amended Bill, while seeking to address potential Government concerns, remains inconsistent with Government policy for improving waste management and for raising significantly recycling and composting performance, because it prescribes how local authorities should act. Government's approach is based on using a range of levers, including statutory local authority targets for recycling and composting, raising the Landfill Tax, reducing ceilings on the amount of biodegradable municipal waste that can be landfilled (WET Bill) and the challenge/performance reward fund, to drive up recycling and composting rates - while leaving the choice of how to achieve the targets with local authorities. The advantages of this policy are :

- by leaving the choice of mechanisms with local authorities it is consistent with the freedoms and flexibilities agenda;

- local authorities can select the most suitable recycling mechanisms to suit their local circumstances e.g. to reflect dense urban or deeply rural communities; to reflect the availability of markets; and to reflect emerging information from research, new technology development etc. on the relative costs and effectiveness of waste management options e.g. bring sites, doorstep collection, composting etc.

- it recognises that collection is only part of the process and that effective recycling will only be achieved if there are sufficient markets for the recyclate. If there are not, as is currently the case in some areas, material collected for recycling is simply diverted to landfill.

However, Government and the Strategy Unit recognise that there will need to be a significant increase in doorstep collection of separated recyclable waste if national targets for recycling and composting are to be achieved. And Government needs to monitor progress on this (and other waste management activities) closely.

Building on this, we have brokered a compromise provision which Joan Ruddock has agreed in principle, on the following lines :

"In arranging the collection of household waste each waste collection authority shall ensure that all households will have reasonable access to facilities for the separate collection at least one type of recyclable waste by 2010."

"The Secretary of State shall report to Parliament by September 2004 on local authority performance in respect of their 2003/04 Best Value standards for recycling and composting and on progress on increasing household access to separate collections of recyclable waste."

Clearly further work will be needed on agreeing a suitable definition of 'reasonable access to' but this definition would not need to be included in the Bill. This compromise does, however, addresses our key policy concerns because it does not contain precise targets, nor a universal right to doorstep recyclate collection for every household and does not specify the number or type of doorstep collections of recyclable material. In other words it does leave the decision on how to manage waste with collection authorities, while setting an overall objective on a timescale which will enable a proper assessment of whether it is likely to be achieved through the operation of the various policy levers now being put in place to raise recycling rates. Requiring a report to Parliament simply formalises a process we would already be carrying out.

I **recommend**, therefore, that Government agrees to support these compromise provisions. The Ruddock Bill is very popular on all sides of the House and Government support will signal our continuing commitment to improving significantly waste management in this country.

I will need to signal Government's position at Committee on 4 June – to enable us to bring forward an amendment either later in Committee or at Report – so I would be grateful for a response by 2 June.

I am copying this letter to the Prime Minister, members of LP and ENV Committees, Sir Andrew Turnbull and First Parliamentary Counsel.

Yours sincerely

Robin Healey

pp MARGARET BECKETT

(approved by the Secretary of State and signed in her absence)

Nobel House
17 Smith Square
London SW1P 3JR

020 7238 6465

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

MATRIX - PR File

Top: PS(MH) & PS(JK)

defra
Department for Environment Food and Rural Affairs

The Rt Hon Jack Straw MP
Secretary of State
Foreign and Commonwealth Office
King Charles Street
London

28 May 2003

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear Jack,

AMENDMENT TO THE SULPHUR CONTENT OF LIQUID FUELS DIRECTIVE (1999/32/EC), REGARDING MARINE FUEL

I am writing to seek agreement to the UK line for the negotiations on the Commission's proposal (COM (2002) 595) for amendments to the Sulphur Content of Liquid Fuels Directive (1999/32/EC) to introduce new controls on marine fuel. I propose that our key negotiating priorities should be to ensure that the proposals should protect the environment in a cost-beneficial way, are in line with the law of the sea and enforceable, and ensure maritime safety is not compromised. I would be grateful to receive your response by 5 June.

Sulphur is naturally present in oil and is released as sulphur dioxide when the oil is burned in engines. These emissions of sulphur dioxide can damage human health and the built environment, and contribute to the acidification of sensitive ecosystems.

The current form of Directive 1999/32/EC sets limits on the amount of sulphur permitted in liquid fuels. Marine heavy fuel oil, used by shipping, was excluded from the original Directive. There are, therefore, currently no sulphur limits for marine heavy fuel oils, which now contain a disproportionately large amount of sulphur relative to other fuels. The proposal fills that gap, and revises the existing limits on other types of fuel.

There is already an international instrument on air pollution from ships – MARPOL Annex VI – which was adopted by the International Maritime Organisation in 1997. Annex VI designates the North Sea, English Channel and Baltic Sea as Sulphur Emission Control Areas. In these areas, fuel used by ships must have a sulphur content of less than 1.5%, or equivalent abatement technologies be employed. It is expected that Annex VI will enter into force in the second half of 2004; we support Annex VI and intend to ratify it in 2003. The Commission's proposals complement Annex VI in a number of respects and would add the force of Community law to it.

SKP 28/5/03

THE COMMISSION PROPOSAL

The Commission has proposed an amendment to Directive 1999/32/EC in order to bring marine fuels within the scope of the Directive. The key provisions of the Commission's proposal are to:

i. Introduce a 1.5% sulphur limit for marine fuels used by all seagoing vessels in the North Sea, English Channel and Baltic Sea in line with MARPOL Annex VI sulphur limits;
ii. Introduce a 1.5% sulphur limit for marine fuels used by passenger vessels on regular services to or from any Community port;
iii. Limit the sulphur content of marine fuels used by ships on inland waterways and at berth in Community ports to 0.2% sulphur (0.1% by 2008), and to prohibit the sale of marine gas oils having over 0.2% sulphur (0.1% by 2008).

The proposal will shortly complete first reading in the European Parliament. The Parliament's Environment Committee has proposed a number of amendments to the proposal, the most important being to reduce the sulphur limit on fuel used in Sulphur Emission Control Areas and on passenger vessels to 0.5% from 2008; to extend proposal (iii) above to include territorial seas (within 12 miles of the coast); and to enable the Regulatory Committee established under the Directive to consider which alternative abatement methods might be permissible as alternatives to low sulphur fuel.

THE UK APPROACH TO THE PROPOSAL

OPTIONS

OPPOSITION

In my view opposition is not a viable or desirable option. Shipping is now one of the biggest sources of sulphur emissions in the European Union. Land-based sources are already committed to delivering significant reductions in sulphur emissions. Shipping is well placed to deliver further reductions. Action to reduce emissions should be taken where it is practical and cost-beneficial to do so. Opposing European legislation on this subject would undermine the UK's environmental credentials, particularly in view of the stringent limits recently adopted on sulphur in land based fuels.

UNCONDITIONAL SUPPORT

While I would like us to support the proposal in principle, unconditional support is not a desirable option. A number of features of the Directive as drafted should be altered in order to ensure clarity of definition, flexibility in implementation and that environmental benefits are maximised.

CONDITIONAL SUPPORT

I therefore take the view that we should support the Commission's proposal in principle, but that we should seek amendments to it. I propose that we support the proposal's aim of reducing emissions of sulphur dioxide caused by the combustion of marine fuel.

GENERAL PRINCIPLES THAT SHOULD UNDERLIE THE UK POSITION

I suggest a negotiating line which adheres to the following principles:

i. MARPOL Annex VI: We should support measures in line with MARPOL Annex VI as we already intend to ratify the Protocol. We should try to ensure that the relevant provisions in the Directive mirror Annex VI as closely as possible, in order to ensure an internationally harmonised approach. For example, the Directive as drafted omits MARPOL's derogations for ships in emergency situations, and does not exempt navy vessels; ideally, those qualifications should be included in the Community legislation.

ii. Legality: The Directive should be both in line with the law of the sea and enforceable. The law of the sea is a complex legal area with a number of competing jurisdictions. We should seek to ensure that all measures are enforceable under international law, and oppose those which are not. There is, for example, a possibility that imposing a 0.5% limit on fuel used outside territorial seas – as proposed by the European Parliament's Environment Committee – could be unenforceable under the international law of the sea; if so it should not be included in Community law.

iii. Safety: Measures must not compromise maritime safety. We should try to ensure that all the Directive's provisions minimise the risk of marine accidents . There is, for example, a danger that the proposal as drafted would require ships to change fuels when entering port. This could result in temporary engine failure, which would be highly dangerous in congested port areas. I gather that the Commission recognise this risk, but a way needs to be found that meets their intention of reducing air pollution without this unacceptable risk.

iv. Fuel used in Sulphur Emission Control Areas: We should be supportive of measures mirroring the requirements of MARPOL Annex VI. To put this in context, a limit of 1.5% will mean marine fuel has a sulphur content of 15,000 parts per million, compared to 2000 parts per million for heating oil, and a forthcoming limit of 10 parts per million for automotive petrol and diesel. We do not at this stage welcome the European Parliament Environment Committee's proposal to further reduce sulphur limits for marine fuel used in Sulphur Emission Control Areas to 0.5%. Any support of sulphur limits below 1.5% would be subject to the provisos that the legality of such measures should be clearly demonstrated, sufficient quantities of such fuel can be provided, and the benefits clearly justify the costs. Furthermore, there is a possibility that reducing sulphur limits to 0.5% could result in increased emissions of greenhouse gases as a result of fuel desulphurisation. The implications of this would need to be fully investigated.

v. Fuel used on inland waterways, at berth, and in territorial seas: We should be sympathetic to the proposal to limit the sulphur content of marine fuels used by ships on inland waterways and at berth in Community ports to 0.2% sulphur but may seek derogations or amendments as a result of consultation with stakeholders. We should also be sympathetic but cautious regarding the European Parliament

Environment Committee's proposal to extend this provision to territorial seas. We should seek confirmation that this proposal would not compromise safety, and that the benefits would justify the additional cost. In addition to emphasising the importance of safety, we should seek to ensure that all terms are clearly defined.

vi. Technical abatement: We should support amendments that encourage technological innovation and active participation from the shipping industry. We should keep open the option of complying by the use of technical abatement, where environmental equivalence has been clearly demonstrated. We should seek to ensure that conflicts between MARPOL Annex VI and European Union legislation are avoided. The Commission should also issue permits allowing full-scale trials of such equipment.

I suggest that our key negotiating priorities should be to support measures which protect the environment in a cost beneficial way; introduce measures that are in line with MARPOL Annex VI, or go further where the benefits justify the costs; to ensure that all provisions are legal and enforceable; and to ensure that maritime safety is not compromised.

Officials are in touch about the costs and benefits of the various proposals. A draft Regulatory Impact Assessment is attached at **Annex A.** Research to provide a quantitative estimation of the impact on air pollutant concentrations, human heath and the environment is ongoing. This will allow a more detailed analysis of costs and benefits to be completed.

I am copying this to the Prime Minister, other members of the EP Committee, and to Sir Andrew Turnbull and to Sir Nigel Sheinwald. I am writing separately to the Devolved Administrations.

Regards

Margaret

MARGARET BECKETT

ANNEX B

defra
Department for Environment
Food and Rural Affairs

Partial Regulatory Impact Assessment on a Proposal for Directive amending Directive 1999/32/EC as regards the sulphur content of marine fuels

May 2003
Department for Environment, Food and Rural Affairs

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1. Title of proposal

1.1 Partial Regulatory Impact Assessment on a proposal for a Directive of the European Parliament and of the Council amending Directive 1999/32/EC as regards the sulphur content of marine fuels (COM(2002)595 final)

2. Purpose and intended effect of measure

The objective

2.1 The European Commission's proposal for a Directive of the European Parliament and of the Council amending Directive 1999/32/EC as regards the sulphur content of marine fuels aims to reduce ships' emissions of sulphur dioxide (SO_2) and particulate matter by amending Directive 1999/32/EC, the Sulphur Content of Liquid Fuels Directive (SCLFD). In particular, the main elements of the proposal aim to:

(i) introduce a 1.5% sulphur limit for marine fuels used by all seagoing vessels in the North Sea, English Channel and Baltic Sea – called Sulphur Emission Control Areas - in line with MARPOL Annex VI sulphur limits, in order to reduce the effect of ship emissions on acidification in Northern Europe and on air quality;

(ii) introduce a 1.5% sulphur limit for marine fuels used by passenger vessels on regular services to or from any Community port, in order to improve air quality around ports and coasts, and create sufficient demand to ensure an EU-wide supply of compliant low sulphur fuel; and

(iii) amend existing sulphur provisions for marine gas oils used by seagoing and inland vessels, by introducing a 0.2% sulphur limit on fuel used by ships at berth in ports within the EU, in order to improve local air quality in ports.

2.2 The European Parliament Environment Committee's draft report on the proposal considers that the European Commission provisions do not provide sufficient protection for human health and the environment. As such, it includes proposals to strengthen the sulphur limits proposed by the Commission. These aim to:

- introduce a 0.5% sulphur limit on marine fuels used by all seagoing vessels in the North Sea, English Channel and Baltic Sea, and by passenger vessels in regular service to or from any Community port by 1 July 2008. The Commission shall make proposals on alternative abatement technologies to attain 0.5% levels.

- apply a 1.5% sulphur limit on marine fuels used by all seagoing vessels in the rest of the Community; and

- re-introduce the requirement for marine distillates used by sea-going and inland vessels in territorial seas by extending the 0.2% sulphur limit on fuel used by ships at berth in ports within the EU to territorial seas (with the exception of ships whose journey began outside the EU)[1].

Devolution

2.3 The proposed Directive would apply throughout the UK.

Background

2.4 Sulphur is naturally present in liquid and solid fuels such as oil and coal. Most marine fuels contain sulphur. The combustion of fuels containing sulphur gives rise to emissions of sulphur dioxide (SO_2), particulate matter (PM) and nitrogen oxides (NO_x).

2.5 SO_2 emissions can damage human health and the built environment, and contribute to acidification, damaging sensitive ecosystems. PM emissions can damage human health. NO_x emissions contribute to acidification, and to the formation of ground-level ozone, which can harm human health and vegetation. Acidification and effects on human health are the two principal impacts under consideration in the proposal from the European Commission.

2.6 An international approach is the most effective way of reducing emissions of these pollutants from ships. Pollutants such as sulphur dioxide can travel long distances from their sources before being deposited onto land, surface waters or oceans. Ship movements are such that measures to control such pollutants are more practicable at a Community rather than Member State level.

2.7 The proposal by the European Commission is part of an EU strategy to reduce atmospheric emissions from sea-going ships. This strategy was presented by the Commission in November 2002. Its role is to explain concisely the contribution made by atmospheric emissions from seagoing ships to environmental problems in the European Union, and to set out a

[1] The marine fuels at present covered by Directive 1999/32/EC are all marine distillate fuels, comprising both the DMX and DMA grades, called marine gas oils, and the DMB and DMC ones which are known as marine diesel oils. In its present form the Directive does not apply to the third and most widely used type of marine fuel: heavy fuel oil. It does currently require Member States to ensure that the sulphur content of marine distillate fuels used by ships in Community territorial waters (seas 12 nautical miles from shore and inland waterways) will be 0.2 per cent or less (to be lowered further to 0.1 per cent by 1 January 2008).

broad series of objectives, actions and recommendations for reducing these emissions over the next 10 years.

2.8 Those sections of the proposal dealing with sulphur limits in the English Channel, North Sea and Baltic Sea (paragraph 2.1(i) above) are based in part on MARPOL Annex VI, an international Protocol on air pollution from ships. Annex VI was adopted by a Diplomatic Conference hosted by the International Maritime Organization in 1997. It establishes a global sulphur cap of 4.5% for heavy fuel oil burned by ships, and designates Sulphur Emission Control Areas (SOxECAs) where fuel used by ships must be below 1.5% sulphur. The Baltic Sea, North Sea and English Channel are designated SOxECAs.

2.9 MARPOL Annex VI enters into force internationally one year after it has been ratified by at least 15 flag states representing at least 50% of the gross tonnage of the world's merchant shipping. It is expected that Annex VI will enter into force in 2004. The UK intends to ratify Annex VI in the near future.

2.10 Those sections of the proposal dealing with limits on the sulphur content of fuel used in ports, and by passenger vessels, go beyond existing international agreements.

Risk assessment

2.11 Reducing air pollution from ships will:

- benefit public health, by for example reducing the number of deaths brought forward as a result of pollution;
- reduce damage to the built environment; and
- reduce damage to ecosystems.

2.12 As noted in Paragraph 2.9, some elements of the proposal reflect the provisions of MARPOL Annex VI. However, there is a possibility that Annex VI will not enter into force for some time if not ratified by a sufficient number of states. Therefore the Directive will ensure that the benefits of reduced emissions from shipping are delivered as soon as possible. Furthermore, the additional force of Community law will be of use in ensuring compliance with the provisions of Annex VI, and the supply of sufficient low sulphur fuel.

2.13 Those parts of the Directive relating to limits on the sulphur content of fuel used in ports and by passenger ferries go beyond existing international agreements. Proposals related to fuel in ports will have considerable benefits with regard to the protection of human health as a result of significant reductions in emissions of sulphur dioxide and particulate matter.

Proposals related to passenger vessels will result in further reductions in acidification of sensitive ecosystems, as well as improving local air quality in Southern Europe and helping to ensure a supply of low sulphur fuel throughout the EU.

2.14 The proposals will add to the cost of operating some ships by requiring fuel switching or additional abatement measures to reduce emissions. The additional cost of reducing these emissions may lead to increased costs to consumers. The proposals will also add to the regulatory enforcement costs of competent authorities, which may include such bodies as Port Health Authorities.

3. Options

3.1 **Option 1:** Do nothing. This is not a desirable option. Shipping is now an increasingly significant source of sulphur emissions in the European Union. Projections indicate that ship emissions of sulphur are likely to be equivalent to over 75% of all land-based emissions by 2010 if no limits are placed on the level of sulphur in marine fuel. Opposing European legislation on this subject will undermine the UK's environmental credentials, particularly in view of the stringent limits recently adopted on sulphur in land based fuels. Whilst it is possible the proposed Directive will generate insufficient support from Member States for adoption, this is unlikely given most Member States are likely to support the objectives of the Directive.

3.2 **Option 2:** The proposed Directive is adopted either as originally drafted in the Commission proposal, or with minor amendments.

3.3 **Option 3:** The proposed Directive is adopted with a number of additional elements going beyond the Commission's proposal. The European Parliament's Committee on the Environment, Public Health and Consumer Policy has proposed a number of amendments which go beyond the sulphur limits contained in the Commission proposal (see Scenarios 3, 4 and 5 in Table 1).

3.4 For Options 2 and 3, the UK would have a mandatory requirement to implement the Directive within a statutory framework. Failure to implement would trigger infraction proceedings and the UK would be subject to substantial penalties. There would therefore be no 'do nothing' option and no option of adopting a voluntary code.

3.5 The options considered relate to compliance with specific sulphur content limits for specific vessel / movement types. This RIA considers the key provisions in the proposals as shown in Table 1.

Table 1 - Summary of European Commission and European Parliament Proposals considered in this RIA

Scenario	Proposal by	Vessel types / movements			
		All vessels in Sulphur Emission Control Areas (SOxECAs), i.e. North Sea, Baltic Sea and English Channel (Note 1)	Passenger vessels outside SOxECAs with regular services to or from EU ports	All vessels at berth (Note 3) and on inland waterways (Note 4)	All vessels outside SOxECAs except passenger vessels with regular services to / from EU ports
Baseline	N/A	MARPOL Annex VI (1.5% Sulphur)	N/A	N/A	N/A
1	European Commission		1.5% Sulphur from 2007 (with relaxation of S limit on marine diesel oil to 1.5%)		
2	European Commission		n/a	0.2% Sulphur, reducing to 0.1% in 2008	
3	European Parliament	0.5% Sulphur (Note 2)			
4	European Parliament		0.5% Sulphur (Note 2)		
5	European Parliament				1.5% Sulphur

Note

1. Sulphur Emission Control Areas as designated by the IMO under Regulation 14 of MARPOL Annex VI.

2. As an alternative to the 0.5% sulphur limit, the European Parliament proposes that the Commission should consider which, if any, alternative abatement methods might be permissible.

3. 'Ships at berth' means ships that are stationary in ports, including while they are loading, unloading and hotelling.

4. The European Parliament also proposes to extend the requirement for use of 0.2% sulphur fuels at berth and in inland waterways to territorial seas. However, from the explanatory statement this appears to apply to distillate fuels only and not all fuels, and appears to represent a re-introduction of a provision in the original Sulphur Content in Liquid Fuels Directive. It is assumed, for the purposes of this report, that the 0.2% limit for territorial seas only applies to distillate fuels not all fuels.

3.6 It can be seen from the above that compliance with MARPOL Annex VI (1.5% sulphur limit) is assumed to be a business-as-usual commitment for the UK and is not included in the assessment of costs or benefits.

4. Benefits

Business sectors affected

4.1 The primary impacts of the proposals will be on the petroleum refining sector and operators of ships. Charities and voluntary organisations are unlikely to be directly affected.

Issues of equity and fairness

4.2 The measures will apply equally to all applicable ships – that is, ships which are not specifically exempted from its requirements - and movement types within the sectors in the UK (and across Europe) in an equitable and fair manner. The proposal to introduce a 1.5% sulphur limit on fuel used by all passenger vessels will ensure a level playing field is maintained for passenger vessels throughout Europe.

Assessed benefits

4.3 All applicable vessels and movement types must meet the specific sulphur content limits. The main emission reductions are expected to be of SO_2, with some reductions in PM as a result of any fuel switches (e.g. from heavy fuel oil to marine gas oil).

4.4 Table 2 details the preliminary results of the estimations of emissions reductions achieved by each of the proposed policy scenarios (shown in descending order of emission reductions) for all vessels calling at UK ports, of which UK registered vessels are assumed to represent a sub-set. The figures are derived from emissions quantification analysis undertaken by Entec for the European Commission[2] across the 'EMEP' domain covering all European waters. The data assumes an annual growth rate in vessel movements of 3%, except for passenger vessels where no growth rate is assumed.

[2] Entec, 2002. Quantification of emissions from ships associated with ship movements between ports in the European Community. A report for the European Commission, July 2002.

Table 2 Overall Impact of Scenarios on SO_2 Emissions

Sc	Proposal by	Vessel types / movements				SO_2 emission reduction based on year 2007 movements of vessels calling at UK ports (kilotonnes(kt))	SO_2 emission reduction based on year 2007 movements of UK owned vessels (kt) (Note 1)
		All vessels in Sulphur Emission Control Areas (SOxECAs), i.e. North Sea, Baltic Sea and English Channel	Passenger vessels outside SOxECAs with regular services to or from EU (& ACC) ports	All vessels at berth and on inland waterways	All vessels outside SOxECAs except passenger vessels with regular services to / from EU ports		
1	European Commission		1.5% Sulphur from 2007 (with relaxation of S limit on marine diesel oil to 1.5%)			14	7
2	European Commission			0.2% Sulphur, reducing to 0.1% in 2008 (0.2% for all ferry activities)		44	21
3	European Parliament	0.5% Sulphur				38	18
4	European Parliament		0.5% Sulphur			11 (Note 2)	5
5	European Parliament				1.5% Sulphur (although 0.5% actual)	166	78
Total for European Commission proposals						**58**	**28**
Total for European Parliament proposals						**215**	**101**

Note

1. Assuming that emissions from UK owned vessels represent a sub-set of emissions from vessels calling at UK ports.

2. This is the incremental reduction from a revised baseline including the proposed EC limit of 1.5% sulphur.

4.5 The above emission reduction estimates are subject to a number of elements of uncertainty that cumulatively are estimated to represent an uncertainty range in the region of + / - 50%.

4.6 Clearly, reductions in SO_2 emissions are the key focus of the proposed policies. However, in addition to reductions in SO_2 emissions the measures resulting in a switch from heavy fuel oil to marine gas oil will also result in secondary benefits as a result of reductions in emissions of particulates and associated heavy metals. Measures resulting in a reduction in the sulphur content of heavy fuel oil may also result in a reduction in emissions of

particulates and heavy metals, depending on the means by which the lower sulphur oil was derived.

4.7 Research to provide a quantitative estimation of the impact on air pollutant concentrations, human health and the environment is ongoing. This will allow a more detailed analysis of costs and benefits to be completed.

5. Costs

(i) Compliance costs

5.1 A summary of the estimated incremental measures and preliminary estimated costs assumed for all ships calling at UK ports and all UK-owned ships operating in the EU are as shown in Table 3.

Table 3 Incremental Measures and Costs (Note 1)

Sc	Proposal by	Vessel types / movements	Limit	Measure	Q'tity of fuel for ships calling at UK ports / UK owned vessels in 2007 (million tonnes)	Price premium (£/t)	Other costs (£ million per annum (£mpa))	Total cost for ships calling at UK ports (£mpa) (Note 2)	Total cost for UK owned vessels (£mpa) (Note 2)
1	European Commission	Passenger vessels outside ECAs	1.5% sulphur from 2007	Switch to 1.5% sulphur HFO	0.6 / 0.3 (Note 6)	36	None assumed	22	11
2	European Commission	All vessels at berth and on inland waterways	0.2% sulphur	Switch to 0.2% sulphur marine gas oil for 'at berth' use only for all vessels except ferries.	0.4 / 0.2 (Note 6)	69	9 (Note 4)	37	23 (Note 3)
				Complete switch to 0.2% sulphur marine gas oil for ferries	0.6 / 0.3 (Note 6)	69	(Note 5)	41	21
3	European Parliament	All vessels in Emission Control Areas (ECAs)	0.5% sulphur	Switch to 0.5% sulphur marine gas oil	1.7 / 0.8 (Note 6)	50	(Note 5)	85	40
4	European Parliament	Passenger vessels outside ECAs	0.5% sulphur	Switch to 0.5% sulphur marine gas oil	0.6 / 0.3 (Note 6)	50	(Note 5)	30	15
5	European Parliament	All vessels outside ECAs except passenger vessels	1.5% sulphur	Switch to 0.5% sulphur marine gas oil	3.9 / 1.8 (Note 6)	50	(Note 5)	195	90

Total for European Commission proposals	100	55
Total for European Parliament proposals	310	145

Notes

1. Assuming all UK-owned vessels is a sub-set of all ships calling at UK ports.
2. Excluding costs of split or extra fuel tanks.
3. Excluding costs of land based electricity generation for large tankers
4. Costs of converting ship engines to run on marine gas oil as well as HFO. Assuming majority of ship engines would require conversion. Ships calling at UK ports are estimated to be approximately 11% of the total fleet of 31,641 vessels in the LMIU database as reported by the Entec / IVL study for the EC. Cost per ship is estimated from Section 4.1 to be in the range of £5K to £50k, with a mid range value of approximately £28K. Assuming a 3.5% discount rate and 15 year economic life.
5. Costs are already accounted for by cost estimates for Scenario 2.
6. Based on emissions and fuel consumption data from the Entec / IVL study for the EC, assuming ships calling at UK ports are estimated to be approximately 11% of the total fleet and UK owned vessels are estimated to be approximately 5% of the total fleet.

5.2 The above cost estimates are subject to a number of elements of uncertainty that cumulatively are estimated to represent an uncertainty range in the region of + / - 50%.

5.3 Furthermore, in the event that the European Parliament also proposes to extend the requirement for use of 0.2% sulphur fuels at berth and in inland waterways to *all* fuels used in territorial seas, indicative additional costs have been estimated at £62mpa for ships calling at UK ports and £29mpa for UK owned vessels. This is assuming a premium for lower sulphur marine gas oil of £10/t based on a survey of fuel prices in Entec's study for the European Commission, applied to the marine gas oil usage in Scenarios 3, 4 and 5. However, from the European Parliament's explanatory statement this appears to apply to distillate fuels only and not all fuels, and appears to simply represent a re-introduction of a provision in the original SCLFD. It is assumed, for the purposes of this RIA, that the 0.2% limit for territorial seas only applies to distillate fuels not all fuels and therefore, on this basis, it would not lead to incremental costs in addition to the SCLFD.

(ii) Other costs

5.4 In addition to costs related to fuel switching and abatement, there are potential additional regulatory monitoring and enforcement costs beyond baseline costs. These additional costs are likely to be incurred by such bodies as Port Health Authorities and are estimated to be in the region of £0.1m to £0.2mpa for the European Commission proposals and £0.05m to £0.1mpa for the European Parliament Proposals. The cost of enforcement will, however, depend in part on the means of enforcement, which has not yet been finalised.

