



Environment and Rural Development Committee

16th Meeting, 2005

Wednesday 1 June 2005

The Committee will meet at 10.00 am in Committee Room 4.

1. **Item in private:** The Committee will consider whether to take item 3 in private.
2. **European issues:** The Committee will consider an update from the Convener on European issues.
3. **Natural Environment and Rural Communities Bill – UK Legislation:** The Committee will consider its approach to scrutiny of the Scottish Executive's proposal to seek the Parliament's consent to the UK Parliament legislating on devolved matters in the Natural Environment and Rural Communities Bill.
4. **Environmental Assessment (Scotland) Bill (in private):** The Committee will consider a further draft Stage 1 report.

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Clerk to the Committee
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The following papers are attached:

<u>Agenda Item 2</u> Paper from the Convener	ERD/S2/05/16/2a
<u>Agenda Item 3</u> Paper from the clerk (<i>for members only</i>)	ERD/S2/05/16/3a
<u>Agenda Item 4</u> Draft report (<i>for members only</i>)	ERD/S2/05/16/4a

Environment and Rural Development Committee

European Union Issues – Update

Paper from the Convener

Background

1. The volume of EU material relevant to the Committee's remit is very significant. Awareness of European legislation may be helpful in relation to a large portion of the Committee's referred work, such as petitions and both primary and secondary legislation.
2. Its workload means that the Committee has to be selective in undertaking detailed consideration of any EU issues on its own initiative (e.g. by undertaking inquiries). As part of its agreed approach to gathering information on relevant EU issues and legislative proposals (and integrating those into its work programme discussions) the Committee has therefore asked me to provide an update on relevant issues approximately quarterly as the basis for work programme decisions. This is the fifth such update.

Developments in the European institutions

European Commission

3. The new Commission produced its overall [work programme for 2005](#) at the end of January, and a [5-year policy strategy](#) for its whole term of office was also published at the same time.

Council

4. The UK holds the presidency of the EU in the second half of 2005. The presidency is able to exert significant influence on the selection and progress of priority topics. However, a significant proportion of business is determined by work already in progress and the UK will be required to take forward many issues considered during the current Luxembourg presidency. The six Member States due to hold the Presidency in