5.5 It is possible that some of the proposals may have some environmental costs. For example, under Scenarios 3 and 5 above, there is a possibility

that provision of sufficient low sulphur fuel may result in an increase of CO_2 emissions at refineries in the region of 10%. The relative costs of such an approach would need to be considered in order to avoid negating the benefits of low sulphur fuel.

(iii) Costs for a typical business

5.6 There is no 'typical' ship covered by the proposals. Costs for operators will depend on which approach is taken to comply with the sulphur content limits. Costs will also depend on the size of the ship, extent of operation inside and outside European waters, type of fuel used etc.

6. Consultation with small business: the Small Firms' Impact Tests

6.1 The costs of the proposal fall primarily on oil refineries and operators of large marine vessels. Small businesses are unlikely to be affected. Small marine vessels, such as fishing vessels, use gas oil which already complies with the requirements of the Directive. There may be some impact on 'lifeline' ferry services in isolated parts of the UK; we are looking into the implications of this.

7. Competition Assessment

7.1 It is unlikely that the proposals will have a detrimental effect on competition. We are currently carrying out a competition assessment in order to ensure that this is the case.

8. Enforcement and Sanctions

8.1 Upon adoption of the Directive, it will be necessary as part of the transposition process to publicise any changes required to the current UK system for monitoring and assessing the sulphur content of liquid fuels.

8.2 This section will be completed for the Full Regulatory Impact Assessment, when the final text of the Directive is agreed.

9. Monitoring and review

9.1 This section will be completed for the Full Regulatory Impact Assessment, when the final text of the Directive is agreed.

10. Consultation

(i) Within government

10.1 The Government's negotiating position was agreed on *****. Further detailed policy refinement will be carried out in consultation with HM Treasury, Department for Transport, Maritime and Coastguard Agency,

Department of Trade and Industry, Cabinet Office, Foreign Office, Department of Health, Ministry of Defence and Devolved Administrations.

(ii) Public consultation

10.2 The Government does not propose to carry out formal consultation on the proposals, as they apply specifically to the shipping and oil sectors. Key stakeholders in all affected sectors have been actively consulted.

11. Summary and Recommendation

11.1 The Government supports the aims of the proposed Directive and its emphasis on environmental protection. Shipping is an increasingly substantial contributor to emissions of sulphur dioxide and is well placed to deliver reductions in emissions.

11.2 The Government supports measures in line with MARPOL Annex VI as it already intends to ratify the Protocol. It will seek to ensure that the relevant provisions in the Directive mirror Annex VI as closely as possible, in order to ensure an internationally harmonised approach. For example, the Directive as drafted omits derogations for ships in emergency situations, and does not exempt navy vessels; ideally, those qualifications should be included in the Community legislation.

11.3 The Government does not at this stage welcome the European Parliament Environment Committee's proposal to further reduce sulphur limits for marine fuel used in Sulphur Emission Control Areas to 0.5%. Any support of sulphur limits below 1.5% would be subject to the provisos that the legality of such measures should be clearly demonstrated, sufficient quantities of such fuel can be provided, and the benefits clearly justify the costs.

11.4 The Government supports the aim of the proposal to limit the sulphur content of marine fuels used by ships on inland waterways and at berth in Community ports to 0.2% sulphur but may seek derogations or amendments as a result of consultation with stakeholders.

11.5 The Government will seek an amendment to the Directive to allow the use of abatement technology to meet the requirements of the Directive, provided that the environmental equivalence of such technologies can be demonstrated. This may allow operators to deliver equal benefits at considerably lower cost.

12. Regulatory Quality Declaration

12.1 I have read the partial Regulatory Impact Assessment and I am satisfied that the balance between the cost and benefit is the right one in the circumstances.

ALUN MICHAEL

MINISTER OF STATE (RURAL AFFAIRS AND URBAN QUALITY OF LIFE)
DEPARTMENT FOR ENVIRONMENT, FOOD AND RURAL AFFAIRS

CONTACT Tim Lord
EU and International Branch
Air and Environment Quality Division
Department for Environment, Food and Rural Affairs
4/G16 Ashdown House
123 Victoria Street
London SW1E 6DE

Tel: 020 7944 6302
E-mail: tim.lord@defra.gsi.gov.uk

File

Top: PSD (MW)
" PSD (JK)

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

The Rt Hon Jack Straw MP
Secretary of State
Foreign and Commonwealth Office
King Charles Street
London
SW1A 2AH

28 May 2003

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear Jack.

NON ROAD MOBILE MACHINERY (NRMM) EMISSIONS DIRECTIVE

David Jamieson's letter of 8 May seeks clearance on the UK's negotiating line on NRMM emissions in advance of the 13 June Environment Council where I will be representing the UK.

I have a number of concerns about the proposed UK negotiating line. Our approach to date has been based on an assumption that the cost of compliance with the Commission's Stage IIIB proposals is high compared with the benefits they will deliver. This is contrary to data coming from the US and a number of other Member States. We have established that the figures we have been using are subject to a very high margin of uncertainty. Further the UK's approach has been based on an assumption that NRMM emissions are at the lowest end of the range. Officials are reviewing the data as a matter of urgency. This work may show that exposure levels in urban areas are much higher than previously envisaged. It is also likely to show that exposure levels in rural areas remain low. If this view is confirmed the UK may wish to agree to the stricter controls in the proposal in urban areas whilst pressing for a derogation for agricultural activities.

Further, before finalising our line we need a rather clearer view of how the Commission and the European Parliament plan to respond to the proposals and to the newly published US "Tier 4" proposals.

Taking all these factors into account I believe that we should try to keep our options open at the June Council. Given the uncertainties over our own position and the impact of the US Tier 4 proposals I do not think the UK is in a position to vote in favour of a Presidency Compromise if things go to a vote in June. I would also be reluctant to vote against as the benefit to urban areas might be much more significant than we had originally envisaged. A "no" vote would also seriously compromise our ability to influence the later stages of these negotiations. I am also reluctant to block a vote by seeking to apply a scrutiny

SKP 28/5/03

reserve. I would therefore propose abstaining on the grounds that "we remain unconvinced today of the merits of a mandatory Stage IIIB, particularly in relation to agricultural machinery, and while we might ultimately support a Presidency compromise package we cannot take a view in advance of European Parliament consideration of the Directive".

I am copying this letter to the Prime Minister, EP Colleagues, David Jamieson, Sir Andrew Turnbull and Professor Sir David King.

Regards

Margaret

MARGARET BECKETT

The Deputy Permanent Representative

27 May 2003

JK
cc: MH
SW
MR

United Kingdom
Permanent Representation
To the European Union

Avenue d'Auderghem 10
1040 Brussels
Telephone: (0032)(2) 287 8211
Telex: 24312
Facsimile: (0032)(2) 287 8392
Direct Line: (0032)(2) 287 8233
e-mail : anne.lambert@fco.gov.uk

Catherine Day
Director General
DG Environment
European Commission
rue de la Loi 200
B-1049 Brussels

Dear Director General

"Developing an action plan for environmental technology": UK response to the stakeholder consultation

I enclose my authorities' response to the stakeholder consultation on the Commission Communication COM (2003) 131 "Developing an action plan for Environmental Technology". We welcome both the communication, and the opportunity to engage with the Commission on the development of the plan.

The UK government is strongly committed to the development and promotion of clean and more resource efficient technologies, both nationally and across the Union in the context of the Lisbon process. In February Prime Ministers Blair and Persson wrote a joint letter (copy enclosed) to the Presidents of the Council and of the Commission with a set of proposals on this theme. The Prime Ministers suggested a range of specific initiatives, including on renewables, energy efficiency, low carbon energy sources, biofuels, urban transport systems, and building/vehicle design. They also highlighted the need for a thorough review of how EU policies and funding structures impact on the development and bringing to market of new technologies.

A significant amount of work has been done in the UK on environmental technologies, both independently and by the government. A number of these studies are highlighted in our response to the Communication and I attach copies of two reports on the development of cleaner energy technologies. We would welcome further opportunities to discuss these initiatives with your officials in advance of the publication of the Action Plan. Brian Bender will be writing to you separately to pursue this.

Yours sincerely

Anne Lambert

Anne Lambert

DCO
Recd 28/5

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

MH
cc JK
CS

The Rt Hon Margaret Beckett MP
Secretary of State for Environment, Food and Rural Affairs
Noble House
17 Smith Square
London
SW1P 3JR

23 May 2003

WATER BILL: ACCEPTANCE OF OPPOSITION AMENDMENTS

This letter gives you ENV, EAPC and ENV(G) policy clearance to five proposed amendments to the Water Bill:

- **Environment Agency duty with respect to water resources;**
- **Consumer Council for Water and licensed water suppliers;**
- **Social and environmental guidance;**
- **Removal of a duty on the Consumer Council for Water to publish performance statistics;**
- **Allocation of the costs of competition appeals.**

It also gives clearance to a further proposed amendment provided it is slightly redrafted:

- **Duties of water services regulatory authority (Ofwat);**

In addition, it asks that further discussion take place between your officials and those in DfT on your proposed amendment:

- **Duty on public bodies to further water conservation.**

Should official agreement be reached, it grants clearance to the amendment, provided the current dispensation of the Fire Service College on water conservation continues.

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

Thank you for your letter of 30 April, in which you proposed seven amendments to the Water Bill as set out above. Replies were received from John Healey, Alistair Darling and Tony McNulty.

John said he was content with your proposed amendments with one caveat. He is concerned about the amendment on "Duties of water services regulatory authority (Ofwat)", specifically on the regard to be given to "the desirability of encouraging investment and innovation". He believes this will add little to what will be an already crowded list of duties and may have a perverse effect, as it implies investment is in itself a good thing. He suggests you reject or alter the amendment, for example, to "...encouraging cost efficient investment and innovation". He also asks that your officials keep his in close touch regarding elements of the Bill which deal with the statutory duties of the regulator.

Commenting on the proposed amendment "Duty on public bodies to further water conservation" Alistair agrees the importance of water conservation, but is not sure there would be no costs for public bodies such as ports, airport operators and the rail industry. He would also be cautious over new duties that could become a burden to these bodies, especially if they have not been consulted. He would prefer to see a proper RIA based on consultation with the public bodies affected. As this would take too long to produce before tabling the amendment, and as I understand your officials wish to pursue their arguments further with Alistair's, policy clearance must be conditional on DfT official support.

Tony also broadly accepts this amendment. He highlights ODPM's work on reducing water needs and consumption. However, he points out the obvious need for the Fire Service College to use water for training purposes. The commercial nature of the college is such that the use of water is not easily regulated. He therefore assumes the current dispensation enjoy by the College will continue. Should the amendment be adopted, he would also welcome a chance to input into the requirement for public bodies to further water conservation and he specifies that any new burdens imposed on local authorities would need to be financed by Defra.

You may therefore take it that you have clearance for your amendments with the following caveats:

- Duties of Water Services Regulatroy Authority (Ofwat)

Clearance is subject to the amendment suggested by John.

- Duty on Public Bodies to further Water Conservation

Clearance is subject to DfT official level approval and adhering to Tony's caveat regarding the Fire Service College.

I am copying this letter to the Prime Minister, members of LP, ENV, EAPC and ENV(G) Committees and to Sir Andrew Turnbull.

JOHN PRESCOTT

PRIME MINISTERS
DIRECT COMMUNICATIONS UNIT

28 MAY 2003

RECEIVED

File

The Rt Hon Nick Raynsford MP
Minister of State for Local Government and the Regions

OJ
cc: AW
Neil
SF
JL
Lucy

OFFICE OF THE DEPUTY PRIME MINISTER

26 Whitehall
London SW1A 2WH

Tel: 020 7944 3013
Fax: 020 7944 4539
E-Mail: nick.raynsford@odpm.gsi.gov.uk

Web site: www.odpm.gov.uk

Our Ref: P/R/008820/03

23 MAY 2003

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

Dear John

ABANDONED CARS

John Spellar's letter to you of 7 May suggests that the Cabinet Office take over responsibility for taking forward work to deal with the problem of abandoned cars.

I was grateful for John's overview of the recent policy developments to tackle abandoned cars and I agree that we must now concentrate on delivery.

Local authorities have a key role in partnership with the DVLA, police and other agencies to tackle this blight of on our communities. Abandoned cars often act as magnet for further anti-social behaviour, including arson, which leads to a steady deterioration in the liveability of our communities. Moreover, the problems are often most acute in our most deprived communities.

As we now focus on delivery and mainstreaming the various research and initiatives I would suggest the co-ordinating lead of this cross-cutting issue should rest with one of the main delivery Departments with a direct interest in achieving successful outcomes. For example, there is a lot of work which needs to be undertaken on data collection in order to fill in the gaps in our knowledge and to resolve the contradictory nature of the data which is available. I understand that Defra is co-ordinating work here. They also have lead responsibility for the legislation under which local authorities act to deal with abandoned cars.

Whichever Department takes the lead on the issue, officials from the Office of the Deputy Prime Minister will continue to provide support and advice to them on links to the liveability agenda, neighbourhood renewal, preventing arson, as well as general aspects of local authority performance and financing.

I am copying this to the Prime Minister, John Spellar, to DA colleagues and to Sir Andrew Turnbull.

Yours ever

Nick

NICK RAYNSFORD

Sustainable
Development Commission

People • Planet • Prosperity

5th floor, Romney House
Tufton Street, London SW1P 3RA

Tel: 020 7944 4964 Fax: 020 7944 4959
E-mail: sd.commission@defra.gsi.gov.uk
Web: www.sd-commission.gov.uk

Jo Key
Advisor
Policy Unit
10 Downing Street
London
SW1A 2AA

22 May 2003

Dear Jo

Our "Redefining Prosperity" publication is about to see the light of day (we are planning to launch it at the SD UK Conference in early June), so I thought it was appropriate just to make sure that the Prime Minister and yourselves had had a chance to see this in advance. There's nothing exactly earth-shattering in it, but we really are keen to try and build a deeper dialogue around this over the next few months – and certainly to feed in any outcomes from that to the review of the sustainable development strategy.

I've also written to Geoff Mulgan, as you'll see, and hopefully will be able to set up a meeting with him. It would be really good if it was possible for you to be at that, just so that we can work out what the best way might be for taking these things forward.

Best wishes

Jonathon

JONATHON PORRITT
Chairman

Enc

→ Geoff Mulgan (SU)

To see X Geoff - not sure if you're planning to see Jonathon but if so, happy to come if you/he would find it useful. Alternatively happy to host here if you'd prefer.

JK.

Mw

KK
- cc Jo key

Sustainable
Development Commission

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5th floor, Romney House
Tufton Street, London SW1P 3RA

Tel: 020 7944 4964 Fax: 020 7944 4959
E-mail: sd.commission@defra.gsi.gov.uk
Web: www.sd-commission.gov.uk

The Rt Hon Tony Blair
Prime Minister
10 Downing Street
London
SW1A 2AA

PRIME MINISTERS
DIRECT COMMUNICATIONS UNIT
27 MAY 2003
RECEIVED

22 May 2003

File pls

Dear Tony

REDEFINING PROSPERITY

Over the last year or so, the Sustainable Development Commission has been investigating one of the key issues for sustainable development: the relationship between economic growth and wellbeing. One of our starting points for this work was your own observation:

> "Real progress cannot be measured by money alone. We must ensure that economic growth contributes to our quality of life, rather than degrading it."

This is, of course, a sentiment with which we wholly concur! But as you know, it's not that easy working out how to turn this into practical policy measures.

That's what we are hoping to stimulate a much livelier debate about, off the back of "Redefining Prosperity", which will be published early next month. I was anxious that you and your advisors should see it in advance, and I am hoping to fix up a meeting with Geoff Mulgan in the next few weeks.

Economic growth may well have served post-war politicians well as a reasonably accurate proxy for human wellbeing and contentment, but now that the environmental, social and psychological externalities entailed in generating economic growth in that way are weighing more heavily on people than ever before, there is a pressing need to reopen the debate about economic growth and wellbeing itself.

I would very much welcome the opportunity to discuss these issues with you at some stage over the summer.

Best wishes

Jonathon

JONATHON PORRITT
Chairman

Enc

sustainable development commission

redefining prosperity:
resource productivity, economic growth and sustainable development

a report from Jonathon Porritt
chairman, sustainable development commission

June 2003

Redefining prosperity: resource productivity, economic growth and sustainable development

Annex 1: Supporting document
Redefining the debate: resource productivity, economic growth and sustainable development

Redefining prosperity: Resource productivity, economic growth and sustainable development

1. Introduction

"Real progress cannot be measured by money alone. We must ensure that economic growth contributes to our quality of life, rather than degrading it."
(Tony Blair, Foreword to *A Better Quality of Life* 1999)

In those words, included in the Foreword to the Government's first Sustainable Development Strategy in May 1999, the Prime Minister made a straightforward but often neglected distinction: from the first day of an undergraduate course to the most sophisticated current research, the inadequacies of standard definitions of Gross Domestic Product (GDP) and economic growth as yardsticks for wellbeing are staples of academic economics. Yet economic policy still seems to be designed as though maximising GDP was its sole objective.

HM Treasury defines its aim as follows: "to raise the rate of sustainable growth, and achieve rising prosperity, through creating economic and employment opportunities for all." This aim is pursued not just for its own sake, but to make possible delivery of the Government's key social objectives: jobs, redistribution of income and spending on public services. By "sustainable", the Treasury has said it means that "growth must be both stable and environmentally sustainable. Quality of growth matters; not just quantity."

As far as the Sustainable Development Commission is concerned, sustainable development provides the best possible framework for redefining progress and redirecting our economies to enable all people to meet their basic needs and improve their quality of life. This has to be done whilst simultaneously ensuring that the natural systems, resources and diversity upon which we depend are maintained and enhanced for our benefit and for that of future generations.

Part of the debate about sustainable development lies in confronting those difficult issues that most people would rather leave undisturbed. The compatibility between economic growth (as we know it today) and sustainable development is perhaps the most difficult of all those difficult issues.

No one denies that securing the benefits that economic growth brings simultaneously generates both social and environmental externalities of varying kinds and severity: costs which, if they are large enough, can outweigh the welfare gains.

Environmentalists argue that these externalities are now so grave (in terms of impact on eco-systems, resource depletion, climate change, biodiversity and so on) as to imperil Nature's self-regenerating capacities – and, in the process, imperil humankind's own capacity to improve our quality of life. Whilst avoiding the apocalyptic rhetoric, Government Ministers now regularly acknowledge the seriousness of the situation, and deploy a range of policy levers in an attempt to limit the impact of these externalities.

But just how effective are they in that mitigation strategy? Would they be better served by a more fundamental re-appraisal of the model of progress that may have served politicians pretty well over the second half of the 20th Century, but now appears to be losing steam?

We do not pretend to have the answers at this stage; the main point of this publication is to stimulate debate, to get other branches of government to think about the issues, and to begin to put in place processes which should change the way we think about economic growth and wellbeing.

2. The heart of the problem

The Government now has an unparalleled opportunity to engage in just such a radical re-appraisal. It is about to undertake a thorough review of the 1999 Sustainable Development Strategy *A Better Quality of Life*, looking at the fifteen Headline Indicators it uses to assess progress against a range of key social, economic and environmental parameters, and the four Strategic Objectives that lie at the heart of the strategy:

- Social progress which meets the needs of everyone
- Effective protection of the environment
- Prudent use of natural resources
- Maintenance of high and stable levels of economic growth and employment

It's the fourth Objective that we are principally addressing in this paper. While the majority of people in government, business, academia and indeed society at large are perfectly comfortable with the pursuit of "high and stable levels of economic growth"

(and have no reason to suppose there is any fundamental incompatibility between this and the other three Objectives), a vocal minority see in that wording ambiguity, intellectual incoherence, and a continuing failure properly to understand the essence of sustainable development and the impact of economic growth as it is measured today.

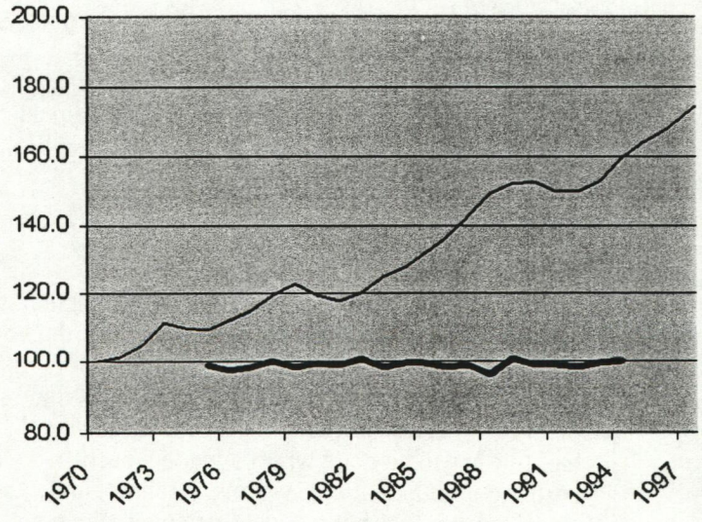
At the heart of today's worsening ecological crisis lies a systemic misperception about the relationship between the earth and the global economy that has expanded so dramatically over the last fifty years. For most economists and politicians, the global economy has become the centre of reality, the overarching system within which all else is subsumed. Human societies, communities, eco-systems, and habitats are all seen as subsystems of that overarching system. As such, there is no inherent reason why that overarching economic system shouldn't go on expanding indefinitely, with constant increases in the throughput of both energy and matter.

In terms of today's prevailing political economy, such a world view is not all that surprising. Unfortunately, it ignores both the basic laws of thermodynamics and the natural laws on which all life support systems depend. However dynamic it may be, the global economy is in the first instance a sub-system of human society, which is in itself a sub-system of the totality of life on earth.

This means that the majority of economists (and the politicians they advise) choose to ignore the fact it is the physical limits of that eco-system which constrain the speed and scale at which the economic sub-system can expand. In the long run, it cannot grow beyond the capacity of the surrounding eco-system to sustain that growth – in terms of its ability to provide high grade resources and absorb low grade waste. What we have is what we've got. Matter can neither be created nor destroyed.

This does not make all economic growth inherently unsustainable - far from it. But it does mean we need fundamentally to rethink the dominance of economic growth as the driving force in the modern political economy, and to be far more rigorous in distinguishing between the kind of economic growth that is compatible with the transition to a genuinely sustainable society and the kind that absolutely isn't. Optimists here tend to point to the so-called "invisible environmental hand", where economic growth can actually help reduce pollution if it accelerates resource productivity at a faster rate than both resource consumption and population growth. Wilfred Beckerman, for instance, asserts that "in the longer run, the surest way to improve your environment is to become rich". The pessimists promptly point to the "rebound effect" (whereby any additional "environmental space" created by increased resource efficiency is immediately offset by additional consumption), and simply invite people to re-examine the irrefutable empirical evidence of continuing and worsening ecological damage.

And does the pursuit of year-on-year economic growth automatically deliver the goods? The relationship between economic growth and peoples' quality of life (or "life satisfaction") has been seized on recently by senior government advisers. In a paper published by the Cabinet Office's Strategy Unit in December 2002 ("Life Satisfaction: the state of knowledge and implications for government"), Nick Donovan and David Halpern highlight the basic problem contained in the following data from the Eurobarometer survey.



GDP per capita (1970=100) _____
Life satisfaction (1973 = 100) _____

They advance a number of reasons to explain why levels of life satisfaction do not follow increases in national income:

"Three explanations have been put forward for the failure of life satisfaction to follow the increases in national income, that:

- the role of hereditary factors might overshadow any effects of income;

- while GDP may have arisen, other trends such as rising crime or divorce rates may have had an offsetting impact on life satisfaction; and
- while an increase in an individual's income may increase their satisfaction it may also cause envy and reduce that of others (if people's happiness is determined by relative rather than absolute status) or the increase in satisfaction may be temporary (if people adapt to their new circumstances and their aspirations rise).

Policy makers in the UK are, in effect, confronted with a double dilemma. Increased economic growth is generating more and more negative externalities that threaten to overwhelm the life-support systems on which we depend. Equally, increased economic growth isn't necessarily making people any happier. These two are obviously intricately linked, but each needs to be addressed separately.

3. Resource productivity

In broad policy terms, the Government's favoured strategy for squaring the first of these circles (ie maintaining high and stable levels of economic growth but without the social and environmental externalities) is improving resource productivity – getting more economic value from each unit of production, thus "decoupling" economic growth from increased resource use.

Resource productivity lies at the heart of the DTI's own Sustainable Development Strategy, and featured prominently in the three big environment speeches that the Prime Minister gave in 2001 and in his sustainable development speech in February 2003. It's a seductive strategy in that it appears to offer an almost pain-free route to a "cleaner environment " without in any way jeopardising macro-economic priorities. It is far more attractive to concentrate efforts on the supply side (seeking technological changes that improve efficiency of resource use) than it is to confront problems of demand management.

As the Government's annual *Quality of Life* report demonstrates, some dramatic step change improvements have already been achieved. Since 1970, many polluting emissions (of sulphur dioxide, ozone-depleting gases, NO_x and carbon monoxide, for instance) have been substantially cut, though some are now creeping up again, albeit from a much lower base level, because of economic growth.

And the picture on overall resource consumption is also encouraging. A recent comparison of EU countries rated the UK as one of the top five in terms of resource use efficiency. Research by the Wuppertal Institute in Germany showed that the UK's 'Total Material Requirement' grew by just 12% between 1970 and 1999, whilst GDP increased by 88% during the same time - a decoupling of economic growth and resource use that has surprised many commentators given the enormous difficulties the UK has had in implementing effective waste policies. (Much of the decoupling effect can be attributed to the shift from manufacturing to services, which tends to have a far lower environmental impact per unit of GDP). Total resource use per capita in the UK has remained fairly stable over the last thirty years, despite steady increases in economic output.

With greenhouse gas emissions, the race so far is a dead heat: efficiency improvements are just about keeping pace with increases in consumption. In road and air transport, however, efficiency is not managing even this: increases in consumption are outrunning efficiency improvements. Even with predicted increases in the fuel efficiency of passenger planes, predicted increases in the UK's air traffic would offset between 30% and 50% of the UK's committed emissions reductions under the Kyoto protocol.
But the problem is that markets will only reward improved resource productivity if it simultaneously reduces costs. For as long as environmental resources and impacts are cheap compared to other factors of production, there will be far more occasions where companies will improve their competitive position by increasing environmental impacts to reduce labour or capital inputs than vice versa. Celebrating the handful of counter examples is a 'Mississippi fallacy': concentrating on a few little boats struggling upstream while ignoring the vast volume of water pouring downstream. According to DTI's own figures, "30% of the energy used in the UK every year – the equivalent of £12bn – is wasted."

It has been claimed that the 'weightless' economy (driven by new information and communication technologies) could bring the required 'step change'. But this is a field where hype outstrips evidence. Such evidence as we do have suggests that new activity of this kind generally occurs as well as 'old' or 'heavy' activity rather than instead of it; that the behavioural changes it makes possible often increase other areas of consumption; and that "rebound" and behavioural effects can add to environmental impacts as readily as reduce them. The technologies which were supposed to achieve the 'paperless office' actually increased paper use by reducing the cost and time disincentives

to endless redrafting and indiscriminate copying. And there is no evidence in other fields that digital technologies will of themselves significantly change the environmental intensity of the economy.

The first priority for the Government must therefore be to take resource productivity much more seriously. In some areas, decisive action is already being taken: landfill tax, for instance, will increase by £3 per tonne per annum (from 2005 onwards) until it reaches the rate of £35 a tonne – still much less than in some other European counties, but a clear enough signal of the need for dramatic changes in our waste management strategy. In other areas (such as pesticide reduction, or ending the anomaly that no taxes are paid on aviation fuel), it's all talk still, with no real intent to get to grips with the different problems.

But the truth of it is that taking resource productivity seriously (ie systematically driving down resource and energy consumption across the entire economy) is not as pain-free as it first appears. Decades of perverse subsidies and the licensed externalisation of costs to keep prices low, has left a mountain of market failures that people have got used to and resent having taken away from them. The fuel tax protests of 2000 are etched in the memory of civil servants and ministers alike, as an example of what happens when an eco-instrument is deployed insensitively or punitively. The fact that no one in Government could summon up the courage to defend the fuel tax escalator as a key policy measure in the Government's overall transport and climate change strategies, was both deeply regrettable and an important reminder that even something as 'simple' as resource productivity demands consistent, sustained and inspirational political leadership. Of which, on that occasion, there was none.

But let us assume for one moment that these missing ingredients (leadership, urgency, transparency, cross-departmental co-ordination etc) are injected into the Government's overall approach. What might then be expected in terms of the scale of resulting improvements in resource productivity? There are widely differing estimates in answer to this question, depending on the particular resource input under consideration (different sources of energy, precious metals, raw materials, chemicals, minerals, aggregates and so on), or the degree of 'techno-optimism' of those making the estimates.

However, the overwhelming consensus amongst academics is that resource productivity will not, on its own, deliver the desired reconciliation between the pursuit of economic growth and the imperative of learning to live within the Earth's biophysical constraints and carrying capacities. We must therefore look at the other side of the Sustainable Production and Consumption challenge: is it possible to decouple improvement in people's quality of life (or their overall level of life satisfaction) from increases in consumption?

4. Sustainable consumption

One of the few positive pointers to come out of the World Summit on Sustainable Development's Plan of Implementation can be found in para 15:

"All countries should *"Encourage and promote the development of a 10 year framework of programmes in support of regional and national initiatives to accelerate the shift towards sustainable consumption and production to promote social and economic development within the carrying capacity of ecosystems..."*

Ten years sounds forever, but many countries will struggle even with this complacent time frame, particularly on the sustainable consumption side. This concept currently has almost no serious traction in public policy terms; if it means anything at all, it means "the slightly more responsible consumption of slightly more sustainable products", a piece of neutralising circularity that has suited policy makers just fine until now. But the decision of the UK Government to produce a new Sustainable Consumption and Production Strategy by the summer of 2003 necessitates something rather more profound.

The recommended prescription as far as radical environmentalists are concerned is simple: people in the rich world must not just consume in more socially and environmentally responsible ways, but must be persuaded to consume less. To bring that about, the hypothesis is advanced that people who have reached a certain level of material comfort and security can (and should) be persuaded that their future quality of life resides in freeing themselves of the trappings of consumerism and in opting instead for low-maintenance, low-throughput, low-stress patterns of work, recreation and homelife.

The clearest manifestation of this has been described as 'downshifting', detected in a growing number of people quietly reconfiguring their work to spend more

time at home, with their children, doing other things – entailing a lower income but a higher quality of life. The fact that this is a predominantly middle-class phenomenon does not invalidate its significance, but it inevitably raises questions about its usefulness in policy-making terms.

There are significant macro-economic implications in any low-consumption economic model. Lower levels of economic growth (the inevitable consequence of large numbers of people opting for lower levels of economic activity) would mean lower tax revenues, which in turn would necessitate lower levels of public expenditure on key public services such as health and education, as well as lower levels of capital expenditure on things like transport. The negative impact of this on society and people's individual quality of life is as much of concern to advocates of genuine sustainable development as the negative impacts on the environment of current levels of economic growth.

The whole question of employment must also be factored in here. To what extent would lower levels of consumption impact on employment levels in both rich and poor countries? Environmentalists may well have robust and entirely legitimate concerns about the compatibility of genuinely sustainable development and "high and stable levels of economic growth", but they might also feel very positive about "high and stable levels of employment".

From a demand-side perspective, there would appear to be very little public support for 'consume less' political alternatives. Green parties the world over have succeeded in attracting significant minorities of voters, but have rarely seen that percentage move above 10% even in the world's richest countries, which one might reasonably assume to be more open to the concept of reaching some kind of 'affluence threshold' beyond which further increases in consumption or material standard of living are deemed to bring diminishing utility.

The concept of 'voluntary simplicity' will continue to have considerable resonance with a relatively small number of people in rich northern countries, but is unlikely to have much purchase either for OECD governments intent on addressing residual poverty within their own borders, let alone in developing countries, where the principal challenge resides in the fate of the world's poorest 2 billion people who live on less than $2 a day. There is very little if any evidence that those countries are prepared in any way to forego the delights of Western consumerism which they see paraded in front of them through a constant battery of mass-media programming and advertising that reaches into the poorest corners of the poorest countries.

Despite more than twenty years of lively debate about one of the earliest definitions of sustainable development ("sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs"), as first used in the 1987 Brundtland Report, there is no consensus either on the 'boundary conditions' to be used in defining human needs, or on the potential usefulness of the concept of human needs in promoting better policy making. The vexed debate about what is a 'need' and what is a 'want' rumbles inexorably on.

It's clear, for instance, that increasing individual choice does not automatically make us better off. Every choice we make is conditioned and constrained by the choices others have already made, and in turn conditions future choices. Individually sensible choices to travel by car, for instance, lead cumulatively to traffic-clogged degraded inner cities, car-dependent suburbs and amenities accessible only by car - a mess nobody wanted or intended, in which nobody can access what they want reliably and easily, those without cars are further disadvantaged, and fossil fuel wastage is structured into lifestyles.

Choices come in 'package deals'. Claiming that a policy or decision 'increases choice' should be the beginning not the end of debate. Are the kinds of choice being increased ones that really matter? What other choices do they curtail or foreclose? Can we be certain the gains are worth the losses? Choices of some kinds or for some people preclude or constrain other kinds of choices or choices for other people.

5. Redefining prosperity

Which leads us back inexorably into the territory of consumption, quality of life and individual wellbeing. By and large, conventional economic thinking (and our own reflex instinct) tells us that the greater one's per capita income, the greater one's purchasing power, the greater one's opportunity to go out there and consume, then the greater the amount of personal utility or wellbeing we will derive from that consumption. After all, the amount that people pay

for any product or service tells us what that product or service is really worth to them.

But ever since the ground-breaking work of Abraham Maslow and Manfred Max Neef, psychologists and alternative economists have set out to demonstrate that, far from there being any automatic increase in wellbeing for every increase in levels of consumption, much of our current consumption is turning out to be a very inadequate surrogate for meeting human needs in a more satisfying, durable way.

People can be happy with very little wealth and possessions, or miserable with plenty. Some studies support the view that increased consumption does not automatically lead to increased wellbeing, and some conclude exactly the opposite! Most research indicates that peoples' quality of life is determined far more by the quality of their working life, their family life and their overall social relationships – all seem to be more important relatively than the amount of consumption they are able to enjoy. And if that consumption is increasingly eroding the quality of those other aspects of overall wellbeing, then it is clearly far less beneficial than it might at first sight appear.

There is also a large amount of US literature on the reduced wellbeing of family life in the middle classes as well as of the working class, as a result of intensified workplace pressures over the last 20 years. The percentage of people describing themselves as 'very happy' has declined since the late fifties, despite the fact that personal real income has more than doubled since that time.

It's worth remembering that for governments, the end goal of their use of their democratic mandate is to improve people's wellbeing. The means available to them for achieving this are many and various, though securing as high a level of economic growth as possible has become the most important. Indeed, it's become so dominant that it's easy to forget that the ultimate purpose of this economic growth is in fact to improve wellbeing. Economic growth may well have served post-war politicians well as a reasonably accurate proxy for human wellbeing or contentment, but now that the environmental, social and psychological externalities entailed in generating economic growth in that way are weighing more heavily on people than ever before, there is a pressing need to reopen the debate about economic growth and wellbeing itself.

What makes this so hard to interpret is that our single most important indicator of economic prosperity (namely GNP) obscures the reality of what is actually happening. The standard, aggregated index of GNP is used to capture all marketed exchanges and government expenditures, and therefore measures the increase in the economic value of overall production – but not decoupled from levels of biophysical throughput that generate that increased economic value. So as we eat up our 'natural capital', or degrade the eco-system's capacity to renew the kind of natural services on which we depend, we persist in counting all that destructive economic activity as current (benign) income. At the same time, we also count in many so-called 'defensive expenditures', caused by having to deal with some of the externalities of economic growth, be they environmental (environmental protection and restoration, damage compensation etc) or social (car accidents, poor health, rising crime etc).

As we pointed out in the introduction, there is no particular controversy about this. Economists are forever pointing out how inappropriate it is to use GNP as a sole measure of increased welfare. A huge amount of intellectual ingenuity has therefore been devoted to finding more appropriate measures of economic welfare. Perhaps the best known of these is the UNDP's Human Development Index (HDI), used every year as part of its influential Human Development Report. Others include Nordhaus and Tobin's Measure of Economic Welfare and Daly and Cobb's Index of Sustainable Economic Welfare (ISEW).

ISEW is an attempt to make a better measure of welfare than per capita GDP by adding to it some measure of benefits omitted from it because they are not traded (such as unpaid domestic work), subtracting the value of activities which are traded but do not contribute to human welfare, (such as the treatment of pollution-related illnesses), and by correcting for income inequality. The UK's ISEW rose until the mid 1970s, then stayed level, and then began to decline again (while per capita GDP continued to rise). ISEWs calculated for several other developed countries all show the same overall pattern of levelling off and then decline. This overall shape is robust over a wide range of weightings of the contributory factors - a partial answer to valid criticisms that ISEW is a methodological mongrel, made by arbitrarily aggregating incommensurable (and often individually questionable) indicators of very different kinds of things.

6. Recommendations

The position of the Sustainable Development Commission in this political minefield is a simple one. It took the best part of 20 years to demonstrate that economic growth and increased energy consumption were not inextricably wedded, and that it was perfectly possible to secure high levels of economic growth without corresponding increases in energy consumption. But will it really take another 20 years to persuade politicians that one can de-couple improved societal wellbeing and individual happiness from high levels of consumption?

Whilst it may be perfectly reasonable for politicians to avoid high-risk strategies on economic growth and consumption, given the dearth of convincing evidence that such strategies will strike a chord with today's electorate, it is not reasonable to ignore the true nature of the economic challenge entailed in learning to live sustainably on this planet.

The Government can already take considerable credit for its decision to publish its annual Quality of Life Report. The fifteen Headline Indicators chosen (total economic output; investments; employment; property and social exclusion; education; health; housing; crime; climate change; air quality; road traffic; river water quality; wildlife; land use; waste) do indeed cover the waterfront of sustainable development, and although movement on any one indicator, on a year to year basis, is inevitably slight, cumulative data provide a useful snapshot of some of the key parameters of wellbeing and quality of life. To our knowledge, this is the only national report of its kind, an expression of serious intent on the part of the Government to get people to think in a more integrated and long-term way about sustainable development.

It is now the recommended policy of both the United Nations and the European Union that countries should revise the way in which they prepare their national accounts to begin to address the kind of sustainability gap that is currently hidden within them. We would very much like to see leading politicians in all political parties engage much more purposefully in the questions about economic growth, quality of life and sustainable consumption. It is not helpful for UK voters to be lulled into a sense of false security that the status quo ("growth at more or less all costs", on an exponential basis, despite ever-stronger scientific evidence that the ecological crisis is beginning to run away with us) is likely to remain the status quo for very much longer.

And that, in essence, is the purpose of this paper: to invite politicians, policy experts, commentators, business people, religious leaders and NGOs to put these issues on their 'must get to grips with' agenda, rather than defer them endlessly as tomorrow's issues. And with that in mind, we are making a number of key recommendations to Government:

Sustainable Development Strategy

The Government is about to launch out on a major review of its 1999 Sustainable Development Strategy. This provides an unprecedented opportunity to confront some of the dilemmas – and opportunities – raised in this paper, looking in some detail at the four over-arching Objectives, the principles and approaches used by Defra to convey the basics of sustainable development, and the 15 Headline Indicators against which it reports progress on an annual basis.

As regards the Four Objectives (see page 1), we believe the wording in the Government's fourth objective is both unhelpful and misleading. It does nothing to encourage people to think more carefully about the nature of economic growth in terms of its compatibility with broader societal goals and environmental imperatives. Indeed, it encourages people to go on supposing that genuinely sustainable development is completely compatible with the pursuit of high levels of conventionally-measured, unreconstructed, exponential economic growth.

We would therefore encourage a wider debate about this, exploring different forms of wording in order to capture the spirit of the debate raised in section 4 of this paper. At the very least, we would like to see "high and stable levels of economic growth" de-coupled from "high and stable levels of employment", and a recognition that economic growth is only a means to an end (or a number of different ends) rather than an end in its own right. It will also be necessary to review the first Headline Indicator which deals with economic output in terms of GDP per head.

Sustainable Production and Consumption

Margaret Beckett's decision to produce a formal Strategy for Sustainable Consumption and Production (as part of the follow-up to the World Summit on Sustainable Development) is very welcome. For this process to work, Defra and DTI must ensure two things:

- That the recommendations on resource productivity (ie the production end of

Sustainable Consumption and Production) must move us beyond the kind of bland rhetoric that has dominated all previous government publications in this area.

- There must therefore be a clear process for adopting definitive indicators for resource productivity, which government as a whole will adopt for all public sector bodies (including, most importantly, Regional Development Agencies) and actively promote across the whole of the private sector.

Given the complexity surrounding the sustainable consumption debate, it is unlikely that the Government's new Strategy will come up with any specific policy recommendations. At the very least, it must therefore set out an inclusive, transparent process to secure ongoing, cross-sectoral engagement. New institutions (as in the kind of National Coalition on Sustainable Consumption recommended by UNEP) may be needed, and both Defra and DTI must be seen to be taking such processes much more seriously than has been the case in the past.

National Accounts

Although HM Treasury has carried out some low-key investigations into publishing 'satellite accounts' (showing the depletion of non-renewable natural capital) alongside the end-of-year regular accounts, this work would appear to have stalled.

It is crucially important that the Treasury sees this as an essential ingredient of its own efforts to get to grips with more transparent accounting systems, and commits itself formally to a proper annual publication of these 'satellite accounts' in order to encourage much wider public participation. This would be reinforced by an authoritative analysis of material flows through the UK economy, both by economic sector and by region. This will entail a much more comprehensive research programme in this whole area, with a clear understanding of the contribution such research will make to achieving the Treasury's central aim: "to raise the rate of sustainable growth, and achieve rising prosperity, through creating economic and employment opportunities for all".

Beyond that, the Treasury needs to commit itself to including a chapter on Resource Productivity both in the Budget and the Pre-Budget reports. It will also have a chance to 'raise the bar' for the rest of Government when the next spending Review gets underway in 2004. We would like to see departmental reports on the sustainable development aspects of their bids to Treasury published and properly debated.

It is clear there is an enormously important role for the Treasury in this area, building on the developments it has already initiated over the last few years. However, a public policy process of this kind impacts on all key departments, and demands strong leadership from the Government as a whole.

Jonathon Porritt
Chairnan, Sustainable Development Commission
June 2003

Annex 1: Redefining the debate

INTRODUCTION

"Real progress cannot be measured by money alone. We must ensure that economic growth contributes to our quality of life, rather than degrading it."
(Tony Blair, Foreword to *A Better Quality of Life*)

That's what this paper is about. How well are we doing in "ensuring" such an important policy outcome?

First and foremost, this paper is an invitation to people to re-engage in a debate that has gone strangely quiet. It's become one of those unnerving "elephants in the cupboard": we all know it's there, that it has to be addressed, but no-one wants to open the cupboard door!

Yet for many people (in the policy community, government departments, academia, NGOs and business), there's a niggling feeling that we can't really do justice to the concept of sustainable development unless and until we revisit one absolutely critical question: to what extent are economic growth and genuinely sustainable development compatible?

Towards the end of its life, the UK Round Table on Sustainable Development (our predecessor body) drew attention to the possible tension between the fourth of the Government's four sustainable development objectives ("maintenance of high and stable levels of economic growth and employment") and the first three ("social progress which recognises the needs of everyone"; "effective protection of the environment"; "prudent use of natural resources"). It identified this as a key challenge in sustainable development – as others have before and since – and recommended that the Sustainable Development Commission should address it directly.

This we have been keen to do from the outset. We established a Steering Group to develop a work programme in this area and commissioned some research from the Fabian Society and the Levett-Therival Consultancy, whose report, *A better choice of choice*, is available from the Fabian Society. A peer group of external reviewers have contributed generously to our internal debate.

We have also reflected on the importance of these issues in our work on energy, sustainable agriculture, regeneration and health (more details of which can all be found on our website), and in developing our own set of Core Principles for sustainable development, which appear on page 2 - 3 of this report.

Those discussions have persuaded us that there are no easy answers to that critical question, and we do not attempt to provide any in this paper. But we are convinced, as the general understanding of the whole area of sustainable development gradually matures, that this is now a more important question than ever before.

As Defra sets out on its review of the UK Sustainable Development Strategy, part of our contribution will be to ensure that the fundamental issues raised in this paper are a central element in that review process.

1. Policy context

If not an outright failure, the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002 was hardly a resounding success. Thinking back to the Earth Summit in 1992, or even as far back as the publication of the Brundtland Report in 1987, it's hard to be anything other than deeply disappointed at the lack of progress made.

Indeed, some commentators have argued recently that things have actually gone backwards over the last decade or so, rather than moved forward. Where there was once a sense of real urgency and gathering purpose, the speeches of world leaders at Johannesburg were for the most part formulaic, unapologetic about a decade largely wasted, and despairingly short on binding commitments.

In 1990 Time magazine designated the Earth as "Planet of the Year", with a stern editorial mandate that "man must abandon the belief that the natural order is mere stuff to be managed and domesticated, and accept that humans, like other creatures, depend on a web of life that must be disturbed as little as possible." People sat up and listened. This time round, any number of equally apocalyptic warnings seemed to fall on far too many deaf ears.

This despite the fact that the usual swathe of Summit documentation emphatically confirms that almost all the environmental indicators regarding the state of the planet, and many (though by no means all) of the social indicators, show a deteriorating situation. Ten years on from Rio, the world is not a better place,

notwithstanding real progress in implementing sustainable development strategies in key sectors and certain countries.

But it was George Bush Snr. who came up with the most redolent (and ominous) quote of the whole Rio Earth Summit when he declared that "the American way of life is not negotiable". Ten years on, it would appear that that it's the way of life of the whole rich world and its one billion citizens that has been declared "not negotiable". The intervening years have witnessed the greatest burst of consumer-driven materialism the world has ever seen, with no attempt made by any leading politicians anywhere in the world to question the wisdom, values or inherent unsustainability of the prevailing culture that has emerged. Addressing the symptoms is still very much the name of the game.

But both in the formal proceedings at Johannesburg and all the different side events, there was a strong focus on the theme of sustainable production and consumption. The resulting Plan of Implementation is particularly emphatic about the importance of sustainable production and resource efficiency - though a great deal less forthcoming about sustainable consumption!

Putting Sustainable Development at the Centre

The simple truth is that sustainable development has as yet had only a marginal impact on the way in which both nation states and international bodies conduct their affairs. Given that this was meant to be the decade in which the practice of sustainable development became commonplace, this has persuaded some people that it is the concept of sustainable development itself that has been found wanting. Some see it as too fuzzy (meaning all things to all people), some an oxymoron (believing that no economic development can be truly sustainable), and others a front for a "business as usual", extractive economy, now becomingly draped in little bits of superficial greenery.

Not surprisingly, the Sustainable Development Commission has little truck with any of these interpretations. Just as it is always easier to blame the messenger than to listen carefully to the news that he or she brings, so it is always more convenient to indulge in terminological disputation rather than confront the root causes of any looming crisis. The fault lies not in the concept of sustainable development itself, but in the difficulties we are all having in coming to terms with what it means for the global economy, for our dominant model of progress, and for our own personal way of life and future aspirations.

As far as the Sustainable Development Commission is concerned, sustainable development provides a framework for redefining progress and redirecting our economies to enable all people to meet their basic needs and improve their quality of life whilst ensuring that the natural systems, resources and diversity upon which we depend are maintained and enhanced for our benefit and for that of future generations. It goes without saying that this is a contested idea. It wouldn't be worth much if it wasn't. Putting its principles into practice demands debate, experimentation and continuous learning, and therefore depends on a rich democratic process to allow it to evolve and flourish.

To help ourselves get to grips with how this can be interpreted in practice, we've developed a set of Core Principles (see below) which we believe should provide the framework within which any new policy can be thought through and eventually put into practice. Without that kind of shared framework, it's very easy for politicians, NGOs and business people to find themselves talking about something completely different even when they are using the same language!

Principles for Sustainable Development

- **Putting Sustainable Development at the Centre**
  Sustainable development should be the organising principle of all democratic societies, underpinning all other goals, policies and processes. It provides a framework for integrating economic, social and environmental concern over time, not through crude trade-offs, but through the pursuit of mutually reinforcing benefits. It promotes good governance, healthy living, innovation, life-long learning and all forms of economic growth which secure the natural capital upon which we depend. It reinforces social harmony and seeks to secure each individual's prospects of leading a fulfilling life.

- **Valuing Nature**
  We are and always will be part of Nature, embedded in the natural world, and totally dependent for our own economic and social wellbeing on the resources and systems that sustain life on Earth. These systems have limits, which we breach at our peril. All economic activity

must be constrained within those limits. We have an inescapable moral responsibility to pass on to future generations a healthy and diverse environment, and critical natural capital unimpaired by economic development. Even as we learn to manage our use of the natural world more efficiently, so we must affirm those individual beliefs and belief systems which revere Nature for its intrinsic value, regardless of its economic and aesthetic value to humankind.

- **Fair Shares**
  Sustainable economic development means "fair shares for all", ensuring that people's basic needs are properly met across the world, whilst securing constant improvements in the quality of peoples' lives through efficient, inclusive economies. "Efficient" simply means generating as much economic value as possible from the lowest possible throughput of raw materials and energy. "Inclusive" means securing high levels of paid, high quality employment, with internationally recognised labour rights and fair trade principles vigorously defended, whilst properly acknowledging the value to our wellbeing of unpaid family work, caring, parenting, volunteering and other informal livelihoods. Once basic needs are met, the goal is to achieve the highest quality of life for individuals and communities, within the Earth's carrying capacity, though transparent, properly-regulated markets which promote both social equity and personal prosperity.

- **Polluter Pays**
  Sustainable development requires that we make explicit the costs of pollution and inefficient resource use, and reflect those in the prices we pay for all products and services, recycling the revenues from higher prices to drive the sustainability revolution that is now so urgently needed, and compensating those whose environments have been damaged. In pursuit of environmental justice, no part of society should be disproportionately impacted by environmental pollution or blight, and all people should have the same right to pure water, clean air, nutritious food and other key attributes of a healthy, life-sustaining environment.

- **Good Governance**
  There is no one blue-print for delivering Sustainable Development. It requires different strategies in different societies. But all strategies will depend on effective, participative systems of governance and institutions, engaging the interest, creativity and energy of all citizens. We must therefore celebrate diversity, practice tolerance and respect. However, good governance is a two-way process. We should all take responsibility for promoting sustainability in our own lives and for engaging with others to secure more sustainable outcomes in society.

- **Adopting a Precautionary Approach**
  Scientists, innovators and wealth creators have a crucial part to play in creating genuinely sustainable economic progress. But human ingenuity and technological power is now so great that we are capable of causing serious damage to the environment or to peoples' health through unsustainable development that pays insufficient regard to wider impacts. Society needs to ensure that there is full evaluation of potentially damaging activities so as to avoid or minimise risks. Where there are threats of serious or irreversible damage to the environment or human health, the lack of full scientific certainty should not be used as a reason to delay taking cost-effective action to prevent or minimise such damage

One key challenge for policy makers is to find a robust way of translating sustainable development principles into measurable and clear policy objectives and targets. Without this sort of analysis, it is difficult to introduce wide-ranging "polluter-pays" policies, or robustly apply the precautionary approach. Different ways of doing this should be more widely applied by Government departments. The Environmental Space Method (originated by the Wuppertal Institute in Germany and Friends of the Earth) uses estimates of environmental system limits and capacities to calculate acceptable resource take and pollution loads. It also determines "fair shares" for these environmental goods for present and future generations. Another complementary method is Ecological Footprint Analysis, pioneered in the UK by WWF, where energy, materials and other kinds of natural resource consumption are quantified and catalogued for particular countries, regions or cities.

As the Government's principal advisory body on sustainable development, we are also mindful of the Government's own "take" on sustainable development, as laid out in its *Better Quality of Life* strategy published in May 1999. It was from the Foreword to this strategy that the Prime Minister's words at the top of this paper were taken. The strategy itself is based on four principal Objectives, as laid out below:

Sustainable Development Objectives

1. Social progress which recognises the needs of everyone. Everyone should share in the benefits of increased prosperity and a clean and safe environment. We have to improve access to services, tackle social exclusion, and reduce the harm to health caused by poverty, poor housing, unemployment and pollution. Our needs must not be met by treating others, including future generations and people elsewhere in the world, unfairly.

2. Effective protection of the environment. We must act to limit global environmental threats, such as climate change; to protect human health and safety from hazards such as poor air quality and toxic chemicals; and to protect things which people need or value, such as wildlife, landscapes and historic buildings.

3. Prudent use of natural resources. This does not mean denying ourselves the use of non- renewable resources like oil and gas, but we do need to make sure that we use them efficiently and that alternatives are developed to replace them in due course. Renewable resources, such as water, should be used in ways that do not endanger the resource or cause serious damage or pollution.

4. Maintenance of high and stable levels of economic growth and employment, so that everyone can share in high living standards and greater job opportunities. The UK is a trading nation in a rapidly changing world. For our country to prosper, our businesses must produce the high quality goods and services that consumers throughout the world want, at prices they are prepared to pay. To achieve that, we need a workforce that is equipped with the education and skills for the 21st century. And we need businesses ready to invest, and an infrastructure to support them.

High and stable levels of economic growth

This paper focuses on Objective 4, around which there has been a continuing (though muted) debate since the strategy first emerged. While the majority of people in government, business, academia and indeed society at large are perfectly comfortable with the pursuit of "high and stable levels of economic growth", and have no reason to suppose there is any fundamental incompatibility between this and the other three Objectives, a vocal, durable minority see in that wording ambiguity, intellectual incoherence, and a continuing failure properly to understand the essence of sustainable development and the impact of economic growth as it is measured today.

The paper addresses the problems of our over-dependence on economic growth (and on GNP as its principal indicator) in Chapter 4. But right from the start, it's important to distinguish between different kinds of growth: growth in the amount of energy and raw materials we use in the economy; growth in the economic value generated (as measured by GNP); or growth (improvements) in economic welfare. Economic welfare (or wellbeing) is absolutely <u>not</u> the same thing as growth in GNP, and it's the assumption that increased wellbeing flows automatically from increased growth in GNP that lies at the heart of the dilemma over Objective 4. It doesn't. Yet government policy would appear to be geared permanently to the notion that it does.

We are not, incidentally, concerned about the commitment to 'high and stable levels of employment', which we too see as a critical element in securing a sustainable society. We would like to see these aspects of Objective 4 decoupled.

No one denies that securing the benefits that economic growth brings simultaneously generates both social and environmental externalities of varying kinds and severity. Beyond a certain threshold, the environmental and social costs effectively reduce economic wellbeing. Environmentalists argue that these externalities are now so grave (in terms of impact on eco-systems, resource depletion, climate change, biodiversity and sb on) as to imperil Nature's self-regenerating capacities – and, in the process, imperil humankind's own capacity to improve our quality of life. Whilst Ministers are quick to distance themselves from the apocalyptic rhetoric of such an analysis, they now regularly acknowledge the seriousness of the situation and deploy a range of policy levers in an attempt to limit the impact of these externalities.

But just how effective are they in that mitigation strategy? Would they be better served by a more fundamental re-appraisal of the model of progress that served politicians pretty well in the second half of the 20th Century, but now appears to be losing steam? As Richard Reeves put it in the RSA Journal in 2002:

"In the last couple of decades, the very idea of progress has lost its moorings. The principal means through which western societies have advanced throughout modern history - economic growth - is

faltering: richer no longer means better. We have lost the philosophical comfort of the Cold War, which at least provided a clear picture of what we were not. And science and technology now often appear as handmaidens to scary futures full of cloned people with microchips in their eyelids, rather than offering escape routes from disease and want. If we measure our progress in terms of our happiness or evaluation of our own wellbeing, we have not advanced for half a century."[2]

It's this kind of re-appraisal that has already been called for by Rowan Williams, the new Archbishop of Canterbury, in a number of thoughtful articles and sermons around his inauguration. The intemperate, defensive dismissal of these by Home Secretary David Blunkett demonstrates just how difficult it can be to persuade politicians to engage in deeper debate.

2. Resource Productivity

The two most familiar definitions of sustainable development (The 'Brundtland' definition: 'Sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs', and the 'Caring for the Earth' definition: 'improving the quality of life within the carrying capacity of supporting ecosystems') both see it as a challenge to reconcile or integrate human aspirations - 'meeting needs' or 'improving the quality of life' - with natural constraints - living within environmental limits, not foreclosing options for future generations. This tension between human aspiration and natural constraint is the distinctive essence of sustainable development. It is crystallised in the name itself: development that is capable of continuance into the long-term future.

The scale of human impact on the environment is determined by a race between economic growth and efficiency improvements. Growth means increasing consumption of traded goods and services. All things being equal, this inevitably adds to environmental impacts and demands. In competitive markets, we can expect the economy to get progressively more productive per unit of environmental impact because, all things being equal, a company that can produce the same amount of output with less inputs and waste will reduce its costs and therefore be more profitable.

In broad policy terms, the Government's favoured strategy for squaring this particular circle (ie maintaining high and stable levels of economic growth but without the social and environmental externalities) is improving resource productivity. This simply means reducing the input of energy and raw materials required for each unit of output in the economy. Getting more from less, or, as the Government 'Quality of Life' report puts it: "getting the most out of finite resources, maximising the use of renewable resources and minimising waste." Resource productivity lies at the heart of the DTI's own sustainable development strategy, and featured prominently in the three big environment speeches that the Prime Minister gave in 2001.

This is a perfectly rational response to a set of environmental problems that are simply too visible, already too damaging, and far too threatening for the future any longer to ignore. It's also a seductive strategy in that it appears to offer an almost pain-free route to a "cleaner environment" without in any way jeopardising macro-economic priorities. One of the hardest tasks any democratically elected politician can be asked to perform is to call for curbs on forms of consumption – as witnessed by the extreme difficulty for politicians of all parties in facing up to the problems of road congestion and in accepting arguments from advisors for the introduction of road pricing schemes. It is far more attractive to concentrate efforts on the supply side (seeking technological changes that improve efficiency of resource use) than it is to confront problems of demand management. For New Labour, there's an added attraction in the whole concept of resource productivity in that it resonates powerfully with its own modernising, high-tech, business-friendly orientation.

Measures of progress

As the Government's annual *Quality of Life* report demonstrates, some dramatic step change improvements have been achieved. Since 1970, many polluting emissions (of sulphur dioxide, ozone-depleting gases, NO_x and carbon monoxide, for instance) have been substantially cut, though some are now creeping up again, albeit from a much lower base level, because of economic growth.

And the picture on overall resource consumption is also encouraging. A recent comparison of EU countries rated the UK as one of the top five in terms of resource use efficiency. Research by the Wuppertal Institute in Germany showed that the UK's 'Total Material Requirement' grew by just 12% between 1970 and 1999, whilst GDP increased by 88% during

the same time, a 'decoupling' of economic growth and resource use that has surprised many commentators given the enormous difficulties the UK has had in implementing effective waste policies. (Much of the decoupling effect can be attributed to the shift from manufacturing to services which tends to have a far lower environmental impact per unit of GDP.)

In its recent sustainable development strategy, Defra has prioritised overall resource consumption as one of its own key indicators. Total resource use per capita in the UK has remained fairly stable over the last thirty years, despite steady increases in economic output – as indicated in Figure One. As of now, Defra has not taken the next obvious step, which is to set a target against that indicator for a gradual reduction in overall resource use.

See the diagram overleaf for UK resource use from *Foundations for our Future,* Defra, 2002.

With greenhouse gas emissions, the race so far is a dead heat: efficiency improvements are just about keeping pace with increases in consumption. In road and air transport, however, efficiency is not managing even this: increases in consumption are outrunning efficiency improvements. Even with predicted increases in the fuel efficiency of passenger planes, predicted increases in the UK's air traffic would offset between 30% and 50% of the UK's committed emissions reductions under the Kyoto protocol.

There is no guarantee that markets will reward improved resource productivity. For as long as environmental resources and impacts are cheap compared to other factors of production, there will be far more occasions where companies will improve their competitive position by increasing environmental impacts to reduce labour or capital inputs than vice versa. Celebrating the handful of counter examples is a 'Mississippi fallacy': concentrating on a few little boats struggling upstream while ignoring the vast volume of water pouring downstream.

It is commercially advantageous for a company to use a cheap factor of production less efficiently if doing so enables it to use an expensive factor of production more efficiently. High labour costs and low motoring costs make it sensible for companies to encourage employees to drive around much more than is socially or environmentally desirable. Over the last century, British agriculture became more cost efficient by substituting increasingly expensive labour with relatively cheap petroleum fuels and artificial fertilisers. Farms which lagged this trend tended to go out of business. Moreover, if market demand is shifting to intrinsically less resource efficient products, companies must respond.

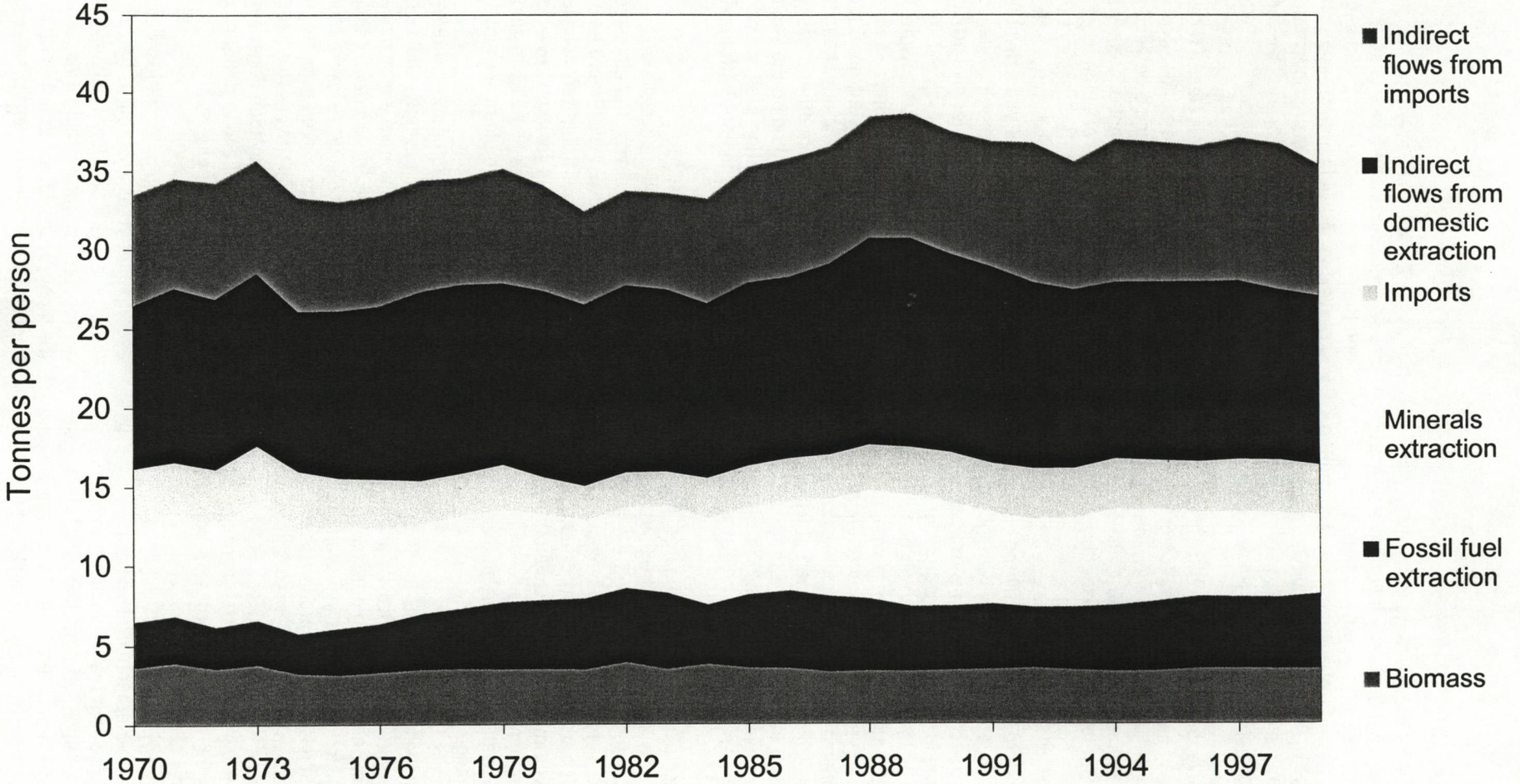
Looking for a step change

As the Performance and Innovation Unit's own report on resource productivity[3] *Making More with Less* made very clear, there is no hard, evidence-based reason for expecting - or even hoping - that the relationship between efficiency improvement and growth, which over the last 30 years has been very close to 1:1, should over the next 30 years become 4:1 or even 10:1 instead - the kind of factor improvements which sustainability requires – unless there is a step change in the way Government drives policy in this area.

It has been claimed that 'new' or 'weightless' economy could bring that 'step change'. But this is a field where hype outstrips evidence. Such evidence as we do have suggests that 'new' or 'weightless' activity generally occurs as well as 'old' or 'heavy' activity rather than instead of it; that the behavioural changes it makes possible often increase other areas of consumption; and that 'rebound' and behavioural effects can add to environmental impacts as readily as reduce them. The technologies which were supposed to achieve the 'paperless office' actually increased paper use by reducing the cost and time disincentives to endless redrafting and indiscriminate copying. The small body of real evidence currently available suggests that, likewise, better information technologies are increasing the appetite for face-to-face business meetings rather than replacing them, although there is now some evidence that the events of September 11th 2001 are beginning to change that.

Observers with any sense of historical perspective may conclude that the spread of digital technologies is evolutionary rather than revolutionary, and arguably less transformative or epoch-making than (for example) antisepsis, fossil fuel engines, printing or broadcasting. There is no evidence that digital technologies will of themselves significantly change the environmental intensity of the economy. They could enable social and/or behavioural changes to reduce environmental intensity - but only as a roll of film enables a photographer to make a picture. No amount of film makes a picture without a photographer and a camera.

Components of UK Total Material Requirement



Source: Defra/ Wuppertal Institute

The first priority for the government must therefore be to take resource productivity much more seriously. In that respect, the PIU's report was deeply disappointing. Having just about managed to capture the debate about resource productivity as it existed in the early 1990s (when the World Business Council for Sustainable Development first launched its drive for eco-efficiency), it faded gently away into a morass of process-intensive, bureaucratic recommendations that would have done justice to Charles Dickens' Circumlocution Office. Not surprisingly, this report would appear to have had no impact whatsoever on DTI, and not even to have crossed the threshold into the Treasury.

This would seem to be confirmed by the outcome of the Comprehensive Spending Review, announced in July 2002. As expected, Treasury was as keen as ever to stress the importance of increased productivity, but everything it had to say about this was about labour productivity (ie output per employee) with not so much as a passing reference to resource productivity. This after a detailed sustainability appraisal was carried out by each department as part of its 'bid' to Treasury – though the value of this commendable exercise is unknown, as Treasury has refused to publish any details.

Mystifying. According to DTI's own figures, "inefficient use of resources is estimated to cost UK business in excess of £20bn per year. And 30% of the energy used in the UK every year – the equivalent of £12bn – is wasted."[4] It's hard to imagine any other policy area where the Government's response to around £30bn going down the pan is so lackadaisical and disconnected – with the one important exception of the Climate Change Programme.

It's not that the policy instruments for driving dramatic improvements in resource productivity aren't to hand. Governments are under growing pressure for instance to phase out historical subsidies that promote inefficiency and unsustainable production processes. Globally, this is a massive problem (or a massive opportunity, depending how you look at it), and one which certainly warrants much closer scrutiny by bodies such as the World Trade Organisation, UNEP and the OECD.

Eco-taxes and other economic instruments

But the most important feature in any resource productivity strategy is to internalise some of the cost that is currently externalised, so that the price we pay for any product more accurately reflects the true costs of its production. The Government already uses a range of eco-taxes and levies (such as the Landfill Tax and the Climate Change Levy), and has developed some real expertise in both Treasury and Defra. But the current, net effect of the Government's deployment of these measures falls far short of what is required.

In a piecemeal way, this is clearly recognised by Treasury officials. The Pre-Budget Report[5] (in November 2002) contained a detailed and impressive analysis of the different policy areas where economic instruments of one kind or another are being deployed to help meet the Treasury's Public Service Agreement "to protect and improve the environment by using instruments that will deliver efficient and sustainable outcomes through evidence-based policies". In some areas, decisive action **is** being taken: landfill tax, for instance, will increase by £3 per tonne per annum (from 2005 onwards) until it reaches the rate of £35 a tonne - still much less than in some other European countries, but a clear enough signal of the need for dramatic changes in our waste management strategy. In other areas (such as pesticide reduction, or ending the anomaly that no taxes are paid on aviation fuel), it's all talk still, with no real intent to get to grips with the different problems.

Beyond the use of the price signal, governments can intervene in the economy to help establish new markets or to help establish more level playing fields by subsidising eco-efficient technologies. Initial efforts to establish a market for wind power in the UK (through the Non-Fossil Fuel Obligation) provided one highly successful example of such intervention.

These and many other options were reviewed for the Economic and Social Research Council by Imperial College and the Fabian Society in January 2001 *Innovation and the Environment: Challenges and Policy Options for the UK*. Its overall conclusion was damning. It cites as examples of this the fact that both the 1998 Competitiveness White Paper and the 2000 Science and Innovation Paper almost entirely ignored the potential and importance of environmental technologies.

This has become a highly politicised area. Any and every pollution tax is of course fiercely resisted by industry, as with the Climate Change Levy or the aggregates tax, for example. Householders only see the higher taxes - they do not generally understand or benefit from the few lower tax rates for doing the

environmentally correct thing - for example, using cleaner fuels at much lower duty. What is missing is a coherent strategy to develop the potential for incentives or complementary tax breaks and credits - reinvesting the pollution revenues appropriately - or to direct public sector investment to encourage companies and households to develop, sell and buy environmentally-friendly goods, products, services and infrastructures. The Treasury's Green Technology Challenge, based on a more comprehensive Dutch model, was a start. But much more needs to be done.

Again, theoretically, HM Treasury would appear to be up for this. In November 2002, it published *Tax and the Environment: Using Economic Instruments*[6], to serve as a five-year progress report on its 1997 *Statement of Intent* on environmental taxation. That document boldly stated: "Over time, the Government will aim to reform the tax system to increase incentives to reduce environmental damage. That will shift the burden of tax from "goods" to "bads"; encourage innovation in meeting higher environmental standards; and deliver a more dynamic economy and a cleaner environment, to the benefit of everyone."

The politics of resource productivity

Six years on, it's still a very patchy picture that emerges. And the principal reason for this (to be fair to a government that is clearly doing more in this area than any preceding government) is that taking resource productivity seriously (ie systematically driving down resource and energy consumption across the entire economy) is not as pain-free as it first appears. However disconcerting it may be for relatively affluent, well-educated environmentalists, most people not only enjoy the benefits of a cheap-energy, consumer-driven economy, but would appear to be relatively unconcerned about the impact of this on future generations. They are not out dancing in the streets at the news that such an economy's days are numbered.

Decades of perverse subsidies and the licensed externalisation of costs to keep prices low has left a mountain of market failures that people have got used to and resent having taken away from them. The fuel tax protests of 2000 are etched in the memory of civil servants and ministers alike, as an example of what happens when an eco-instrument is deployed insensitively or punitively. The fact that no one in Government could summon up the courage to defend the fuel tax escalator, as a key policy measure in the Government's overall transport and climate change strategies, was both deeply regrettable and an important reminder that even something as "simple" as resource productivity demands consistent, sustained and inspirational political leadership. Of which, on that occasion, there was none.

But let us assume for one moment that these missing ingredients (leadership, urgency, transparency, cross-departmental co-ordination etc) are injected into the Government's overall approach. What might then be expected in terms of the scale of resulting improvements in resource productivity? There are widely differing estimates in answer to this question, depending on the particular resource input under consideration (different sources of energy, precious metals, raw materials, chemicals, minerals, aggregates and so on), the degree of "techno-optimism of those making the estimates, or the choice of aggregate or "proxy measures". (The DTI, for instance, is moving to adopt two proxy indicators for resource productivity: greenhouse gas emissions relative to GDP, and the volumes of waste disposal relative to GDP).

Some of the most optimistic assessments come from a group of American visionaries including Amory and Hunter Lovins *Factor Four: Doubling Wealth, Halving Resource Use*, Paul Hawken's *Natural Capitalism,* Lester Brown's *Eco-Economy* and John McDonough and Michael Braungart's *Cradle to Cradle.* Most European experts are rather more measured, as reflected in Paul Ekins's authoritative overview, *Economic Growth and Environmental Sustainability*, and Friends of the Earth's *Tomorrow's World*. Ernst von Weizäcker (as co-author of *Factor Four*) and colleagues at the Wuppertal Institute are perhaps the most upbeat of the Europeans.

Economists also point out that governments have not fully understood how to use the policy levers available to them to drive a fully-fledged efficiency revolution. As Professor David Pearce puts it: "Energy productivity is significantly a function of the price of energy. If the price of energy has not been allowed to rise to its social cost level, we can hardly be surprised that energy productivity has not increased as fast as it might have done. So, whatever the past record on energy productivity, it ought not to tell us much about the future potential for productivity to outstrip demand."[7]

Inevitably, there's a lot of confusion here between growth in biophysical throughput (a volumetric measure of energy and raw materials) and growth in

the monetary value of increased production (a measure of value, captured (albeit misleadingly) in GNP). Theoretically, initiatives to 'dematerialise' the economy could turn out to be so successful, and efficiencies in resource use so substantial, that GNP could increase indefinitely IF dematerialisation proceeds at a rate equal to or greater than the growth of GNP. It must be stressed that this is only a theoretical possibility!

However, the overwhelming consensus amongst academics, think tanks and NGOs is that resource productivity will not, on its own, deliver the desired reconciliation between the pursuit of economic growth and the non-negotiable imperative of learning to live within the Earth's biophysical constraints and carrying capacities.

3. Alternative strategies

Which prompts the obvious question: what else can we do? In the broadest possible terms, we are still dealing with a set of variables first brought together in a simple equation by Paul Ehrlich in the late 1960s: I = P x C x T, where environmental impact (I), our collective "footprint" on the Earth's resources and natural systems, is a function of the number of people (P), their level of per capita income (C), and the technological efficiency with which they generate that per capita income (T).

As we've just seen, T is not as easy to influence as is often assumed. And as we'll see in a moment, increasing people's material prosperity remains the cornerstone of every political system everywhere in the world – and in free market democracies, it remains the *sine qua non* of getting elected. Which is why that generation of environmental activists that cut their teeth on the "Limits to Growth" debate in the 1970s steadfastly assert that population must be brought back into the debate.

Given the analysis of the scale of the challenge we now face, one might imagine that politicians the world over would be doing everything in their power to slow the growth in human numbers. In a number of countries, they are, often controversially (as in China), or completely unrecognised (as in Bangladesh). Unfortunately, the United Nations Population Fund remains seriously under-funded, with hundreds of millions of women still denied the right to manage their own fertility through improved education, health care and access to contraception.

With the exception of a small group of dedicated NGOs, there's very little pressure on governments to address this underfunding, with almost all right-thinking environment and development groups barely able to mention population at all. Future generations may deem it somewhat peculiar that the agenda for the 2002 World Summit on Sustainable Development took no serious account of population issues.

This has become taboo territory for politicians, banished forever to the realm of the too big, too controversial and much too much like hard work to develop appropriate interventions. If anything, politicians in the developed world are more concerned about declining fertility and the impact this may have on future economic prospects. Replacement fertility requires 2.1 children per woman, and most European countries now have fertility levels well below that, with Italy the lowest at just 1.2 children born to each Italian woman. In fact, this phenomenon is not restricted to OECD countries. Around 60 countries have fertility rates below replacement level, leading some demographers to talk of a process of "cultural diffusion" gradually spreading across the entire world. This may mean that global population stabilizes at considerably less than is currently predicted at around 9 billion. Other demographers strongly disagree, pointing to very high levels of population growth in most Muslim countries and in Africa. Either way, politicians are disinclined to include population policy in their mix of interventions to promote more sustainable economies.

Addressing sustainable consumption

If it's politically difficult to drive the kind of resource productivity revolution that is needed, and politically off-limits even to talk about population, then we have no choice, by a process of logical exclusion, to return to the C variable – the level of consumption/affluence/per capita income in both developed and developing countries. The recommended prescription as far as radical environmentalists are concerned is equally simple: people in the rich world must not just consume in more socially and environmentally responsible ways but must be persuaded to consume less. To bring that about, the hypothesis is advanced that people who have reached a certain level of material comfort and security can (and should) be persuaded that their future quality of life resides in freeing themselves of the trappings of consumerism and in opting instead for low-maintenance, low-throughput, low-stress patterns of work, recreation and homelife.

The clearest manifestation of this has been described as "downshifting", detected in a growing number of people quietly reconfiguring their work to spend more time at home, with their children, doing other things entailing a lower income but a higher quality of life. The fact that this is a predominantly middle-class phenomenon does not invalidate its significance, but it inevitably raises questions about its usefulness in policy-making terms. With levels of poverty as high as they still are in the UK (and indeed in many developed nations, let alone in the developing world) alternatives to economic growth are non-starters unless underpinned by an equally strong commitment to eliminate poverty (particularly amongst the young and the old) as espoused by more conventional political paradigms. The Labour Government must certainly be given credit for taking steps to improve the economic welfare of the poorest in society - the essential precondition for a better individual quality of life. The Working Families Tax Credit, the minimum wage, and some "stealthy" redistribution by Gordon Brown have all boosted the incomes of the less well off. The gap between the poorest and the most affluent is still a yawning gulf, but it is at least being addressed. The Government would not want to see such measures jeopardized.

What's more, people still put enormous emphasis on the importance of financial security and money as critical ingredients in assessing their own quality of life - as can be seen in the latest survey of public attitudes on the quality of life and the environment. {See p12}

Consuming less?

Not that a debate about the desirability of downshifting is likely to materialise either within the mainstream parties or through the mainstream media. Indeed, the broad theory that "the rich world should consume less" for compelling environmental, social justice and moral reasons, is no less taboo an area of political discourse than population. And there are some powerful reasons why this should be:

3.1 However uneasy people may be about the current model of free market capitalism, it stands up well in comparison to any other political/ideological alternatives. Communism (or indeed any variation of command and control socialism) is entirely discredited – not least (from the sustainable development perspective) because of its horrendous environmental record which has left many Eastern European countries with a devastating and life-threatening legacy.

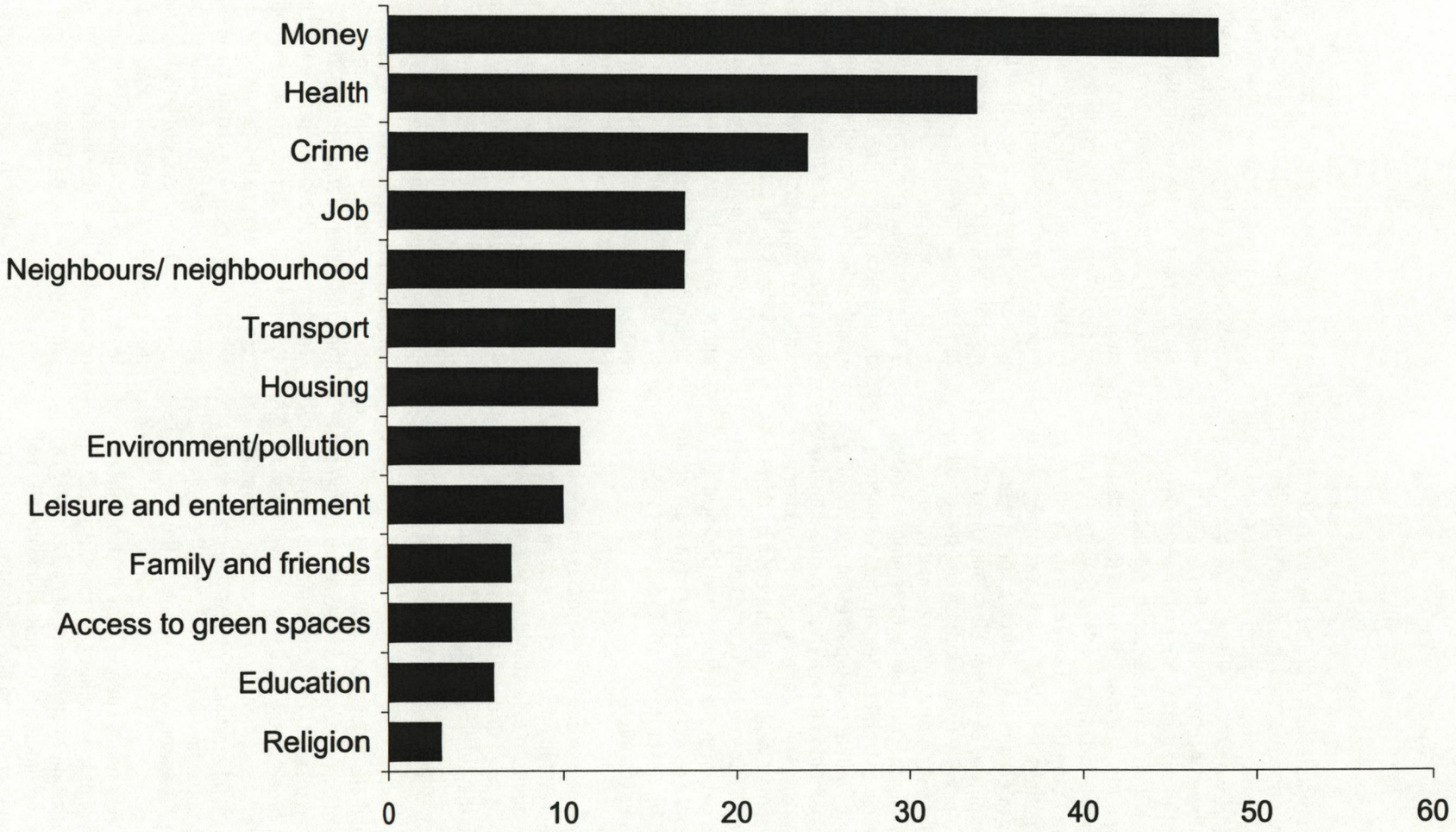
3.2 There are significant macro-economic implications in any low-consumption economic model. Lower levels of economic growth (the inevitable consequence of large numbers of people opting for lower levels of economic activity) would mean lower tax revenues, which in turn would necessitate lower levels of public expenditure on key public services such as health and education, as well as lower levels of capital expenditure on things like transport. The negative impact of this on society and people's individual quality of life is as much of concern to advocates of genuine sustainable development as the negative impacts on the environment of current levels of economic growth.

3.3 Despite more than twenty years of lively debate about one of the earliest definitions of sustainable development ("sustainable development is development that meets the needs of the present without compromising the ability of future generations to meet their own needs"), as first used in the 1987 Brundtland Report, there is no consensus either on the "boundary conditions" to be used in defining human needs (the vexed debate about what is a "need" and what is a "want" rumbles inexorably on), or on the potential usefulness of the concept of human needs in promoting better policy making.

3.4 As per the discussion above, it is widely held that the concept of "voluntary simplicity" may well have considerable resonance with a relatively small number of people in rich northern countries, but is unlikely to have much purchase either in OECD countries intent on addressing residual poverty within their own borders, let alone in global terms, where the principal challenge resides in the fate of the world's poorest 2 billion people who live on less than $2 a day. (Such a crude generalisation cannot of course do justice to the rich debate about the meaning of poverty. Average income is widely and conveniently used as a proxy for human wellbeing/happiness, notwithstanding the evidence that many people in developing countries who are leading secure and dignified lives in rural areas, but on very low incomes, are often a great deal "happier" than those on higher incomes in hellish urban slums.)

3.5 From a demand-side perspective, there would appear to be very little public support for "consume less" political alternatives. Green parties the world over have succeeded in attracting significant minorities of voters, but have rarely seen that percentage move above 10% even in the world's

Most important factors affecting quality of life: 2001



Source: Survey of public attitudes to quality of life and to the environment - 2001: Defra

richest countries, which one might reasonably assume to be more open to the concept of reaching some kind of "affluence threshold", beyond which further increases in consumption or material standard of living bring diminishing utility.

As regards the developing world, there is very little if any evidence that those countries are prepared in any way to forego the delights of Western consumerism which they see paraded in front of them through a constant battery of mass-media programming and advertising that reaches into the poorest corners of the poorest countries.

3.6 The concept of the "sovereignty" of the individual consumer has taken a firm hold on both political and business mind-sets. "The consumer is king/queen" is not just a clapped-out mantra that consumer-facing companies trot out at every available opportunity, but a core ideological tenet of free market democracy. The fact that this often obscures critical realities about the nature of "free choice" in today's economy is deeply regrettable, but hardly surprising – a point to which we shall return later in this paper.

3.7 The whole question of employment must also be factored in here. To what extent would lower levels of consumption impact on employment levels in both rich and poor countries? As we'll see in section 4.4, environmentalists may well have robust and entirely legitimate concerns about the compatibility of genuinely sustainable development and "high and stable levels of economic growth", but they feel very differently about "high and stable levels of employment".

Though there's substantial literature in the Green Movement about the importance of thinking more in terms of sustainable livelihoods and access to high-quality, fulfilling work, rather than straight numbers of jobs, the social and redistributive benefits of employment in the formal economy still feature large in almost all accounts of moving towards a more sustainable future.

All in all, the notion that the "rich world should consume less" (if only to allow the poor world more breathing space for its own consumption) rings few political bells. Indeed, Lewis Mumford's prediction that consumer-led capitalism would make virtues of at least five of Christianity's seven deadly sins (pride, avarice, lust, envy and gluttony) would appear to have come all too true.

Consumption-driven economics is underpinned by the seductive notion of unlimited consumption. There just can't be too many varieties of cat food on our supermarket shelves, too many exhortations to people to go further into debt or too many new ways of persuading people they're not properly fulfilled without the latest gizmo or throw-away product. The concept of deferred gratification seems unlikely to make any kind of a come-back in the foreseeable future. And yet, simultaneously, most people would intuitively acknowledge that development and restraint often go hand in hand. You can indeed get "too much of a good thing", whether we're talking chocolate, alcohol, houses in the South East or cars on the same road.

Such arguments provide a formidable set of impediments to engaging in the "consume less" debate. If politics is the "art of the possible", then the complexities of espousing a low-consumption economic model, or a "make population a priority" world view, must be weighed on the scales against the complexities of serious resource productivity. After fifty years of aspirational, growth-at-all-costs, no-limits individualism, the available psychological terrain for politicians currently to operate within in pursuit of sustainable development is severely constrained. Rather than "consume less," the thrust of any new debate here is likely to be "consume wisely". That may not be sufficient, but it's all that would appear to be available right now.

4. Key debates

And that's precisely why our political leaders now carry such a weight of responsibility in opening up that terrain, securing in the process greater openness to the need for more radical change in the future. There is not just an urgent job to be done right now in maximising the policy opportunities around resource productivity and more sustainable economics, but an equally important job in bringing electorates into a better appreciation of the scale of the challenge ahead. Today's politicians must build the platforms from which tomorrow's politicians can push out further and much faster into today's no-go areas.

The great American economist Lester Thurow once wrote: "The proper role of government in capitalist societies is to represent the interests of the future to the present". That's proving a pretty tough challenge for governments all over the world. Few of us take

the future seriously enough. Perhaps we really are suffering from "temporal exhaustion" – so out of breath from coping with the sound and fury of the present that we have no energy left over for visioning the future.
There are four main areas, all interconnected, which we believe warrant strategic engagement on the part of our political parties today – all of which are covered in greater detail in the background report *A Better Choice of* Choice.[9]

4.1 Wellbeing

For governments, the end goal of their use of their democratic mandate is to improve people's wellbeing. The means available to them for achieving this are many and various, though securing as high a level of economic growth as possible has become perhaps the most important.

Indeed, it's become so dominant that it's easy to forget that the purpose of this economic growth is in fact to improve wellbeing. Economic growth may well have served post-war politicians well as a reasonably accurate proxy for human wellbeing or contentment, but now that the environmental, social and psychological externalities entailed in generating decades of economic growth in that way are weighing more heavily on people than ever before, there is a pressing need to reopen the debate about economic growth (see 4.4 below) and wellbeing itself.

Survey data regularly show that there is no straightforward connection between levels of affluence and personal happiness. More financial security does deliver more well-being for the less affluent, but the rich are not reliably made happier by having much more of it than the rest of us. A host of studies in the US show that the percentage of people describing themselves as 'very happy' has declined since the late fifties, despite the fact that personal real income has more than doubled since that time.

There is plentiful quantitative and qualitative evidence of a broader issue – that rising average affluence in the West has not been associated with the elimination of many psychic ills. Money can buy us goods and services undreamed of in previous centuries, but it can't buy love or meaning, or at least not for long and not reliably. The pursuit of financial security is often associated with declining quality of life in much of the West. There is a large amount of US literature on the reduced wellbeing of family life in the middle classes as well as of the working class as a result of intensified workplace pressures over the last 20 years.

In the UK, the latest ESRC study on modern employment trends indicates a rising dissatisfaction with working life over the past decade. Oliver James summarises a mass of research on the psychology of affluent societies, concluding that rates of depression, suicide and drug dependence are increasing because the competitive pressures of modern life combine to produce unhappy, tense and rancorous personalities. (Oliver James has also asserted that "the closer a nation approximates the American model a highly advanced and technologically developed form of capitalism the greater the rate of mental illness amongst its citizens"). Richard Wilkinson of Sussex University has documented the negative health effects on society of relative deprivation and relative income inequalities, emphasising that it is the distribution of assets and capabilities that counts for wellbeing, not absolute levels of income.

These studies and many others suggest that conventional growth produces many unwanted side-effects and is associated with diminishing returns in many respects. Together, these add up to a body of evidence that, while not (yet) associating GDP growth with declines in overall quality of life, does associate it with limits to the satisfactions that can be gained from many forms of consumption growth, and with damage to the social and environmental basis of wellbeing.

The Index of Sustainable Economic Welfare

A number of efforts have been made to come up with a better way of measuring wellbeing, perhaps the best known of which is the Index of Sustainable Economic Welfare (ISEW). ISEW is an attempt to make a better measure of welfare than GDP (by adding to it some measure of untraded benefits such as unpaid domestic work, by subtracting the value of activities which are traded but do not contribute to human welfare, such as the treatment of pollution related illnesses, and by correcting for income inequality). The UK's ISEW rose until the mid 1970s, then stayed level, and then began to decline again (while per capita GDP continued to rise.) ISEWs calculated for several other developed countries all show the same overall pattern of levelling off and then decline. This overall shape is robust over a wide range of weightings of the contributory factors - a partial answer to valid criticisms that ISEW is a methodological mongrel, made by arbitrarily aggregating incommensurable (and often individually questionable) indicators of very different kinds of things.

It is hard to validate the ISEW curve against comprehensive studies of perceptions of quality of life, since few surveys have been done that measure changes in people's views of their well-being. However, the accumulated data from many theoretical, quantitative and qualitative studies that have examined aspects of quality of life do suggest that the ISEW's picture of a sizeable gap between GDP per capita measures of welfare and 'real life' welfare is on the right lines.

The relationship between utility and happiness is complex. People can be happy with very little wealth / income / possessions, or miserable with plenty. As a number of our external peer review group have pointed out to us, there is a plethora of different studies in this area, some of which support the view that increased consumption does not necessarily engender increased wellbeing (or happiness), and some of which conclude exactly the opposite! To derive very strong conclusions from the existing literature would therefore be unwise.

There is much greater agreement on certain aspects of this debate. There are much clearer links, for instance, between unemployment and unhappiness. And everybody accepts that some of the things that matter most for wellbeing are not tradable - and that some kinds of economic activity can undermine these untraded benefits. Research for the Henley Centre and others has demonstrated that many of today's most seductive consumer trends are tending to isolate people rather than bring them together. The TV is no longer a substitute 'family hearth', with individuals in a modern household more likely to be 'going solo' on their own TVs, computers or games consoles. And the idea of the shared family meal is less and less commonplace.

These new patterns of consumption are therefore very hard to read. Most research indicates that peoples' quality of life is determined far more by the quality of their working life, their family life and their overall social relationships – all seem to be more important relatively than the amount of consumption they are able to enjoy. And if that consumption is increasingly eroding the quality of those other aspects of overall wellbeing, then it is clearly less beneficial than it might at first sight appear. As Ian Christie and Ken Worpole put it: "One deeply uncomfortable message for the entire culture of policy-making is that privatisation and individualisation of our ideas about "quality of life" have developed to such an extent that it is now extremely difficult for politicians of any stripe to articulate a vision of the common good, and the dependence of individual well-being on the health of the social and environmental commons. Yet the travelling political issues confronting us demand precisely that we do make the connections between private and public quality of life."[10]

One might have some sympathy for those politicians who dismiss these debates about wellbeing/ quality of life as somewhat ethereal – were it not for the fact that it's principally the fuzzy thinking on their part (about the difference between means and ends) that leaves most citizens so disengaged and confused.

Notwithstanding the nervousness that many neo-classical economists feel about the whole question of human needs (seeing such a notion as both subjective and deeply flawed by comparison with empirical measures such as market choice), it's important to reassert the linkage between wellbeing and the satisfaction of human needs. In an excellent paper on consumption, sustainable welfare and human needs, Tim Jackson and Nic Marks emphasise how important it is to start "from the assumption that human wellbeing is related to the satisfaction of human needs. The welfare of an individual may be said to be high when that person's needs are largely satisfied. Collective welfare is high when the needs of the population generally are satisfied. Conversely, individual or collective welfare is low when many such needs remain unsatisfied."[11]

4.2 Consumption

The relationship between wellbeing and consumption is a close one. By and large, conventional economic thinking (and our own reflex instincts) tells us that the greater one's per capita income, the greater one's purchasing power, the greater one's opportunity to go out there and consume, then the greater the amount of utility/wellbeing we will derive from that consumption. (The amount that people pay for any product or service tells us what that product or service is worth to them.)

People consume more because they believe they will be happier. Looking at survey figures from around the world, there is an indisputable correlation between subjective perceptions of well-being and per capita income. But research by Robert Lane, Ed Diene and Ruut Veenhoven clearly demonstrates that, beyond a certain point, that correlation first weakens and then disappears. People may set that threshold at different levels, but it's clear that the law of diminishing returns applies as much here as in any other area.

In *The Loss of Happiness in Market Democracies*, [12] Robert Lane describes this as "the waning power of income to yield that ephemeral good utility", and castigates both academics and politicians for being in thrall to that "economistic fallacy" that, beyond poverty or basic subsistence levels, higher incomes will automatically increase levels of subjective wellbeing.

Ever since the ground-breaking work of Abraham Maslow, psychologists and alternative economists have set out to demonstrate that far from there being any automatic increase in wellbeing for every increase in levels of consumption, much of our current consumption is turning out to be a very inadequate surrogate for meeting human needs in a more satisfying, durable way.

It's important to be clear about what we mean by subjective wellbeing. In the consultancy work they have done for the Sustainable Development Commission, Roger Levett and colleagues have come up with a simplified model, building on the work of Manfred Max-Neef, demonstrating the different needs that are being met by the goods and services that people buy. {See p17}

The first category of benefit is **subsistence** - the wherewithal of basic survival. Subsistence needs are determined by human physiology. Humans can only live healthily and comfortably within a narrow range of conditions - ambient temperatures, amounts of different gases present and absent in the air, fresh water, nutrition, protection against the weather, predators, parasites and criminals. Where conditions fall short of these standards, consumption can improve quality of life (for example ability to buy more food, clothing, space heating and to secure one's home and basic possessions.) But once these standards are met, extra consumption provides no extra subsistence benefits. There is no subsistence advantage from eating more vitamins than the recommended daily intake, wearing more clothes or heating the house above a healthy comfortable temperature. From the point of view of subsistence, 'enough is as good as a feast'.

The second category of benefit is **experience**. Consumption can keep rising well above subsistence levels and keep providing more comfort. Increases in the variety, quality and amounts of food and drink keep increasing pleasure for a long time, and the same goes for many other physical comforts and sensual pleasures. But here again, there are ultimately physiological limits. The number of pleasure receptors in our brains, and the rate they can 'fire', are finite. More stimulation encounters diminishing returns. Sensual overindulgence eventually loses its savour and feels like a chore.

So for both these benefits, physiological factors impose 'limits to growth' - points beyond which further increases in consumption produce no further increase in wellbeing. Most of the world's major belief systems in fact argue that increases in consumption coarsen and corrupt human nature well before this point.

The third category of benefit is **belonging.** Consumption contributes to group identity through having enough, and having the right type, of goods. 'Enough' goes up with wealth. The size of car that confers a given social status in a company car park or outside a school has escalated inexorably: people who wish to claim a place in the pecking order by such means have to go upmarket every time they replace their car. Type will vary with fashion, but will also tend to become more expensive as wealth increases. This would appear to be a zero sum game: having the right (expensive) trainers in 2002 probably provides no more sense of group identity than having a pair of (cheaper) Doc Martens in 1980.

The fourth category of benefit is **self-actualisation.** The only kinds of benefit which seem potentially unlimited are self actualisation benefits that come from challenges one sets oneself: for example, to improve one's personal best at some sport, or to play a musical instrument better and better - with the aim not of 'beating' other players but of coming ever closer to the soul of the music. Consumption obviously plays a role in these (better sporting equipment or musical instruments), but quality takes over from quantity.

One of the most important points Table 1 (overleaf) brings out is that a single act of consumption may produce a range of different benefits. If we want to change particular consumption patterns, we need to consider <u>all</u> the benefits affected. For example, if we want to encourage less driving, we need to consider not only
the rational or utilitarian benefits from driving, but also the irrational ones - in particular, the extraordinary degree to which social status, economic success and personal potency are now symbolised and expressed by possessing and displaying particular

Table 1. Expanded model of consumption and quality of life

Spending power	Physical goods	Services from goods	Quality of life benefits				Happiness
			Subsistence	**Experience**	**Belonging**	**Self-actualisation**	
	CD player	Music reproduction	-	Enjoyment of music	Participation in cultural group	Personal experiment / taste in music	
	Washing machine	Clothes cleaning	Hygiene	Comfort	Compliance with social norms about grooming	-	
	Clothes	Being clad	Protection against weather	Comfort	Expression of group identity	Express individual taste	
	Car	Mobility: controlled environment	Access to life support basics	Comfort, power, isolation	Expression of status; membership of 'haves'	Autonomy and choice of address	
	Food	Eating	Nutrition, support to health	Taste, pleasure in eating	Cultural / traditional / religious affiliation	Enjoyment of different tastes	
	House	Space for living and storing possessions	Shelter, security	Comfort, convenience, delight	Neighbourhood, way of life	Architectural taste	

types and brands of car. This does not mean it is impossible ever to reduce car use, but rather that, in order to succeed, 'rational' transport policy aimed at reducing the objective incentives to drive needs to be accompanied by quite different kinds of policy intervention designed to alter perceptions of cars and provide alternative sources of the irrational/subjective benefits currently attached to the car.

Such an approach also helps to explain what some have described as the "Mr Toad Syndrome". In *Wind in the Willows*, Mr Toad was quite happy with his narrowboat until he set eyes on a passing horse-drawn caravan, and quite happy with his caravan until he saw a car. These days, of course, one car leads inevitably to another (bigger, faster, snazzier) car. Comparisons of the perceived happiness of rich and poor in different countries demonstrate time after time that it's where people place themselves on the ladder of relative affluence that counts, rather than what they consume in absolute terms.

As Richard Easterlin puts it: "Even though rising income means people can have more goods, the favourable effect of this on welfare is erased by the fact that people want more as they progress". He refers to this effect as "the hedonic treadmill", as our desire for more constantly outstrips what we already have.[13]

Not unreasonably, critics of our consumer culture have questioned the degree to which this sense of 'relative dissatisfaction' is in fact created (or at least inflated) by the advertising and marketing strategies of those who stand to benefit most from persuading people that they're not quite as happy as they could be – and would be if they bought x or y. The power of marketing to create demand is of course hotly contested, but any parent who's had to watch Saturday morning television with their young children will be deeply unimpressed by the marketing industry's expressions of innocence in this regard.

George Monbiot puts it as follows:

"Plenty of evidence suggests that as we become richer, we become less content with ourselves. It is incorrect to say that necessity is the mother of invention. In the rich world, invention is the mother of necessity. When people already possess all the goods and services they need, growth can be stimulated only by discovering new needs. Advertising creates gaps in our lives in order to fill them. We buy the products, but the gaps remain."[14]

4.3 Choice

For perfectly sound ideological reasons, the concept of "free choice" came to define one of the key battle zones of the Cold War: on one side of the divide, in the West, people were free to choose from a range of goods and services, subject only to availability and their own purchasing power; on the other, in the former Soviet Union and communist countries, there was no free choice. You got what someone else determined you should get. You couldn't even choose the politicians who made those determinations on your behalf.

Even now, with the Cold War behind us, the privilege of choice features high in the pantheon of capitalism's many benefits. Some economists look on the whole process of economic development as anything that increases peoples' options. To espouse political positions that appear to limit choice (as the Green Parties in Europe often do) is a high-risk and politically unpopular strategy. For the vast majority of people, it's certainly counter-intuitive to suggest that improvements in our quality of life might come about as a consequence of restricting rather than expanding choice.

Yet it's clear that increasing individual choice does not automatically make us better off. There are several reasons for this. First, there is no such thing as a completely 'free' choice. Every choice we make is conditioned and constrained by the choices others have already made, and in turn conditions future choices. Individually sensible choices to travel by car lead cumulatively to traffic-clogged degraded inner cities, car-dependent suburbs and amenities accessible only by car - a mess nobody wanted or intended, in which nobody can access what they want reliably and easily, those without cars are further disadvantaged, and fossil fuel waste is structured in to lifestyles.

Choices come in 'package deals'. Claiming that a policy or decision 'increases choice' should be the beginning not the end of debate. Are the kinds of choice being increased ones that really matter? What other choices do they curtail or foreclose; can we be certain the gains are worth the losses?

To express this, our consultants have developed the idea of the choice set - the set of interconnected acts of consumption, and other behaviours that come with them, and the production and infrastructure that supports them. Each choice set - the choices that are

available - comes with a constraint set - the choices and options which it excludes.

Transport choice

The current transport 'choice set' maximises:

- Freedom to drive a car wherever and whenever you want. Almost all public roads are open to car traffic. Restrictions, conditions and charges are rare exceptions requiring special justification;
- Low cost personal mobility. Once you own a car, you can go a long way in it per pound of expenditure. People with use of a car enjoy extraordinary - historically unprecedented - freedom of mobility;
- Ability to get anywhere with a road;
- Ability (for those with cars) to choose between competing providers of many services.
- The attempt to reduce congestion (where possible), which is now an increasingly serious constraint as far as UK business is concerned.

But these choices preclude others. Very few people can now choose to:

- Live free from traffic noise and pollution and with children able to play safely in front of their homes;
- Get access to a satisfactory range of daily amenities on foot without resort to any motorised vehicle;
- Walk or cycle with much safety or pleasure;
- Make most journeys reliably, without having to make allowance for unpredictable and unavoidable problems and hold ups.

Most households no longer have the option to live a normal full life without owning at least one car. Those who cannot afford a car, or cannot drive because of disability or age, are excluded from areas of normal life, without any choice in the matter. Moreover, the patterns of behaviour that result from high car ownership deprive us of other social choices:

- Traffic is the biggest environmental problem in many town centres, and unrestricted car- based mobility the biggest threat to the traditional multifunctional town or city centre. Car use is thus a 'double whammy' against urban vitality;
- Hypermobility undermines community vitality;
- Personal transport accounts for over a quarter of greenhouse emissions and is still rising. The freedom to drive is one of the main threats to future climate security.

Apparently innocuous and perfectly rational choices by individuals - to buy and drive cars more, as other transport options appear less able to provide access to amenities wanted - led cumulatively to disbenefits which nobody consciously sought. At no stage was an explicit decision taken that the benefits justified the disbenefits. In consciously exercising our individual, incremental choices, we have sleepwalked into some larger choices and foreclosed others without even realising it. In this respect, the market can be an 'invisible elbow', shoving us into an unwanted corner, as well as Adam Smith's 'invisible hand.'

Individual rational choices do not necessarily add up to the best overall outcome because of the way each choice alters the choices available to others. For example, each perfectly sensible choice to make a journey by car instead of bus will slightly:

- Reduce the fare income to the buses while increasing the congestion they face, thus making the service a bit less effective;
- Reduce the safety and attractiveness of cycling;
- Encourage shops and other amenities to move to car-accessible rather than bus-accessible locations;
- Encourage better-off people to move out of more heavily trafficked central areas to suburbs with better car access to the new amenities.

Each of these changes will encourage more people to switch from bus to car. The cumulative effect of these individually tiny but self-propagating and reinforcing changes is the apparently inexorable trend to urban flight, "doughnut development" (with dead zones in the middle of our cities), and increasing car dependency.

Moreover, no exercise of individual choice can reverse this. If a few people become convinced of the limitations of the current choice set, and switch back from car to bus, they will first have to plan very carefully to work out ways to get access to fragmented locations without a car. Then they will find themselves waiting a long time at the bus stop, being splashed by all the other people who are (sensibly) still driving their cars, waiting for a bus which has a long service interval (because most people now drive instead), and is often delayed by all those cars. The individual choices available within the current choice set cannot solve the problem. Instead, we need collective action to change the choice set itself.

The limitations of choice

So far this section has pointed out several ways in which expanding the scope of individual choice can reduce, rather than increase, people's ability to get what they want, let alone increase our wellbeing. The second main reason why increasing individual

choice does not automatically make us better off is that the experience of choice is not always the unalloyed pleasure that market theorists assume, but can in itself be oppressive, bewildering and a source of unwanted risk and uncertainty.
Having to keep choosing is itself an unchosen intrusion and demand on time. But anyone who chooses not to spend their time choosing between (for example) energy or telecommunications providers and tariffs or savings accounts, but simply sticks with the one they have already got, is liable to end up paying over the odds - particularly as providers of such services now routinely exploit the inertia of existing customers by worsening the terms of old accounts while introducing new ones with better terms to lure new customers. What is presented as lively market competition delivering ever keener deals to consumers actually forces them to spend time continually checking up to avoid being ripped off.

It's for this reason that some have argued that relying on 'green' or 'ethical' consumers to drive corporate social responsibility or the greening of the economy is:

- Unrealistic, in that it requires concerned citizens to spend considerable time on research to put their beliefs into action;
- Disempowering and demotivating to the majority who cannot make the time or do not have the research and analytical skills or confidence to do it;
- Ineffective, because only a minority do it.

It's certainly a long, slow haul. For the last three years, the Co-op Bank and the New Economics Foundation have been tracking the volume of ethical purchasing in the UK in order to construct an Ethical Purchasing Index (EPI). The 2002 report provides a fascinating snapshot:

"Total sales in the year grew by £1.1 billion, taking the total value of ethical consumption in the UK to £6.8 billion. A further £3.4 billion, an increase of 29%, is deposited with ethical banks and £3.8 billion in ethical investments, taking the total value of the ethical wallet to £13.9 billion.

The fastest growing sector in 2001 was Fuel and Light, where sales of green energy increased market share by 125%. The 2002 EPI included for the first time an ethical "leisure" category, where the sales of key eco-tourism options in the UK grew by a factor of twelve. Ethical purchases of organic food have more than doubled between 1999 and 2001 - from £389 million to £802 million and market shares increased from 1% in 2000 to 1.3% in 2001 - a growth of 28.1%."[15]

At one level, both consumers and businesses should indeed be encouraged by this kind of progress - worth so much more than all those surveys that tell us theoretically how socially and environmentally responsible consumers are! But at another level, these are still pitifully small percentages of overall market share - after decades of NGOs, Government Ministers, and green businesses themselves banging on about it.

On the other hand, this may still be the 'least worst' way of influencing individual choice over time. Critics have accused some environmentalists of 'elite liberalism' in seeking (implicitly if not explicitly) to dictate 'appropriate' lifestyles in pursuit of a sustainable society. As Professor David Pearce has pointed out, externality theory (ensuring that the price we pay for things reflects as accurately as possible the costs entailed in bringing them to market) offers a more promising way of influencing personal behaviour than seeking to proscribe environmentally and socially irresponsible – though still legal lifestyle choices:

"One important role for Government is to ensure that, when I make my choices, I am faced with the full social cost of them. I will then adjust my choices accordingly; the higher the cost, the less likely I am to engage in that activity, or in that form of the activity. But if I choose to pay the cost, so be it: my freedom to choose is preserved. Government at least makes nodding acknowledgement of this view, and we would probably all agree they do not make enough of this approach. But sending out social cost signals is rather different to having some group of social engineers telling me what I can and can't have."[16]

Nonetheless, claiming that a policy or change 'increases choice' does not prove it is good, still less that it is better than alternatives. Choices of some kinds or for some people preclude or constrain other kinds of choices or choices for other people. Whether the increase of some kinds or people is worth the losses to others is inescapably a matter of judgement, guided by political values grounded in moral principle. The questions of when benefits to one group justify losses to another, and what kinds of intervention to reallocate benefits are legitimate, are perennial topics of ethics. The equally perennial arguments between libertarian and egalitarian political aims, and between increasing or reducing the role of the state, are political reflections of them.

It's this debate which the new Archbishop of Canterbury wants to open up - and which David Blunkett got so dyspeptic about back in January 2002. But is New Labour right to suppose that what people really want is just more choice - especially when it comes to public services? Expropriating traditional Tory territory in this way **may** help secure the middle ground, but at what price? Polly Toynbee set about the Prime Minister on that score in The Guardian on October 9th 2002:

"Choice has serious problems - both ideological and practical, something Blair has not faced up to. Choice needs plenty of very expensive spare capacity: there are not enough hospitals and GPs anyway, let alone spare. Blair's threatened 'post-comprehensive era' will mean choice for middle-class children to congregate together, with problem children sinking the unchosen schools.

Choice is not the first priority. If choice comes first, then universal high standards will never be achieved. The public clamour is not for choice, but for speed of treatment in the NHS and for higher quality in local schools. Only once those are achieved is choice a good second order goal. Equality comes before choice."[17]

4.4 Growth

Of all the defining characteristics of post-war capitalism, the pursuit of economic growth as the over-arching policy objective is perhaps the most important. It has driven turnover in the global economy to a staggering $23 trillion per annum, doubling in just 25 years, with the volume of world trade now twelve times what it was in 1945. Hundreds of millions of peoples' lives have been enriched, often dramatically, in the process.

Yet we also know that those dramatic increases in economic activity and material wellbeing for some have failed to solve many of the world's worst problems, and have simultaneously created a host of additional problems as a consequence of its environmental and social externalities. This has left some environmentalists arguing that sustainability in the pursuit of economic growth – of any kind – are totally incompatible. But is that really the case?

Going right back to the work of the Reverend Thomas Malthus, people have always tended to underestimate both the resilience of biophysical systems in accommodating the expansion of the human species, and the sheer genius of the human species in finding new resources, bringing on substitutes for diminishing resources, and increasing the efficiency of resource use through market forces. Conventional economics holds that so long as the price of something provides a sufficiently realistic measure of its value, then rising prices for diminishing resources will encourage both greater efficiencies in its use and the development of substitutes.

However, this provides absolutely no guarantee that our ingenuity will always be sufficient to permit the continuance of our current model of progress. What if (as the empirical data would now seem to suggest) the biophysical indicators of scarcity and environmental degradation are telling a very different story from the economic indicators which we almost exclusively rely on?

And this is where the Sustainable Development Commission's centrality principle ("Putting Sustainable Development at the Centre") comes into its own. At the heart of today's worsening ecological crisis lies a systemic misperception about the relationship between the earth and the global economy that has expanded so dramatically over the last fifty years. For most economists and politicians, the global economy has become the centre of reality, <u>the</u> overarching system within which all else is subsumed. Human societies, communities, eco-systems, and habitats are all seen as subsystems of that overarching system. As such, there is no inherent reason why that overarching economic system shouldn't go on expanding indefinitely, with constant increases in the throughput of both energy and matter.

In terms of today's prevailing political economy, such a world view is not all that surprising. Unfortunately, it ignores both the basic laws of thermodynamics and the natural laws on which all life support systems depend. It also flies in the face of biological reality. However persuasive and dynamic it may be, the global economy is in the first instance a sub-system of human society, which is in itself a sub-system of the totality of life on earth.

This means that the majority of economists (and the politicians they advise) choose to ignore the fact that as an open sub-system of the much larger but essentially closed eco-system, it is the physical limits of that eco-system which constrain the speed and scale at which the economic sub-system can expand. In the long run, it <u>cannot</u> grow beyond the capacity of the surrounding eco-system to sustain that growth – and the planet (or overarching eco-system) <u>cannot</u> grow. What we have is what we've got. Come what

may, therefore, the scale of the economic sub-system will eventually be determined by the overall scale of the eco-system, by its ability to provide high grade resources and absorb low grade waste, and by the interdependency of all interlocking elements within that eco-system.

Growth and development

This does not make all economic growth inherently unsustainable - far from it. But it does mean we need fundamentally to rethink the dominance of economic growth as the driving force in the modern political economy, and to be far more rigorous in distinguishing between the kind of economic growth that is compatible with the transition to a genuinely sustainable society and the kind that absolutely isn't. Optimists here tend to point to the so-called "invisible environmental hand", where economic growth can actually help reduce pollution if it accelerates resource productivity at a faster rate than both resource consumption and population growth. Wilfred Beckerman, for instance, asserts that "in the longer run, the surest way to improve your environment is to become rich". The pessimists promptly point to the "rebound effect" (whereby any additional "environmental space" created by increased resource efficiency is immediately offset by additional consumption), and simply invite people to re-examine the irrefutable empirical evidence of continuing and worsening ecological damage, much of it at the hands of the richest nations on Earth.

It's useful at this point to remind ourselves that economic development is not the same thing as economic growth. Economic growth is generally defined as increases in real GDP per head; a quantitative measure that is usually fairly easily available, and which is an average measure of the monetary value of the output produced in a given economy. Economic development takes place when there is an increase in the level of welfare of the residents of whatever spatial unit is being considered (country, region, city etc). Development needs economic growth, but growth alone is not enough. Economic development is successfully achieved when there is an increase in material wellbeing and in the quality of life of the residents - quality of life including things like access to health and education services and cultural facilities, having a sense of security in a clean, improved environment. Much of this is difficult to quantify, and much of it extends beyond what might be claimed to be the purely "economic".

Beyond that, Paul Ekins distinguishes between three different kinds of economic growth:

- Growth in the economy's biophysical throughput (as already explained, in a world bound by the laws of thermodynamics, indefinite growth of this kind is physically impossible)
- Growth in the economic value of that throughput (decoupled from the level of biophysical throughput itself).
- Growth in economic welfare (which is much harder to calculate, and very different from the growth in the economic value of biophysical throughput, although invariably treated as one and the same).

Growth in economic welfare is what matters most; growth in the economic value of biophysical throughput can of course generate precisely that (though it often doesn't), and can certainly do so without any corresponding growth in biophysical throughput as we will see in Section 6. This leads Paul Ekins to the following conclusion:

"It is clear from past experience that the relationship between the economy's value and its physical scale is variable, and that it is possible to reduce the material intensity of GNP. This establishes the theoretical possibility of GNP growing indefinitely in a finite material world. However, neither such a possibility nor previous experience says much about the kind of change in the physical impacts of current economic activity which are required for that activity to become environmentally sustainable in the real world, or whether the technological and economic opportunities exist for these changes to be brought about such that the value of economic activity (GNP) is increased rather than reduced."

Relying on GNP

And that's where the distinction between economic growth and sustainable development becomes so crucial. As Herman Daly and others have argued, economic growth is all about quantitative expansion, the notionally "limitless transformation of natural capital into man-made capital". Sustainable development is about qualitative improvement, permitting increased economic activity only in so far as it does not exceed the capacity of the eco-system. In pursuit of economic growth, conventional economists obstinately put the emphasis on the non-physical parameters of the economy (income, choice, distribution, productivity etc), and expect the physical variables to be "adjusted" accordingly. In pursuit of

sustainable development, economists must in future put the emphasis on the physical parameters (resources, the laws of thermodynamics etc), and accept that the non-physical variables must be adjusted accordingly.

What makes this so hard to read is that our single most important indicator of economic prosperity (namely GNP) obscures the reality of what is actually happening. The standard, aggregated index of GNP is used to capture all marketed exchanges and government expenditures, and therefore measures the increase in the economic value of overall production – but not decoupled from levels of biophysical throughput that generate that increased economic value. So as we eat up our "natural capital", or degrade the eco-system's capacity to renew the kind of natural services on which we depend, we persist in counting all that destructive economic activity as current (benign) income. At the same time, we also count in many so-called "defensive expenditures", caused by having to deal with some of the externalities of economic growth, be they environmental (environmental protection and restoration, damage compensation etc) or social (car accidents, poor health, rising crime etc).

There is no particular controversy about this. Economists are forever pointing out how inappropriate it is to use GNP as a measure of increased welfare on the grounds that simply aggregating sales of goods and services (and Government expenditures) is unlikely to provide a very good proxy for social welfare. Even improved measures such as Net National Product and Adjusted National Product (derived from GNP by subtracting capital consumption and "defensive expenditures") still won't do the job - although they help a lot in terms of de-coupling growth in biophysical throughput from growth in economic value.

A huge amount of intellectual ingenuity has therefore been devoted to finding more appropriate measures of economic welfare/wellbeing. Perhaps the best known of these is the UNDP's Human Development Index (HDI), used every year as part of its influential Human Development Report. Others include Nordhaus and Tobin's *Measure of Economic Welfare*, and Daly and Cobb's Index of Sustainable Economic Welfare (referred to earlier). And all sorts of different approaches have been recommended in terms of adjusting the way in which the national accounts are classified and calculated in order to take greater account of environmental impacts and any associated depletion of natural capital. As Paul Ekins says: "The overarching reason for seeking to adjust the national accounts for environmental effects is to gain a clearer understanding of the contribution made to production and human welfare by the environment, and of the way the environment's ability to continue to make that contribution is being undermined by the scale and nature of economic activity."[18]

Ekins himself has put forward proposals which would permit the Treasury to determine the "sustainability gap" between the current national accounts and calculations of an Environmentally Sustainable National Income. What's more, the basic techniques of integrated environmental economic accounting are now being implemented in a number of countries, and this is a formal recommendation of the United Nations and indeed the policy of the European Union.

Engaging the Politicians

However, the prospects for any of these alternatives or techniques getting real purchase in today's political economy are dubious. People have become so accustomed to the notion that "economic growth solves all" (albeit on the patently inadequate grounds that a bigger overall "economic cake" means there's more to spread around, or at least more crumbs to trickle down) that to disabuse them of the thermodynamic impossibility of this would exact a heavy political price. Better by far to deny the physically impossible (that biophysical throughput can keep on growing indefinitely) than face the political "impossibility" of selling the alternatives.

The latest pernicious attempt to obscure that fundamental reality lies in the self-evident oxymoron of "sustainable growth" – assuming that we're talking about conventionally-determined growth (as above) rather than growth in the levels of welfare derived from growth in economic value decoupled from biophysical throughput. Only when politicians are measured by their success in generating that kind of growth will we have begun to take sustainable development seriously. In that regard, environmentally sustainable growth (or, to be more correct, environmentally and socially sustainable growth) is probably the only intellectually acceptable terminology in this area, as it explicitly incorporates some concept of environmental and social limitations into the growth process.

To engage purposefully in debates about the nature of economic growth and its compatibility/incompatibility

with the pursuit of sustainability is surely within the "manageable universe" of what politicians can and cannot cope with. So why exactly has this become yet another taboo territory, shunned even by those politicians who've fallen off the greasy pole of personal ambition and have nothing to lose in challenging the shibboleths of today's political economy?

Complacency? A lingering belief that this is an impossibly "black and white area" of debate (it's either gung-ho growth at all costs, as we have it today, or zero growth as espoused by fundamentalist greens back in the early 70s) - even though this is patently not the case? An unthinking sense of "if it ain't broke, don't fix it" - even though the most cursory examination would reveal just how "broke" our dependency on conventional, GDP-driven economic growth really is? Or a feeling (rarely acknowledged in public) that the rich world can probably get away with it anyway, just a little bit longer, so long as the poor world isn't allowed to gatecrash the party?

There is indeed a disturbing insularity in the way in which we conceptualise what the global economy will look like in the future. According to the OECD, there are now well in excess of twenty "developing" countries (half of them in Asia) with increasingly influential middle classes intent on pursuing rapid and substantial increases in their material standard of living. Some calculations have assessed these "new consumers" at more than 1 billion people.

As Professor Norman Myers has pointed out so forcefully, we ignore the impact of these economic trends at our peril:

"The new consumers have a far-reaching impact on economic activities nationwide, and hence on environmental repercussions. A strongly meat-based diet, for instance, entails environmental problems in that the meat is often raised on grain which overloads crop lands and diverts much water in countries with water shortages, as well as putting pressure on grain supplies from international markets. With its 300 million new consumers, China increased its meat intake during the 1990s by 105%, and became the world's biggest meat consumer. Many parts of China now experience water shortages, accentuated in part by the surging demand for grain. Over-pumping is already causing the region's aquifers to decline by at least 1 metre a year. Many new consumers also buy cars in large numbers. Already they possess 125 million cars, one fifth of the global fleet, and by 2010, they could have well over 200 million, which is one quarter."

5. Policy implications

At one level, it is of course both reasonable and understandable that today's political parties are perfectly content that such complex policy areas should remain either marginalised or totally ignored. Let sleeping dogs lie and all that.

At another level, one's vision of political leadership must be a very shrunken one if it is populated only by do-able, expedient quick-hits. We would argue that the task of representing "the interests of the future to the present" is one of the most critical elements of sustainable development – and one which distinguishes sustainable development from any of the other so-called "big ideas" currently floating around in search of some kind of public resonance. What's more, perhaps this continuing neglect of the incontrovertible reality that some time soon – we are going to have to transform our economic paradigm (and with it, our model of contemporary progress) is just bad politics even in conventional political terms. A politics based on maximising immediate personal gratification is incapable of structural change. A more grown-up political culture, in which it is possible to argue for policies on the basis of what needs to happen five, ten or even more years into the future, is a prerequisite for sustainability.

Over the last quarter century, the 'long wave' pendulum of political values has swung to an extreme of individualism, market based solutions, and hostility to and distrust of anything that smacks of central planning and state intervention. This has happened before. But the discrediting and ignominious collapse of the planned economies of eastern Europe has left the discourse of individualism, choice and liberty so overwhelmed, and the image of collectivism, social choice and mutuality so tarnished, that we are in danger of forgetting that there is actually a debate to be had or a pendulum that can swing.

For those of an optimistic disposition, there are already reassuring signals that the political pendulum is beginning to swing back from the dominant model of the last twenty years (premised essentially on me-first individualism, fostered by short-term, profit-maximising, free market economics of the crudest

kind) towards a better-balanced, socially-responsible model in which environmental and societal interests are better protected, morally appropriate behaviours (regardless of whether they "pay" or not) are not dismissed as whimsical aberrations, and human nature is not reduced to a function of our ability and desire to consume.

This all calls for more proactive and interventionist government than has been fashionable for the last few decades. Government should consciously decide the sort of economy we want and intervene actively to achieve it, not just assume that past trends towards globalisation and market dominance are inevitable or even desirable. Policy should be based on explicit quality of life and environmental objectives, not economic proxies for them. The state should set standards and provide more services than has been the norm for 20 years (although no more than was taken for granted by governments of left and right before 1979.) We believe the 'long wave' of political fashion is swinging back from extreme individualism to make these changes not only acceptable but popular.

In broad positioning terms, perhaps the best thing Labour politicians can do to promote sustainable development is give that pendulum an even bigger shove on the grounds that it's very difficult to address the whole issue of benign growth and sustainable consumption unless there is a far more pronounced move away from unfettered individualism.

It's a measure of just how topsy-turvy things have got under New Labour that there could be any doubt at all about who the principal beneficiaries will be of that particular swing of the pendulum. Yet you wouldn't know it listening to some Labour politicians today, for whom the primacy of the market, 'free choice' and the sovereign rights of the individual seem to have become at least as important as political benchmarks as for the Conservatives.

Robert Lane is more than a little pessimistic about the chances of challenging such an overwhelmingly powerful economic paradigm:

"If people have difficulties identifying the nature and sources of their unhappiness, and if the guiding disciplines share in the peoples' pluralistic ignorance, and if one cannot identify villains and exploiters in this scenario, and if most people would be better off under another scheme but enough people stand to gain from the way things are to make large-scale persuasion exceptionally difficult, whence cometh our help?"[19]

Patience is of course a fundamental requisite for those advocating a more environmentally and socially responsible society; after all, it took the best part of twenty years to demonstrate that economic growth and increased energy consumption were not inextricably wedded, and that it was perfectly possible to secure high levels of economic growth without any corresponding increase in energy consumption. But will it really take another twenty years to persuade politicians that one can de-couple improved societal wellbeing and individual happiness from higher levels of both resource and economic consumption?

The position of the Sustainable Development Commission in this political minefield is a simple one. Whilst it may be perfectly reasonable for politicians to be disinclined to pursue high-risk strategies on economic growth and consumption, given the dearth of convincing evidence that such strategies will strike a chord with today's electorate, it is not reasonable to ignore the true nature of the economic challenge entailed in learning to live sustainably on this planet. And it's plain irresponsible not to do everything in their power both to facilitate a more informed debate and to help fashion the platforms on which the more radical and realistic policies that will be needed in the future can be developed.

Moreover, we are keen to persuade politicians that even if this exploration of alternative economic paradigms may not lead immediately to a set of hard-edged policy recommendations for the next election, there's no shortage of supportive actions or measures that could be taken right now.

5.1 *Quality of Life* annual report

The Government can already take considerable credit for its decision to publish its annual Quality of Life Report, detailing progress against fifteen Headline Indicators. The indicators chosen (total economic output; investments; employment; property and social exclusion; education; health; housing; crime; climate change; air quality; road traffic; river water quality; wildlife; land use; waste) just about cover the waterfront of sustainable development, and although movement on any one indicator, on a year to year basis, is inevitably slight, cumulative data provide a useful snapshot of some of the key parameters of wellbeing and quality of life.

To our knowledge, this is the only national report of its kind, an expression of serious intent on the part of the Government to get people to think in a more integrated and long-term way about sustainable development. So why, one has to ask, is this important innovation accorded so little political significance?

There have been three such reports since 1999, the first two launched at poorly-organised briefings attended by a small number of "the usual environmental suspects". It would have been simpler to send out a press release saying "Please don't take this too seriously".

By contrast, we would like to see the annual *Quality of Life Report* presented formally to the House of Commons by the Prime Minister, with a full debate along the lines of other big set piece occasions such as the Budget or the Public Spending Review. This would position both the Report itself, and the Government's commitment to sustainable development, at the right level, in the right place. This year's launch by the Secretary of State, on a platform together with the Prime Minister and organised jointly by the SDC, was a step in the right direction.

5.2 The Government's sustainable development objectives

We believe the wording used in the Government's fourth sustainable development objective is both unhelpful and misleading. It does nothing to encourage people to think more carefully about the nature of economic growth in terms of its compatibility with broader societal goals and environmental imperatives. Indeed, it encourages people to go on supposing that genuinely sustainable development is completely compatible with the pursuit of high levels of conventionally-measured, unreconstructed, exponential economic growth.

We would therefore encourage a wider debate about this, exploring different forms of wording in order to capture the spirit of the debate raised in section 4 of this paper. (Might it, for instance, be more appropriate to talk of "economic development" here rather than "economic growth" per se?) At the very least, we would like to see "high and stable levels of economic growth" de-coupled from "high and stable levels of employment", and a recognition that economic growth is only a means to an end (or a number of different ends) rather than an end in its own right.

5.3 Higher standards

We would like to see a much clearer recognition that securing sustainable improvements in our quality of life demands a great deal more than simply increasing the range of personal choices through the free market.

In this respect, it's encouraging to see the way in which Ministers are now much more bullish in their defence of "the public realm", emphasising the importance of high-quality environments in our towns and cities, investing in more "liveable" streets and communities, gearing regeneration to take proper account of the "social capital" on which much of people's quality of life still depends.

We are, however, somewhat mystified by the defensive and apologetic way in which government talks about regulating for higher standards in society. Instead of endlessly dumping responsibility for achieving more environmentally and socially responsible lifestyles onto confused and often indifferent consumers, or onto businesses already overburdened by governmental exhortations to become better corporate citizens, it would make a great deal more sense on many occasions to mandate the behaviour changes we now need.

For instance, government ministers have indicated that they would like more house purchasers to buy "greener" homes, thereby encouraging house builders to raise their game in offering more energy efficient housing and more imaginative eco-homes. Fine, but it would be so much simpler for government to revise the Building Regulations to mandate the required levels of thermal efficiency and other environmentally-friendly features, so that <u>every</u> new house in the land contributed to the UK Climate Change Programme rather than a few tokenistic green homes.

5.4 Resource productivity

Finally, given the complexities in changing public attitudes in some of these areas, we must again urge the Government to get far more serious about Resource Productivity. This isn't something that can be fixed by policy experts in the Strategy Unit coming up with a few unimaginative and bureaucratic recommendations. It needs to become a driving force in all key government departments. The Energy White Paper, the revised Waste Strategy, the Planning Green Paper, the massive new investments currently under way in both health and education, the government's procurement strategy – these all offer not-to-be-missed opportunities to embed the basic principles

and practice of increased resource productivity at the heart of government policy.

At the end of last year, the Green Alliance produced a helpful *Agenda for Action on Resource Productivity*[20], emphasising the importance of developing a headline indicator for resource productivity:

"The indicator should be simple and easily communicable, and linked to an aspirational long-term target based on environmental limits. This indicator should not be seen as the final word on measuring resource productivity - it should be supplemented by more specific targets covering specific environmental impacts or sectors."

And it ends by reminding the Treasury of the current inadequacies of its approach to productivity:

"One of the Treasury's stated aims is to improve the productivity of the UK economy. This should explicitly include resource productivity, rather than the narrower definition of labour productivity. For example, the analysis of productivity contained in each budget report should include an analysis of resource productivity."

5.5 Economic growth, GDP and the National Accounts

As mentioned in Section 4.4, it is now the recommended policy of both the United Nations and the European Union that countries should revise the way in which they prepare their national accounts to begin to address the kind of sustainability gap that is currently hidden within them. The Treasury has already done some work in this area, but with no discernible impact on policy. The Treasury is also aware of the inadequacies of using GNP as an indicator of economic welfare, but has tended to dismiss efforts by others to overcome this problem. As part of the review of the UK's Sustainable Development Strategy, the fifteen Headline Indicators on which it is currently based will need to be appraised both individually and as a combined set. Defra and HM Treasury should work closely together over the next year to move forward purposefully in both these key policy areas.

6. Conclusion

Notwithstanding some real progress on a number of key sustainable development concerns since New Labour was elected in 1997, there's a disturbing sense of sleepiness or "low priority" about this Government's overall approach to sustainable development. Too many things are put off to tomorrow, relegated to the "too difficult" zone of politics, undersold as a kind of optional extra rather than an urgent priority.

Hence our recommendation that there needs to be a twin-track approach in order to shift this whole agenda into a higher gear. First, it's crucial that this Government connects with the challenge of resource productivity without any further delay. Whatever gains the UK has made so far (in terms of progress towards our Kyoto targets, for instance) could all too easily be cancelled out by failures to get on top of transport, waste, and that tricky time period beyond 2010 when it seems inevitable that CO_2 omissions will begin to rise again.

This is why the Commission is undertaking two major pieces of work in this area. The first will be to carry out an annual audit of progress made by the Government (through its Climate Change Programme) towards meeting the targets for reduced greenhouse gas emissions under the Kyoto Protocol. The second will be to work with a wide range of partners in all different sectors to model some of the economic and social implications of much deeper cuts in CO_2 emissions, taking as our benchmark the 60% recommended by the Royal Commission on Environmental Pollution.

Secondly, with an eye to future policy debates, we would very much like to see leading politicians in all political parties engage much more purposefully in the questions about economic growth, quality of life and sustainable consumption. It's not helpful for UK voters to be lulled into a sense of false security that the status quo ("growth at more or less all costs", on an exponential basis, despite the ever stronger scientific evidence that the ecological crisis is beginning to run away with us) is likely to remain the status quo for very much longer.

And that, in essence, is the sole purpose of this paper: to invite politicians, policy experts, commentators, business people, religious leaders and NGOs to put these issues on their "must get to grips with" agenda, rather than defer them endlessly as tomorrow's issues. They are in fact more present in our lives than most people begin to realise, and we do both ourselves and future generations a grave disservice by not addressing them right now.

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Sustainable
Development Commission

the commission
We are the Government's independent advisor on sustainable development issues and report to the Prime Minister and Devolved Administration leaders. Our mission is to inspire government, the economy and society to embrace sustainable development as the central organising principle.

our work programme

As well as following up our work on prosperity, our work programme to March 04 will include the areas of health, energy and regeneration, sustainable consumption and production, and local government. We will also look at sustainable development and the Devolved Administrations and the English regions, and in Europe; and aspects of sustainable transport. We will work with Defra on their revision of the UK Strategy for Sustainable Development.

members of the sustainable development commission

Jonathon Porritt (Chairman) Director of Forum for the Future; **Maria Adebowale** Director of Capacity; **Rod Aspinwall** Deputy Chairman of the Enviros Group and Professor of Environmental Management at Cardiff University; **Councillor Maureen Child** Lead Member for Finance and Sustainability, Edinburgh City Council; **Rita Clifton** Chairman of Interbrand; **Lindsey Colbourne** Coordinator of InterAct; **Anna Coote** Director of the Public Health Programme at the King's Fund; **Ed Crooks** Economics Editor, Financial Times; **Valerie Ellis** Member of Trade Union Sustainable Development Advisory Committee and until recently Assistant General Secretary of Prospect; **Nicky Gavron** Deputy Mayor of London and the Mayor's Advisor on Planning and Spatial Development; **Brian Hanna** President of the Chartered Institute of Environmental Health; **Alan Knight** Head of Social Responsibility, Kingfisher; **Walter Menzies** Chief Executive of the Mersey Basin Campaign; **Tim O'Riordan** Professor of Environmental Sciences at the University of East Anglia and Associate Director of the Centre for Social and Economic Research on the Global Environment; **Derek Osborn** Chairman of the Stakeholder Forum for our Common Future; **Anne Power** Professor of Social Policy at the London School of Economics and Deputy Director of the Centre for Analysis of Social Exclusion; **Charles Secrett** Formerly Executive Director of Friends of the Earth; **Richard Wakeford** Chief Executive of the Countryside Agency; **Jess Worth** Campaigner with People and Planet; **Graham Wynne** Chief Executive of the Royal Society for the Protection of Birds; **Raymond Young** Board member of Forward Scotland, a member of the Scottish Welfare to Work Advisory Task Force and Chair of the Environment Task Force in Scotland.

To comment on this report please contact:
Sustainable Development Commission, 5th Floor, Romney House, Tufton Street, London SW1P 3RA
Telephone: 020 7944 4962 **Email:** sd.commission@defra.gsi.gov.uk

To find out latest news and information about the Sustainable Development Commission visit our website: www.sd-commission.gov.uk

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From: Joanna Key
Date: 22 May 2003

PRIME MINISTER

Cc: David Hanson
Pat McFadden
Liz Lloyd
Martin Hurst
Jeremy Heywood
Clare Sumner
Oliver Jones

PRIVATE MEMBERS BILLS ON THE ENVIRONMENT

There are two Private Members Bills on environmental issues going through to Committee Stage during June. There is pressure from ODPM (both Bills) and HMT (one of them) to block them. But the Members and the Bills are popular, and the Opposition and the LDs support.

The two Bills are:

- **Brian White's Bill on Sustainable Energy (DTI lead)**. Brian Bill proposes new targets for Government on renewables and energy efficiency; new reporting requirements on Government to report on what it is doing to achieve sustainable energy; new duties on Local Authorities to implement their energy efficiency plans; and new powers to DTI to spend money on sustainable energy.

- **Joan Ruddock's Bill on Recycling (Defra lead)**. This proposes new targets for household recycling; new reporting requirements for Local Authorities; and new powers for Defra to deal with Local Authorities who are failing to meet their waste targets.

With Brian White, we think he would accept a deal which involves taking out the targets (which were hard fought in the Energy White Paper, and no one in Government wants to reopen); agreeing to the Government reporting requirements and some of the new LA duties; and agreeing to new powers to allow DTI to spend £60m for renewable energy (which we had already announced in the Energy White Paper, but hadn't yet created the enabling legislation).

I think we will still manage a compromise along these lines. However, ODPM are opposing new duties on LAs because of freedoms and flexibilities, and HMT on the £60m (for arcane accounting reasons, which we hope we can resolve).

We saw Brian White and colleagues last week with David Hanson. It was not an easy meeting. It is clear they have genuine concerns about delivery on fuel poverty and energy efficiency. Some of these are outside the scope of the Bill, and relate to Government energy efficiency programmes, and how closely we integrate energy efficiency into our new housing programmes (e.g. Communities Plan). These are mostly solvable and I am already talking to Defra. But how we treat the Brian White Bill will be a real touchstone for them.

The situation with Joan Ruddock is – if anything – even more difficult. Most of the provisions in her original Bill have already been taken up through Lords amendments to the Government's Waste and Emissions Trading Bill. The only thing left is a set of demanding targets on recycling and doorstep collection. The targets go much further than those in the Waste Strategy (which we are already not going to meet) and those proposed by the Strategy Unit, which make it difficult to support. But there are again political downsides of opposing a nice green PMB; and the timing of the Bill in Committee is particularly awkward for the Whips (for reasons I won't bore you with).

Joan has also been to see Gordon Brown to persuade him to support her; he is apparently keen to help and wants to explore compromises. Defra is hastily working up some text. But ODPM are being difficult; they are particularly sensitive on waste because they know that our main delivery vehicle is Local Authorities.

In practice of course neither Bill is likely to survive anyway (although it is not impossible....)! But opposing them will be tricky since the Tories and the LDs are supporting, and the Whips say that the PLP is very keen. Blocking Brian White is also awkward because a contrast will inevitable be drawn between what we have said in the EWP (and what you said in your speech) and our actions over the Bill.

Given all this I think a sensible outcome would be to try and support both Bills, providing we can secure the amendments set out above. If we can't amend the Ruddock Bill so as to make it acceptable, I think the best way forward is to support the Brian White Bill only. **Do you agree?**

✓

Joanna Key

JOANNA KEY

Conclusion

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DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

The Rt Hon Margaret Beckett MP
Secretary of State for Environment, Food and Rural Affairs
Noble House
17 Smith Square
London
SW1P 3JR

22 May 2003

Dear Margaret

ENV CORRESPONDENCE: APPLYING OPERATOR AND POLLUTION RISK APPRAISAL (OPRA) TO
a) WASTE MANAGEMENT LICENSING (WML) CHARGES (7 April)
b) POLLUTION, PREVENTION AND CONTROL (PPC) CHARGES (14 April)

This letter gives you ENV clearance, subject to certain caveats, to support the Environment Agency in applying Operator and Pollution Risk Appraisal (OPRA) to Waste Management Licensing (WML) and Pollution, Prevention and Control (PPC) charges in England and Wales, reflecting the need for a risk based approach.

Thank you for your letters of 7 and 14 April regarding WML and PPC charges respectively. Responses were received from Paul Boateng and Patricia Hewitt. Sue Essex also commented on your first letter.

All three support the objectives of risk based regulation, saying it will bring greater transparency and efficiency, and reward better environmental performers. Paul is grateful to you, your officials, and the Environment Agency for developing this approach. He also says it is right we consider the Agency's charging regimes, to ensure the costs of regulations continue to be borne by those incurring them. He stresses that clearance of new charging regimes requires the specific consent of the Treasury and he is happy to provide this, subject to a few conditions, which are set out below. Patricia commends the Agency for involving industry in developing the scheme and for its use of a Regulatory Impact Assessment. Sue welcomes the contribution that risk based regulations make to improving the management of wastes in Wales.

However, each also highlights the importance of increasing the transparency and monitoring the effectiveness of the charges. Paul says the Agency has made great

Website: www.odpm.gov.uk
Email: john.prescott@odpm.gsi.gov.uk

strides with transparency in line with the recommendations of the recent Financial Management and Policy Review (FMPR). However, he feels more work is needed: it is important they can demonstrate both to Government and to charge-payers how charges are calculated, especially given the new differentiated charging regime, where operators in the same sector will be paying different charges according to risk. They should include explanations of how differentials between high and low risk operators relate to differences in the Agency's costs. He expects this to be provided whenever changes to the Agency's costs are proposed.

Patricia acknowledges the Agency has gone some way to improve transparency, but like Paul she says there is a continued need to review charging arrangements to ensure that they adequately reflect regulatory effort. She is aware of concerns from the waste management industry, which DTI sponsors, that the proposed increases in the landfill application charges are not justified. She understands the Agency believe these increases are necessary if they are to fully recover their costs, but urges that they explain a direct link between the Agency's required regulatory effort and the resulting charges.

Sue would also welcome updates on the intended Environment Agency reviews.

In addition, Paul would in due course like to see an evaluation of the impacts of the new risk-based regulations and charging regimes. He also notes anticipated efficiency savings of the risk-based approach. In accordance with the FMPR, he asks that these savings be calculated, emphasising the importance of discussing collectively how any such savings can best be used.

You may therefore take it that you have ENV clearance, provided you comply with the conditions set out by colleagues: the Agency demonstrating how its charges are calculated; an evaluation of the impacts of the new risk-based regulation; and a calculation of efficiency savings, with options presented Ministers for their deployment.

I am copying this letter to the Prime Minister, members of ENV and to Sir Andrew Turnbull. I assume that you will convey the outcome of this correspondence to the Devolved Administrations.

JOHN PRESCOTT

Recd 22/5

MH

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
26 Whitehall
London
SW1A 2WH

Tel: 020 7944 8623
Fax: 020 7944 8621

cc JK
GN
OJ

The Rt Hon Margaret Beckett MP
Secretary of State for Environment, Food and Rural Affairs
Noble House
17 Smith Square
London
SW1P 3JR

21 May 2003

Dear Margaret

ENV CORRESPONDENCE: PROGRESS ON THE DEVELOPMENT OF AN UNECE PROTOCOL TO THE AARHUS CONVENTION ON POLLUTANT RELEASE AND TRANSFER REGISTERS (PRTRs)

This letter gives you ENV clearance to the final text of a draft Protocol on the development of Pollutant Release and Transfer Registers (PRTRs) under the Aarhus Convention, provided it leads to no costs to Government, regulators and operators beyond those assessed in the RIA considered by ENV colleagues in 2001.

Thank you for your letter of 6 May. Replies were received from Patricia Hewitt, Lewis Moonie and Angela Smith. Allan Wilson and Carwyn Jones also commented.

Patricia is content providing the final text is fully in line with the previously agreed negotiating position. She says it is important to balance public access to environmental information with the additional burdens this may place on UK industry. An RIA developed in 2001 assessed the outcome of the agreed negotiating line as leading to no additional costs to regulators and operators in England and Wales, but an additional total cost of £1.745 million for Government, regulators and operators in Scotland and Northern Ireland. She is content for the Protocol to be signed if there are no further costs. Should the requirements of the Protocol lead to more impacts, she would be grateful if you could ensure that a revised RIA is prepared.

All other respondents are content. Lewis welcomes the inclusion of the national security exemption under Article 12, which provides that information held on the register may be made confidential where disclosure to the public would adversely affect national defence or public security. Allan says the Scottish Executive fully

supports the need to establish a coherent nation-wide system of pollution inventories in a publicly accessible database, in line with the Aarhus Convention requirements. They are already making progress to comply with the requirements of the PRTR Protocol. Carwyn says the National Assembly is committed to freedom of information and the Protocol provides a major opportunity to make information available to the public about hazardous emissions.

You may therefore take it that you have clearance to the text of the Protocol, on the condition given by Patricia.

I am copying this letter to the Prime Minister, members of ENV and to Sir Andrew Turnbull. I assume that you will convey the outcome of this correspondence to the Devolved Administrations.

JOHN PRESCOTT

DCO

Department for
Transport

From the Secretary of State

Great Minster House
76 Marsham Street
London SW1P 4DR

Tel: 020 7944 3011
Fax: 020 7944 4399
E-Mail: alistair.darling@dft.gsi.gov.uk

Web site: www.dft.gov.uk

The Rt Hon John Prescot MP
Deputy Prime Minister
26 Whitehall
LONDON
SW1A 2WH

MH CC-OM MCL SF

Our Ref: AD/006525/03

22 MAY 2003

FLOOD MANAGEMENT AND COASTAL DEFENCE STRATEGY

I have seen Margaret Beckett's letter to you of 4 April seeking the participation of DfT in the production of a long-term strategy for flood management and coastal defence.

I support the production of such a strategy, and welcome the chance for my Department to participate in this.

DfT will have a substantial interest as flood defences commonly include transport infrastructure such as roads, rail and ports at coastal locations. In particular, I share the concern that we should integrate flood defence policies with our other policies and consider the longer-term implications for planning, housing and transport. For example, in areas such as the Thames Gateway, we will need to consider the balance between raising funding for flood defences from developers and beneficiaries, and the other potential calls on this source of funding, particularly transport schemes. It will be important to produce a co-ordinated view of this across Government.

I also support your proposal to set up a stakeholder group as a means of involving external stakeholders in the production of the strategy. It would be important for the key transport delivery agencies - Network Rail, the Strategic Rail Authority, the Highways Agency, Transport for London and representatives of airport operators - to be involved in this group.

I am copying this letter to the Prime Minister, members of DA Committee, Dawn Primarolo, Professor David King, Sir Andrew Turnbull and to Sir John Harman at the Environment Agency.

ALISTAIR DARLING

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

File

defra
Department for Environment
Food and Rural Affairs

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

MH

cc JIC
AMcG
CS

20 May 2003

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear John,

WATER BILL: FLOOD DEFENCE COMMITTEE MEMBERSHIP IN WALES

I have seen Peter Hain's letter to you of 14 May seeking clearance of a proposed amendment to the Water Bill to give the National Assembly for Wales the power to make an order determining the composition of Regional Flood Defence Committees in Wales.

I am content for the amendment to proceed on the basis described in Peter's letter. This includes the safeguard that, where such an order applied to a committee that included part of England, the order would require my prior approval.

I am, however, very anxious that the amendment be presented as essentially a Welsh provision, which is a logical extension of Devolution. Peter Hain's letter quite rightly sets out why this should not be seen as an indication of the way we will proceed in England with the advent of Elected Regional Assemblies, and we shall need to deploy these arguments as necessary in debates on the amendment. But to make it clearly a Welsh issue I would regard it as essential that the amendment be tabled in the name of a Welsh Minister, who should ideally also move the amendment on Report. Also, it will be essential for WAG officials to be present to support whichever Minister moves the amendment. Subject to these points being agreed, and my officials having the opportunity to agree the amendment before it is tabled, I am content with Peter's proposal.

I am copying this letter to the Prime Minister, members of DA, LP and ENV, First Parliamentary Counsel and Sir Andrew Turnbull.

Regards

Margaret

MARGARET BECKETT

IPR. 2. Fil

Nobel House
17 Smith Square
London SW1P 3JR

Telephone 08459 335577
Email secretaryofstate@defra.gsi.gov.uk
Website www.defra.gov.uk

defra
Department for Environment
Food and Rural Affairs

The Rt Hon John Prescott MP
Deputy Prime Minister
26 Whitehall
London
SW1A 2WH

MH
cc JK
LC

20 May 2003

From the Secretary of State
The Rt Hon Margaret Beckett MP

Dear John,

COMMITTEE REPORT: "BUYING TIME FOR FORESTS: TIMBER TRADE AND PUBLIC PROCUREMENT"

I am writing to seek your agreement and that of ENV colleagues to the draft response (Appendix A) to the EAC's report "Buying Time for Forests: Timber Trade and Public Procurement". A copy of the report is available on the Committee's web site. URL: http://www.parliament.uk/parliamentary_committees/environmental_audit_committee.cfm.

I should be grateful for confirmation that colleagues are content with the draft, or any comments by 5 June.

The EAC's report is critical of Government for the lack of effective progress made on implementing the Government's commitment to seek to procure its timber and wood products from legal and sustainably managed sources. You will see that I am proposing we accept much of what is stated. Indeed, many of the EAC's recommendations mirror proposals made in a consultant's report that was commissioned by DETR in 2001 and which we are in the process of seeking to implement. The Government's response at Appendix A acknowledges this.

Michael Meacher's letter of 28 October to ENV (G) members and copied to you and Sir Andrew Turnbull gave details of the recommendations – arising from the consultant report referred to above - for more effectively implementing the Government's commitment on timber procurement. That letter (text attached at Appendix B) asked for ENV (G) members' approval in principle to accepting the consultant's recommendations so that we could confirm to the EAC in our response that we would implement those recommendations. This approach has been approved in principle by all ENV (G) Ministers and so the draft response does indicate that the Government will proceed to act on the consultant's recommendations **where resources allow us to do so**. I attach at Appendix

C a summary of members' responses. There were some concerns on cost implications and these will be addressed as we go forward. **Already we have run up against insufficient funds within Defra to finance the creation of a Central Point of Expertise in Timber as envisaged by the consultants and we may have to proceed on a more limited basis for the time being**.

The trade in illegal timber and the adverse effects of bad forest management are issues with a high profile both at home and abroad. The Government's performance in tackling these issues as part of its commitment to sustainable development is being closely monitored by many stakeholders. The EAC's investigation has made a valuable contribution in raising awareness of the issues by confirming that action must be taken as a matter of priority and in recommending ways forward.

I am copying this letter to the Prime Minister, members of ENV and ENV (G) and to Sir Andrew Turnbull.

Regards

Margaret

MARGARET BECKETT

ANNEX A

GOVERNMENT RESPONSE TO ENVIRONMENTAL AUDIT COMMITTEE REPORT: "BUYING TIME FOR FORESTS: TIMBER TRADE AND PUBLIC PROCUREMENT"

(Sixth Report of Session 2001-20)

1. The Government welcomes the Sixth Report of the Environmental Audit Committee and congratulates the Committee for succinctly covering the key issues pertinent to our commitment actively to seek to procure timber and timber products from legal and sustainably managed sources. The Government is grateful to the Committee for recognising its ground breaking agreement on timber with Indonesia, efforts to pursue similar agreements with other timber producing countries and the work done both at home and internationally to help protect the world's forests from illegal logging and unsustainable exploitation.

2. The Government realises that more must be done and, in particular, recognises the importance of its influence as a major purchaser of timber and timber products in helping to prevent illegal logging and encourage the sustainable management of forests and plantations. In this respect, the report makes a valuable contribution in helping us to implement fully our commitment on timber procurement by raising awareness of the importance of the subject and recommending ways forward.

3. These recommendations endorse many of the proposals made in the consultant's report on the timber scoping study commissioned that was published on the Tropical Forest Forum's web site in August and discussed with stakeholders at an open meeting on 2 September. http://www.forestforum.org.uk/docs/scopingstudyreport6-8-02.pdf . The intention is to implement the study's findings.

4. In focussing attention on the sustainable procurement of timber the Government is recognising the enormous environmental and social importance of sustainably managed forests. Wood products from sustainable forests have a generally favourable environmental profile and it is our intention that the special care required in their procurement should not become a disadvantage in comparison with procurement of alternative materials.

5. The Government's responses to the Committee's specific conclusions and recommendations are set out below. The EAC's recommendations are marked in bold; EAC paragraph numbers refer to the body of the report rather than its conclusions and recommendations.

THE GOVERNMENT'S STATEMENTS

EAC 6. Not only does the Government have a responsibility to lead by example in environmentally sound timber procurement practices; it also has, through its buying power, the potential to change the nature of timber markets through the procurement decisions that it makes.

6. The Government recognises that it has a responsibility to lead by example in using its purchasing power generally to support its policy and objectives for sustainable development and specifically in procuring timber that has been legally logged from sustainably managed forests to stimulate further supplies from such sources. The guidance, "Timber: Buyers Questions Answered", that was disseminated to Departments and published on the Greening

Government web site, now replaced by the "Sustainable Development in Government" web site, made the following points:

"The [timber procurement] policy also recognises that destruction is not just confined to tropical forests. Temperate forests in places are also under threat from less scrupulous forests products companies and, without the added value given to "good wood", there would be no incentive for them to embrace sustainable management practices".

7. The Government is determined to secure full implementation of the commitment to buy timber and timber products from legal and sustainably managed sources. We will, as confirmed in the Cabinet Office's report to Parliament on the findings of its investigation into timber procurement for 22 Whitehall, endeavour to improve our guidance, ensure all future contracts comply with Government policy and review terms of reference for our consultant project managers.

8. As officials explained in their evidence to the Committee (Minutes of Evidence, Wednesday 12 June 2002 – para 147) the Government's commitment on timber procurement has provided a real wake-up call to the industry with the people involved recognising the need to get their act together to develop chain of custody procedures. We expect this to become increasingly the norm as news of the Government's commitment spreads and work begins to implement the recommendations made by the consultants commissioned to help us improve our performance in this important area.

9. The Government has been advised to set up a Central Point of Expertise on Timber (CPET) to facilitate implementation of the actions recommended by consultants and officials. We accept that a CPET would be sensible and have been considering how this could be taken forward. A stand alone unit operating at arms length from Government has certain advantages but is likely to be more costly than an in-house operation supported by external expertise as appropriate. Defra faces a challenging agenda across a broad front with competing demands for limited resources and the Government may decide that an in-house approach would be sufficiently effective in addressing the urgent issues in the short term. We would review progress early next year and consider whether a different option could be pursued.

EAC 8. Public sector demand for sustainable timber would stimulate additional supply in the long term. Where requirements cannot be met from legal and sustainable sources, Government should be able to demonstrate that it has considered alternatives to virgin timber. Recycling and reuse of timber, or use of alternative species or domestic supplies, could be valuable tools in the drive to halt the wanton destruction of forests and endangered species.

10. The Government is taking action to encourage the public sector to act as one in using its purchasing power to increase the supply of timber from legal and sustainably managed sources. The Minister for the Environment, Mr Meacher, wrote in July 2002 to his opposite numbers in the devolved administrations to seek their full endorsement to the Government's commitment on timber. In September 2002 Mr Meacher wrote to the chief executives of English local authorities. Many local authorities have not responded to date but those that did are already taking action or propose to. The Government will seek to establish the complete picture and continue to promote the adoption of timber procurement policies.

11. The Government agrees that if more domestic sources of timber were utilised then there would be a corresponding reduction in demand for imported timber and that could have a beneficial effect on overseas forests that are not being well managed. The UK imports 85% of its wood product requirements. Domestic production of wood is set to increase significantly in the coming years. Currently over 60% of the wood produced from forests in the UK is now certified. The Government is working with partners to increase the area of forests independently certified in the UK, and to tackle the problem whereby certified wood is losing its certified status at some point in the chain between forest and the final consumer. These improvements should encourage suppliers to offer more wood products from domestic sources that are sustainable.

12. Government policy is to require timber and wood products from any type of forest to be sustainably sourced, which is an approach that also provides an important economic incentive for improved forest management in developing countries. It helps them see their forests as an investment worth nurturing to provide a steady income rather than as an asset to be stripped for a quick financial gain, e.g. the burning of forests to make way for ranching or palm oil plantations.

13. The Government recognises that there are a number of environmental benefits in buying reclaimed and recycled timber. The possibilities for re-use and recycling are extremely valuable attributes of wood and improve, still further, the environmental profile of sustainably produced virgin wood products. This makes more efficient use of timber resources – not least high value tropical hardwood timbers that have been associated with the destruction of tropical rainforests. Another benefit of specifying reclaimed or recycled timber and timber products is that it helps to reduce the amount of waste going to landfill.

14. The Government's policy on timber procurement already contains a commitment to buy reclaimed timber or products made from recycled timber where this is feasible and offers value for money. This has been developed by the consultants commissioned to undertake the timber scoping study. They have recommended the inclusion of a chain of custody requirement for reclaimed/recycled timber. Otherwise, without such evidence, a loophole could be created whereby suppliers could avoid sustainability requirements by claiming that the timber is reclaimed or recycled.

EAC12. While Government rhetoric has been laudable, we see no systematic or even anecdotal evidence of any significant change in the pattern of timber procurement since July 2000. The permissive wording of the policy has left those not committed to implementation free to pay it little more than lip service.

15. There is some evidence of changes in the pattern of timber procurement since July 2000. Several of our furniture suppliers are switching to certified timber sources. They have been influenced by the Government's policy on timber procurement, the inclusion of these requirements in contracts and the work of active bodies such as NHS Purchasing and Supply Agency. This Agency for example has been working with its furniture suppliers to help them meet the Government's requirements.

16. There should be no doubt about the seriousness of the commitment. The advice given in the document *"Timber: buyers' questions answered"* that was disseminated to

Departments and published on the Greening Government web site in August 2000 said that there would:

"be hard cases where Government bodies have overriding operational reasons which dictate the use of timber where there is no firm evidence that it comes from a sustainably managed source, because there is no viable alternative. This is because many countries - developed as well as developing - have not yet been able to implement verification schemes for sustainably managed forests. Government bodies are however expected to have procedures in place for ensuring that such decisions are taken only when there really is no alternative and to be able to justify such purchases".

17. This reinforced the advice given in the "Green Guide for Buyers" that, among other things, called for "procedures to be put in place for considering any purchases which could not be substantiated as coming from sustainable sources" and explained what they should cover.

18. The Government does however recognise that there were inadequacies in implementing its policy, as confirmed by Mr Meacher in his evidence to the Committee. We are actively seeking ways to remedy this through the timber scoping study commissioned by Defra. The consultant's report contains a number of recommendations for improving performance in this area, which received approval in principle from the Cabinet Sub Committee of Green Ministers in November 2002. One such recommendation was the application of model variant contract specifications. This would ensure that Government contracts require timber from legal sources as a minimum standard. Suppliers would also be able to offer timber from sustainable sources as the highest standard variant or alternatively an interim standard of progressing towards sustainable sources. An acceptable offer for legal and sustainable timber would take precedence over offers based on the two lower standards.

19. Further recommendations for improving policy implementation will come from the high level Sustainable Procurement Group, which was established by the Secretary of State for Environment, Food and Rural Affairs to look at how the Government's sustainable development objectives can be more rigorously pursued through procurement.

EAC 18. The greater resistance to green procurement appears to come not from the European Union and its procurement rules, but HM Treasury's traditional hard line "of not using procurement to achieve other policy ends".

20. The Government disagrees with this statement. It is not a matter of using procurement to pursue other unrelated policy ends. The issues being pursued by the Government, e.g. timber from legal and sustainable sources, recycled paper, green electricity, are specification issues that are relevant to the subject of the contract. There is no inconsistency between the scope to take account of such issues under the EC rules and the scope available under the Government's own procurement policy. Indeed, the Office of Government Commerce (OGC) and Defra helped ensure that the EC interpretative communication on environmental issues fully recognised the scope, under the EC rules, for buyers to take account of relevant environmental issues. Of particular relevance to timber procurement was the confirmation, fought for by OGC, that environmental criteria can form part of the specified production and process methods. We are in fact already engaged in a process of helping to protect forests by demanding legal and sustainable timber. This general policy is being pursued through

specified requirements that are directly relevant to the subject matter of each contract awarded.

21. Despite the interpretative communication and other guidance given in the Green Guide and the Treasury/DETR Joint Note there remains a misconception that public procurement policy and the legal framework within which buyers operate prevent them taking relevant sustainable development considerations into account when purchasing goods, services and works. The Government is taking further action to address this. The Sustainable Procurement Group, for example, will recommend how Government bodies should procure goods and services in a manner that supports the Government's policy and objectives for sustainable development. A major driver for this work has been the recognition that outside audiences (NGOs and business) increasingly see Government procurement as a barometer of its commitment to sustainable development.

22. For clarification, the Government's public procurement policy requires all purchases of goods and services to be based on value for money, having due regard to propriety and regularity. Public bodies are also required to comply with the EC Treaty, the EC procurement directives and the UK Regulations that implement them. These are designed to ensure that public procurement is fair, transparent and not used to discriminate by setting up barriers to free trade.

23. Value for money is defined as "the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirement". The emphasis on whole life costs and quality means that Departments are required to take account of all relevant aspects of the product or service - including running and disposal costs, delivery, aesthetic characteristics, as well as the initial purchase price. The reference to meet the customer's requirement enables public sector buyers to specify what they want to meet their own operational and policy objectives while contributing to Government objectives on sustainable development, provided the specifications are fair, transparent and non-discriminatory and that the Department has considered the affordability and cost-effectiveness of the proposed solution.

24. In short, the policy and legal framework for public procurement provides the scope to take account of relevant environmental considerations in Government contracts, especially during the specification and selection stages - as confirmed by the EC interpretative document and the new directive.

25. At the specification stage, green production processes and relevant eco-label criteria can be taken into account, providing they are non-discriminatory. At selection stage – which looks back at the status and previous performance of the bidder - relevant aspects of a company's environmental management system can be taken into account, and companies convicted of an offence or guilty of grave misconduct in the course of their business can be excluded from the procurement. Furthermore, suppliers could be excluded at this stage, if they have a poor record on managing environmental requirements, which has affected their performance on previous contracts.

26. At the award stage – which looks forward at the proposals for the specific contract - issues such as energy savings, recyclability and disposal costs can be reflected in criteria for establishing the best value for money bid for the contracting authority.

27. The joint OGC/Defra note on environmental issues in purchasing makes it clear that there is plenty of scope to take into account environmental considerations (e.g. through appropriate

"green" specifications), in ways that are consistent with EC Procurement rules, and Value for Money policy. There are plans to revise the joint note to make it more positive and, for example, to take account of the Commission's interpretative communication, which contains more detailed guidance.

28. For timber, this means that public sector buyers can define their sustainable forest management criteria and indicate certification schemes that would be acceptable evidence of meeting those criteria, but not to the general exclusion of other evidence as tenderers must be allowed to provide other forms of proof to illustrate that they have met the specified requirements/criteria.

29. The Committee has noted that these issues can be difficult for procurement officers. We agree and this is why we consider the consultant's recommendation for a Central Point of Expertise on Timber, with expert input, as crucial in providing them with objective and consistent advice. Otherwise there is a risk that specifiers and buyers will decide that it is easier to specify alternative materials to wood products and timber structures when in fact the use of wood might be the best option to minimise environmental impacts. More demanding monitoring and reporting requirements could also discourage some buyers from specifying timber.

EAC 20. The Government has failed to provide officials with adequate guidance on legal and sustainable timber procurement or the regulatory framework.

30. The Government does not agree that the advice given to date has been completely inadequate. It depends what the EAC would accept as "adequate". The Green Guide for Buyers has basic guidance on purchasing sustainable and legal timber and the Joint Note on Environmental Issues in Purchasing has basic guidance on the regulatory framework. Both documents were available to buyers before the timber procurement policy became a binding commitment. In 2002 a model specification clause was issued by the Treasury's Office of Government Commerce to central departments. That document has provided buyers and suppliers with some clarification on the Government's requirements for timber. The Government accepts that further improvements to the current guidance are required. Work is underway to further define acceptable standards and to determine how suppliers' claims for compliance may be assessed efficiently and effectively. The Government is in the process of creating a central point of expertise to complete this work.

EAC 21. Lethargy in the provision of guidance on certification demonstrates a lack of commitment on the part of the Government.

31. The delay in providing advice on certification does not arise from lethargy on the part of the Government. On the contrary, a great deal of effort has gone not just into the timber scoping study, but also into preliminary work of determining what should be covered in the specification for that study - necessary because of the complexity of the subject. During the initial stages of that process officials met Dr Alan Knight to take advantage of his expertise.

32. The consultants have drafted an initial guidance note to help buyers implement the Government's commitment on timber procurement. However, the intention is not to complete and publish the note until the new machinery to which it will need to refer is in place. Further work is also required to develop it into a more user-friendly, possibly web-based document, with links to tools and case studies to help buyers understand more fully this particularly complex area of procurement and what is required of them. They are, in the

meantime, able to use the interim model specification clause in their contracts that sets out the Government's requirements for the supply of timber and wood products from legal and sustainably managed sources.

EAC 24. That the Department for the Environment, Food and Rural Affairs lacks the capacity to deliver in any policy areas other than the most immediately essential areas must have undermined its ability to commit fully to providing the required leadership and guidance on timber procurement just as much as its lack of authority has prevented it enforcing the policy across Government.

33. The Government accepts that until recently the delivery of its commitment on timber procurement has fallen short of its expectations. This was due to genuine practical difficulties in the implementation of the policy and a failure to ensure that the message reached everyone that needed to know to prevent episodes of non compliance such as the Cabinet Office building at 22 Whitehall.

34. The Government is continuing to take steps to ensure that instructions not only reach all those that need to know, but they are acted upon. The development, for example, of the new Framework for Sustainable Development in Government, improved reporting and the growing realisation by senior and middle management that taking account of sustainable development in their activities is a core activity should help to ensure continual improvements in performance.

35. The Committee is right to draw attention to the changes in machinery of Government that took place following the June 2001 General Election. This resulted in resources being temporarily diverted into turning the newly amalgamated Defra into a fully functioning and effective entity at a time when officials were already under a great deal of pressure combating foot and mouth disease. The Department has however emerged from these problems and is exercising leadership and authority on sustainable development both at home and abroad with a number of successes to its credit.

EAC 25. That existing guidance to officials from other sources does not 'tie-in' with the Government's policy on timber procurement is only now becoming apparent, two years after the policy became binding and four years after the introduction of the model framework, is indicative of the malaise that has permeated implementation.

36. As Mr Meacher said in his evidence to the Committee on 4 July 2002 (para 246) there are areas in the Building Research Establishment's Environmental Assessment Method (BREEAM), which are not entirely consistent with the Government's commitment on timber procurement. Though its main thrust is to ensure timber comes from sustainable sources and puts the onus on suppliers to provide proof in the case of tropical hardwoods.

37. This is an area where the Government took the lead and we would expect a little time to elapse before a voluntary standard designed for the construction industry as a whole caught up with us. BREEAM is currently being reviewed. The Government will however review procedures to ensure bodies such as BRE are informed of changes in policy on its own estate that may have a bearing on standards of best practice for which they are responsible. Indeed, in the consultants' timber scoping study report (Chapter 7) there is a recommendation that advice given to procurement officers is integrated into other relevant schemes such as Constructionline.

38. There is a requirement on all Government departments to use BREEAM or similar assessment scheme for new construction and refurbishment projects. However, the guiding principle is that where the Government's own policy goes further than an existing standard that policy takes precedence.

39. Defra has taken action to make this clear. It recently, for example, contacted the National Building Specification (NBS), a trading name of RIBA Enterprises Ltd, on 1 October drawing their attention to the timber scoping study report and asking them to consider reviewing the NBS (Government Works) standard format to reflect Government policy on its own timber procurement.

40. The NBS has agreed to meet officials to discuss the issue once work on establishing the Central Point for Expertise on Timber is underway. In the meantime, Defra has asked Government departments to ensure that anyone employed by them on any construction, maintenance or supplies contract is made aware that the Government's policy on timber procurement should be complied with when drawing up specifications. The Office of Government Commerce issued an Information Note 9/2002 in November reinforcing this message. A copy is on OGC's website under Communities/Property and Construction/Services/Performance Improvement Division/Information. URL: http://www.ogc.gov.uk .

EAC 26. As Mr Meacher has acknowledged, "the lack of available data makes it impossible to monitor performance". Had reporting occurred as originally envisaged, Defra may have been alerted to failures to implement the policy earlier. As it was, the department was denied the opportunity to take timely remedial action (para 26).

41. The old adage "if you can't measure it, you can't control it" holds true. The disparate nature of data collection systems and limited resources for a new thrust of policy is recognised by the Government as contributing to the failure to provide adequate data.

42. The question of what data to collect and how best to collect that data has been carefully considered as part of the timber scoping study. The recommendation is for a fairly straightforward system for reporting for the annual "Sustainable Development in Government" report and a more comprehensive system for recording and reporting timber spend to a central point where the information would be used to inform resource requirements, determine appropriate targets and shape future policy developments.

43. Defra has drafted a proforma that it is proposed that suppliers will be contractually obliged to complete to provide more comprehensive data on timber spend. Defra is looking at the feasibility of using EMS software - now being introduced by several Government bodies to run their Environmental Management Systems - for collecting the data electronically. However, before a decision is made, it will be necessary to assess whether this approach provides value for money and also to consult other Government departments. EMS software may prove the best solution for Departments already using it or proposing to use it if it meets our requirements, but others should be free to choose another system provided it supplies the data in a format that can be processed centrally.

44. Departments have so far done no development work as they have been waiting for a final decision to be taken on the types of data to be collected. The delay in resolving this issue meant that the data collected for the "Sustainable Development in Government" report published in November was not as complete as Ministers would have wished. Nonetheless,

there is a substantial increase this year in reporting of timber purchasing by Departments, including overall spend on certified and other timber products with evidence of sustainable sourcing. The first "Sustainable Development in Government" report (which replaced the annual greening government reports) was published in November 2002. A copy is at: http://www.sustainable-development.gov.uk/sdig/reports/index.htm.

EAC 28. It is disappointing that the Government has not taken greater advantage of the experience that exists in the private sector in initiating the required culture change in procurement operations. It should do so in the future.

45. When attempts to organise the timber policy were first made DETR and departments were a little too inward looking. But an attempt to rectify that was made later on when the timber scoping study commenced. The contract for the timber scoping study required the consultants to consult stakeholders. This was done at an open meeting on 25 March 2002 where representatives from the industry and NGOs discussed a consultation paper and at a further meeting on 2 September when they discussed the recommendations proposed in the timber scoping study report. We are grateful for their input and will continue to seek their advice. The consultants also have backgrounds in Government, industry and NGOs and have used their experience, knowledge and contacts to develop the recommendations for improving our performance on timber procurement.

46. It is not just on timber that the Government has sought advice from outside bodies. One of the first initiatives taken by the Sustainable Procurement Group was to organise a workshop to bring together officials, key practitioners in the private sector and representatives from trade bodies and NGOs to discuss how Government could improve its performance in taking forward its objectives on sustainable procurement through procurement. Among the many findings arising from this workshop was the view that integrating sustainable development into procurement was a big step and would require Departments to embrace the concept of change management.

47. The Sustainable Procurement Group has been looking at a whole range of mechanisms for effectively taking forward sustainable development in procurement, including change management techniques for changing the culture within Government organisations. However, such techniques cannot work in isolation. It is also important to have the right structure in place for achieving continuous improvement and measuring progress and Departments are already working towards extending their environmental management systems to cover procurement.

48. As the Committee will know, the Government set a target for all Departments to implement environmental management systems based, or modelled upon, a recognised standard (such as ISO14001, EMAS 2 or similar). For mainly office based estates, to cover: (1) all main offices by 31 March 2004; and (2) all other offices/sites by 31 March 2006. For mixed or mainly non-office estates, to cover: (1) 40% of estate by 31 March 2004; and (2) 80% of estate by 31 March 2006.

EAC 30. The Government failed to undertake adequate research or preparatory work prior to or immediately after its July 2000 commitments on timber procurement. As a result it hugely underestimated the scale and complexity of the challenge it was facing and failed to commit adequate priority or resources to implementation. This in turn led to an abject failure to deliver on the promises made.

49. The Government accepts that implementing its timber procurement policy has presented more of a challenge than initially anticipated, although it was recognised from the outset that it was a complex area. However, as explained in the evidence given by officials on 12 June 2002 (para 93), the policy did kick start the whole process and if a decision had not been taken to go ahead with the policy we might still be discussing whether to implement it or not.

EAC 35. We warmly welcome the Government's recent efforts to reinvigorate implementation of the timber procurement policy and in particular the work now being undertaken by consultants. We acknowledge the valuable role that Greenpeace have played in stimulating recent Government activity.

50. The Government appreciates the Committee's recognition of its recent efforts to implement its commitment on timber procurement. Work however was well underway before the Greenpeace demonstration at 22 Whitehall in April 2002 drew attention to the non-conformity with Government policy.

51. This is not to undervalue the role of Greenpeace. The ensuing media interest arising from their demonstration undoubtedly gave a big impetus to the policy and, as Mr Meacher accepted in his evidence (para 240), "certainly produced a change in tempo". The Government is grateful to NGOs such as Greenpeace, Friends of the Earth and WWF in advising Ministers and officials on timber and other areas of procurement, particularly where this has been done in a structured way.

52. Defra is continuing to look at how to involve key stakeholders such as trade bodies and NGOs to take greater advantage of their expertise and experience.

EAC 36. Concerted action needs to be taken not only right the way through the supply chain but also through the layers of civil service decision-making and operations. In order to produce a real step change towards sustainable and legal timber procurement we recommend that Government, by the end of the year:

(a) Establish permanent and demonstrable commitment to the policy from Ministers across Government.
(b) Set Timber Procurement policy as a priority for implementation that is not put aside as other priorities emerge.
(c) Ensure that every department has effective data capture and reporting mechanisms in place and a means by which inadequate reporting can be dealt with swiftly and efficiently. It is totally unsatisfactory for departments to be let off the hook for failing to report adequately and in a timely manner;
(d) Establish clear criteria for the assessment of certification schemes, drawing on the expertise of NGOs where appropriate;
(e) Establish clear and progressive targets, in line with the expected ERM report, on the basis of the data provided this year, which reflect the potential to make significant progress immediately but also the incremental improvements which can only be made in the longer term; and
(f) Provide definitive guidance to procurement officials on the application of public procurement rules in the light of the Commission's interpretative communication and on terminology.

53. The need for concerted action was recognised by the Secretary of State for Environment, Food and Rural Affairs when she set up the Sustainable Procurement Group last year to see

how Departments can better reflect the Government's policies on sustainable development in public procurement and encourage innovation within the supply market for environmental goods and services. The Group's findings should help to ensure a more joined-up approach is taken within Government and in the management of supply chains.

(a) Establish permanent and demonstrable commitment to the policy from Ministers across Government

54. Mr Meacher drew the importance of the policy to Green Ministers' attention in his letter of 13 May 2002 requesting them to review compliance with the timber procurement policy within their Departments. He has asked them since then to ensure that their Departments, Executive Agencies and Non-Departmental Public Bodies are fully involved in meeting the Government's commitment on timber. He has also obtained their agreement in principle to implementing the recommendations arising from the timber study.

(b) Set Timber Procurement policy as a priority for implementation which is not put aside as other priorities emerge

55. The Government is giving the matter priority. It has begun implementing some of the key recommendations from the timber scoping study. Some of these developments are mentioned above, for example - the proposed Central Point of Expertise on Timber (CPET). Another piece of work underway is the development of new model specification clauses for use in Government contracts.

56. All new contracts involving the procurement of timber or wood products will, once the necessary mechanisms are in place, be drawn up to implement two key recommendations arising from the scoping study report: (1) introduction of a stepwise approach towards achieving the Government's goal of procuring all timber and wood products from legal and sustainably managed sources; and (2) a requirement for independent verification of timber and wood products.

57. The proposed approach is based on 3 different levels of sustainability criteria: (i) Legal and Sustainable; (ii) Legal and Progressing to Sustainable and (iii) Legal. The proposal is that buyers would be instructed to disregard bids based on the variants for "*legal and progressing towards sustainable*" and "*legal*" timber when an acceptable bid based on the variant for legal and sustainable timber is received and offers value for money. Value for money in this context means the best offer against the top variant for "*legal and sustainable*" in terms of whole life costs and quality of the product or service. An acceptable bid means that the terms offered must be fair and reasonable. Provided such conditions are met buyers would not be permitted to consider any lower variant bids even if the price were lower or some other aspects of quality appeared to be higher.

58. Similarly, when a competition results in no bid based on the top standard variant, buyers would be instructed to disregard bids for "*legal*" timber when an acceptable bid for "*legal and progressing towards sustainable*" timber was received and offered value for money. The Government is confident that this use of variants would be legitimate within the current and proposed EU public procurement directives.

59. These three levels have been incorporated as variants in the proposed new model specification clauses that Defra is drafting in consultation with the Timber Buyers Group. The specifications, once finalised, will also cover recycled/-reclaimed wood and set

minimum percentages for verified wood content. *More information on the proposed variants is given in section 3 of the timber scoping study.*

Independent Verification

60. The requirement for independent verification will require suppliers to provide proof in two forms:

- Group A evidence – i.e. third party certification schemes such as the FSC label;
- Group B evidence – i.e. other evidence as proof against the three variants that has been independently verified by a body conforming to ISO Guide 65:1996 and accredited by a national or international body conforming to ISO Guide 61as proof of compliance.

61. The reason for allowing suppliers the option of providing Group B evidence is to ensure compliance with the public procurement rules. These allow public sector buyers to define their sustainable forest management criteria and indicate certification schemes that would be acceptable evidence of meeting those criteria, but not to the general exclusion of other evidence. This is because tenderers must be allowed to provide other forms of proof to illustrate that they have met the specified requirements/criteria. This is explained in greater depth in Section 2 of the timber scoping study report. Section 4 deals with Group A and Group B evidence.

(c) Ensure that every department has effective data capture and reporting mechanisms in place and a means by which inadequate reporting can be dealt with swiftly and efficiently. It is totally unsatisfactory for departments to be let off the hook for failing to report adequately and in a timely manner

62. The Government recognises that it is crucial that proper systems for collecting timber spend data are established if the Government is effectively to monitor performance and report on progress. Section 6 of the timber scoping study report proposes a fairly straightforward system for reporting annually to Green Ministers (Option 3 – para 6.3) and a more comprehensive system to record and report timber spend to a central point (Option 2 – para 6.2.2).

Officials have drafted a proforma that it is proposed suppliers will be contractually obliged to complete to provide the data on timber spend and, as explained at EAC 26 above, are looking at the feasibility of using EMS software for collecting the data electronically.

(d) Establish clear criteria for the assessment of certification schemes, drawing on the expertise of NGOs where appropriate

63. The consultants employed on the timber scoping study have developed preliminary criteria. These were presented in a consultation paper that was discussed by stakeholders at an open meeting in March 2002 and which included representatives from trade associations and NGOs. Revised criteria were presented in the Scoping Study Report published on 6 August 2002, which was discussed with stakeholders at a second consultation event on 2 September that year. The criteria are presented in section 4.3 of the scoping study report, which is available on the internet at: http://www.forestforum.org.uk/docs/scopingstudyreport6-8-02.pdf

64. It is proposed to take this work forward through the Central Point of Expertise on Timber – see EAC 6 above. It is envisaged that its objectives will include:

- developing further the criteria for assessing third party certification schemes against the three contract variants, i.e. Group A schemes;
- undertaking an initial assessment (and reassessments) of Group A schemes against the three agreed contract variants and providing a list of approved schemes to Departments;
- developing criteria by which to evaluate the suitability of Group B evidence as well as clear guidelines for both procurement officers (and others, e.g. facilities managers, estate managers, architects) and suppliers;
- providing guidelines for officials and suppliers;
- facilitating guidance, training and education for officials and suppliers; and

(e) Establish clear and progressive targets, in line with the expected ERM report, on the basis of the data provided this year, which reflect the potential to make significant progress immediately but also the incremental improvements which can only be made in the longer term;

65. The Government is committed to introducing progressive targets to take it to a position where all timber and timber products are obtained from sources independently validated as legal and sustainably managed. The scoping study report proposes several different types of target – *see section 5 of the timber scoping study report*. However, the view is that better data will need to be collected before officials are in a position to determine how best to proceed, taking account of constraints such as availability, cost and special needs. The priority is to get proper data collecting systems in place.

(f) Provide definitive guidance to procurement officials on the application of public procurement rules in the light of the Commission's interpretative communication and on terminology.

66. It is expected that Part F of the new Framework for Sustainable Development on the Government Estate covering procurement (http://www.sustainable-development.gov.uk/sdig/improving/contextf.htm) will be rolled out in 2003 after Ministers have considered advice based on the Sustainable Procurement Group's findings. One element of the new strategy is likely to be the provision of clearer advice tailored to the requirements of procurement officials. OGC and Defra have already agreed to revise their joint note on "Environmental issues in procurement" to reflect the Commission's interpretative communications on environmental and social issues and other developments such as the new EC procurement directive.

EAC 37. Medium term objectives should include:

(a) Constant and multi-level engagement between Defra, Office of Government Commerce and procurement officials in departments and agencies;
(b) Greater involvement on the part of OGC (on the behalf of departments) with the supply chain at every level. This will necessitate the commitment of significant resources;

(c) When the required infrastructure is in place, a change in the onus of proof so that procurement officials are prepared to defend their decisions to purchase from non-certified sources rather than having to demonstrate that they sought not to do so; and
(d) Encourage further development of public procurement policy in a direction, which facilitates rather than hampers green procurement.

(a) Constant and multi-level engagement between Defra, Office of Government Commerce and procurement officials in departments and agencies

67. The Government accepts the need for multi level engagement between Defra, OGC and procurement officials in Departments and their agencies and this is one of issues that the Sustainable Procurement Group will address in its advice to Ministers.

(b) Greater involvement on the part of OGC (on the behalf of departments) with the supply chain at every level. This will necessitate the commitment of significant resources

68. OGC has had a leading role in Brussels in securing clarification, in the Commission's Interpretative Communication, and in the draft new public procurement directives, on the scope to take account of environmental issues in public procurement. It has also worked closely with Defra on a range of environmental issues, such as sustainable timber and recycled paper. Furthermore, the Sustainable Procurement Group, mentioned above, will be considering the roles of Defra and OGC, including OGC Buying Solutions – its commercial arm, whilst taking account of departmental responsibilities for their own procurement decisions, and the overriding need to deliver value for money for the taxpayer.

(c) When the required infrastructure is in place, a change in the onus of proof so that procurement officials are prepared to defend their decisions to purchase from non-certified sources rather than having to demonstrate that they sought not to do so.

69. The Committee's recommendation is in line with the findings made by the consultants in their timber scoping study report. The Consultants suggest accepting as evidence: (1) a label or declaration authorised by third party certification schemes and third party eco-labels to specific criteria for forest management and with chain of custody – Group A evidence; or (2) documentary evidence provided as proof of compliance with relevant sustainability criteria and chain of custody to source independently verified at the supplier's expense – Group B evidence. The Independent verification to be undertaken by a body conforming to ISO Guide 65:1996 and accredited by a national or international body conforming to ISO Guide 61.

d) Encourage further development of public procurement policy in a direction, which facilitates rather than hampers green procurement

70. The Government does not accept that its procurement policy hampers green procurement. As explained in the answer to recommendation 18, the legal and policy framework for public procurement provides the scope for relevant environmental considerations to be taken into account at the appropriate stage of the procurement process. A revised public procurement directive, agreed politically with other EU States at the Internal Market Council on 21 May 2002, makes the scope to take account of environmental consideration clear. It is likely to have its second reading in the European Parliament during the first half of 2003, with

adoption most likely to be early 2004. Member States will then have 21 months in which to implement it.

71. The Government is however aware that the scope offered by the public procurement rules for incorporating environmental and social considerations is not being fully utilised. We will continue to look for ways of better reflecting the Government's policies on sustainable development in public procurement through the work of bodies such as the Sustainable Procurement Group.

EAC38. Lessons learnt from experiences in the last two years should be applied in other areas of greening procurement. Most important, adequate and thorough research should be undertaken prior to the announcement of policy changes and a clear indication of timescales for implementation given or the Government risks eroding support and fostering cynicism over its commitment to green procurement.

72. The Government is in a better position today to ensure its policies and best practice are applied across the civil and military estates. This follows the rolling out of the new Framework for Sustainable Development on the Government Estate (http://www.sustainable-development.gov.uk/sdig/improving/contexta.htm), which began in July and should be completed by mid 2003. Progress by departments will be posted on the Framework website and monitored through annual Sustainable Development in Government Reports.

73. A key element of the new framework is recognition that targets have an important role to play in delivering improvements in performance and that when agreed they must be backed up by monitoring to ensure they are delivered. As explained in Part A to the framework its overarching aim is to increase the contribution that all Departments make to sustainable development by:

- Setting challenging cross-government targets in all key operational areas
- Gaining clear and tangible commitments from all Departments to deliver targets
- Allowing Departments flexibility in terms of the mechanisms they use to deliver targets
- Providing support to Departments through guidance and up to date examples of best practice on the Framework website.

74. The Framework and associated targets and reporting requirements apply to all central Government Departments and their Executive Agencies, including buildings and land managed. It does not cover Non-Departmental Public Bodies (NDPBs) and other associate bodies.or the devolved administrations. However,Departments are responsible for the promotion of sustainable development to NDPBs and in July 2002 Michael Meacher asked Green Ministers to ensure they were fully involved in meeting the Government's commitment on timber procurement. The Departments are also consulted through inter-departmental sub-groups on proposed targets to ensure that they are practicable and to consider if additional guidance is required to help implement them.

EAC 48. Inconsistent interpretation of CITES undermines the Convention's credibility, as well as the UK's profile as a leading force against illegal logging. If the UK were to come to be seen as the weak link in the EU chain of CITES controls, there is a risk of an even higher proportion of illegally logged timber entering the EU through UK ports.

75. The Government notes that the Committee's conclusions here were drawn up before the Appeal delivered its judgement on the judicial review brought by Greenpeace on this issue. A copy of this judgement has since been sent to the Committee, who may care to note that it ruled by a 2:1 majority in favour of the Department's interpretation of its powers in this respect. The Government therefore does not accept that it has been inconsistent in its interpretation of the CITES controls, or that the UK could become the weak link within in the EU in this respect. Adequate powers are available to seize specimens imported without valid CITES documentation and Customs have successfully applied these powers on numerous occasions.

76. The Committee may also be interested to note that the Brazilian management Authority has since carried out a review of the origin of the mahogany exported. This confirmed that all the mahogany shipped to the UK in March was lawfully acquired but that up to 20% of the timber exported to other countries could not be accounted for. Of those countries that detained cargoes of Brazilian mahogany, the US Management Authority has released 10 shipments over the past 2 months and is being sued for the release of the remaining cargoes. We understand that the cargoes detained by Holland and Germany have now also been released.

EAC49. We welcome the Government's proposal to consider with other EU Member States whether the CITES Regulations should be amended to impose a requirement of prior presentation of export documentation for certain Appendix III species.

77. The Government is grateful for the Committee's endorsement of its proposals in this respect. Changes will need to be made to existing EU legislation to take account of changes arising out of the recent Conference of CITES Parties in November and we will look to raise this issue with the EU Member States at that time.

EAC 50. We welcome the Government's proposal to pursue greater protection for big leaf mahogany through its transference from Appendix III to Appendix II.

78. The Government is grateful for the Committee's support on this issue and they will be pleased to hear that the proposal to uplist mahogany to Appendix II was successful. Under the current EU Regulations this will mean that all member states will be required to have prior sight of the export permit before they can issue a permit for the import of future shipments of this species. They will also have to be satisfied that such trade will not be detrimental to the conservation of the species as a whole. Hopefully this welcome decision by the CITES Parties will encourage range states to list other species threatened by the illegal trade in timber.

EAC 51. We welcome the preliminary work that is being undertaken through the Commission to consider the possibility of a new EU framework to enable controls on the importation of non-CITES timber species to be put in place and the Minister's support for this development (para 51).

The Commission's Communication to the Council and the European Parliament of 13 February 2002 provided that the European Union would develop an action plan by the end 2002 on forest law enforcement, governance and trade (FLEGT) to combat illegal logging and associated illegal trade. The Commission hosted an international workshop on this subject in Brussels in April 2002. The action plan is now in preparation. It is expected that this may call for new legislation to control the importation of timber into the Single Market to ensure that this is legally sourced.

EAC 52. We congratulate the Government for its groundbreaking agreement on timber with Indonesia and for pursuing similar agreements with other timber producing countries. We encourage it to promote the use of such agreements among other EU Member States.

The Indonesia-UK MoU is already having an impact. The Indonesian Embassy in London is receiving requests for advice about sources of "legal" timber products. UK companies trading with Indonesia have reported that their suppliers are now much more aware of the need to demonstrate legal compliance. Indonesia has begun negotiations with Malaysia and China about controlling trade in illegally logged timber. Norway has indicated its intention to sign an agreement with the Indonesian Government. Japan has announced a regional Asia Forest Partnership that will include actions to tackle illegal logging and associated trade. The adoption of a new policy and supporting legislation by the EU will allow Member States to develop bilateral and multiparty agreements.

Department for Environment, Food and Rural Affairs

May 2003

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Appendix B to letter to ENV

TEXT OF LETTER FROM MICHAEL MEACHER TO ENV(G) MEMBERS – SENT 28 OCTOBER 2002 (without appendices)

I am seeking your and colleagues' approval in principle to key recommendations arising from the timber scoping study and would welcome your response before Tuesday 19 November.

The study was commissioned by DEFRA in October 2001 to help buyers to implement more effectively the Government's commitment to actively seek to purchase timber and wood products from sustainable and legal sources. A copy of the scoping study report is on the Tropical Forest Forum's web site. Look in Forum activities/Trade/Timber Trade at http://www.forestforum.org.uk". The site also holds a summary of the views expressed by stakeholders at a meeting held on 2 September to discuss the report. Basically, they supported the key recommendations.

The Government's commitment was made in a Parliamentary Answer to Colin Burgon MP on 28 July 2000, publicised in a press notice (Appendix A) and notified to heads of procurement in letters from DETR of 29 September 2000 and DTLR of 19 June 2001 and in an OGC Note PPC(G)(01)1 issued on 3 January 2001. These were followed up with my letter of 13 May 2002 to ENV(G) members, enclosing a model contract specification clause for use in contracts for procuring timber and timber products and asking Departments to review their progress in implementing the commitment.

I should have liked to put firm proposals before you. However, as you know, the Environmental Audit Committee published its report in July on "Buying Time for Forests: Timber Trade and Public Procurement" and asked to receive the Government's response within two months, despite Parliament being in recess during that period and the normal period being 60 days.

We have sought a two-month extension to 24 November. However, this still does not provide sufficient time to:

- resolve several outstanding issues arising from the timber scoping study; and
- obtain the necessary financial approvals in time to include firm commitments in the Government's response to the Committee's report, which was critical of our performance in implementing the commitment on timber procurement.

My intention is therefore to seek your approval in principle, and that of other Green Ministers, to the key proposals in the scoping study report so that we can make a positive statement of intent in the response. ENV(G) members agreed at our July meeting that the consultants' scoping study should be completed and its findings implemented before the EAC was invited to audit Government's timber procurement processes.

The key recommendations of the report published on 6 August, which were broadly agreed on by stakeholders during consultations, are that the Government should:

1) Use a **stepwise approach** towards achieving its gaol of procuring all timber and wood products from legal and sustainably managed sources. This approach will be based on 3 different levels of sustainability criteria: (i) Legal and Sustainable; (ii) Legal and Progressing to Sustainable and (iii) Legal – in that order of preference. These three levels will be incorporated as variants into a revised model specification clause and conditions of contract for use by Government buyers in orders and contracts for timber and wood products. The specification will also cover recycled/ reclaimed wood under the three variants, contain a separate clause on CITES and set minimum percentages for verified wood content. *More information on the proposed variants is given in section 3 of the timber scoping study.*

2) Accept only timber and wood products from sources "**independently verified**" as legal and sustainably managed, requiring suppliers to provide proof in two forms:

- Group A evidence – i.e. third party certification schemes such as the FSC label;
- Group B evidence – i.e. other evidence as proof against the three variants that has been independently verified by a body conforming to ISO Guide 65:1996 and accredited by a national or international body conforming to ISO Guide 61as proof of compliance.

The reason for allowing suppliers the option of providing Group B evidence is to ensure compliance with the public procurement rules. These allow public sector buyers to define their sustainable forest management criteria and indicate certification schemes that would be acceptable evidence of meeting those criteria, but not to the general exclusion of other evidence. This is because tenderers must be allowed to provide other forms of proof to illustrate that they have met the specified requirements/criteria. This is explained in greater depth in Section 2 of the timber scoping study report. Section 4 deals with Group A and Group B evidence.

3) Establish a **Central Point of Expertise on Timber** (CPET). Its principal activities will be to: (1) assess third part certification schemes (i.e. Group A evidence) against the three contract variants; (2) assess all other independently verified evidence (i.e. Group B evidence) referred to the CPET by Departments and their agencies; and (3) compile and summarise information on Government timber procurement. The CPET will assess third party certification schemes against agreed criteria and come up with a list of schemes that are compliant against each variant. *See para 4.6 of the scoping study report, which refers to the CPET as* the *Central Point of Expertise* (CPE).

4) Establish **targets** to help the Government progress towards achieving 100% of its timber and timber products from legal and sustainably managed sources within an agreed deadline - another of the commitments made in the announcement of 28 July 2000. The scoping study report proposes several different types of target – *see section 5 of the timber scoping study report*. However, the view is that better data will need to be collected before officials are in a position to determine how best to proceed, taking account of constraints such as availability, cost and special needs.

5) Establish **monitoring and reporting requirements**. Section 6 of the timber scoping study report proposes a fairly straightforward system for reporting annually to Green Ministers (Option 3 – para 6.3) and a more comprehensive system to record and report timber spend to the Central Point of Expertise (Option 2 – para 6.2.2). It is crucial that proper systems

for collecting timber spend data are established if the Government is effectively to monitor performance and report on progress.

Officials have prepared a proforma that suppliers will be contractually obliged to complete to provide the data on timber spend required under option 2. They are also looking at the feasibility of using Envoy EMS software - now being used by several Government bodies to run their Environmental Management Systems - for collecting the data electronically. This could include a facility to allow suppliers to key the data directly into the system.

My officials will consult colleagues in other Government departments before taking a decision. They recognise that the Envoy EMS software may prove the best solution for Departments already using it or proposing to use it if it meets our requirements, but that others should be free to choose another system provided it supplies the data in a format that the CPET can process.

Once we have your approval, resolved outstanding issues and obtained the necessary financial clearances: my officials will, in consultation with colleagues in other Government departments, proceed to the implementation phase of the scoping study. It is important that we push ahead as quickly as possible with implementing the recommendations in the scoping study as we don't want to risk further criticism of a lack of progress from stakeholders or further embarrassing incidents of non compliance with the Government's commitment on timber procurement. I shall keep you and other Green Ministers informed of developments at our regular meetings of the ENV(G).

If further advice is required about the Government's policy on timber procurement or the contents of this letter, contact: Roger Hinds, DEFRA's Procurement and Contracts Division, Room 431, 19-29 Woburn Place, London WC1H 0LU. Tel: 020 7273 8931. Fax 020 7273 8912. roger.hinds@defra.gsi.gov.uk.

I am copying this letter to the Deputy Prime Minister, members of ENV(G) and Sir Andrew Turnbull.

MICHAEL MEACHER

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Appendix C to letter to ENV

SUMMARY OF RESPONSES RECEIVED FROM ENV(G) COLLEAGUES TO MICHAEL MEACHER'S LETTER OF 28 OCTOBER ON THE TIMBER SCOPING STUDY

Replies were received from John Healey, Patricia Hollis, Tessa Blackstone, David Jamieson, Christopher Leslie, Sally Keeble, Lewis Moonie, and Douglas Alexander. No other colleagues had any comments.

John was happy to approve the recommendations in principle, but said that any implications for expenditure should be contained within existing departmental plans.

Patricia welcomed the study and its recommendations and was happy to approve in principle. She also explained that the purchase of timber products within DWP is slightly different to the majority of other Departments. Most timber products are purchased on their behalf by their Estates Partners, under the terms of their PFI contract. This may impose some constraints on the types of management information they can collect. She said her officials would work with Defra to establish challenging targets and agreed reporting mechanisms for DWP.

Tessa approved the recommendations, with which DCMS has already complied. Tessa notes that her department has become the first to purchase office furniture from a company called Blueline, which is one of the few UK organisations to hold a Forestry Stewardship Certification for all its products. Tessa intends to continue to replace furniture as necessary with items from sustainable sources, and encourages colleagues to follow suit.

David and Christopher agreed in principle with the recommendations and believe it important that Government works together on this agenda. Sally also agreed with the recommendations, and notes that the Timber Trade Federation told her of their satisfaction with the level of contact they now enjoy with Government.

Lewis endorses the recommendations, subject to the requirements for monitoring and reporting not imposing an unreasonable administrative burden on MoD's supplier base. He notes that MoD's current procurement contract can be amended to meet three of the five recommendations in the study. He also expects that the creation of databases on all activities affecting sustainable development - as part of MOD's forthcoming Sustainable Development Strategy - will enable him to report in full on timber procurement from FY 2003/04. This will enable him to meet the other two recommendations.

Whilst Douglas supported the general thrust of the recommendations, he underlined two points:

- The need to understand the costs to Government of sourcing all timber in accordance with the recommendations and of complying with the monitoring/evidential requirements. He said the OGC should be involved here.
- The need to be clear about circumstances proposing that Government departments should opt for level (i), (ii) or (iii) of sustainability. He asks whether Departments are to have a free rein on this (in which case some might go for just "Legal" if it's cheapest), or whether

DEFRA are proposing to guide departments (in which case they will need to understand he cost and any other consequences).

Douglas was also concerned about the issue of doing verification after contracts have been awarded. He said there was potential that the company awarded the contract might only have been considered best value for money because they intended to use a cheaper timber supply, which was subsequently found to be non-sustainable.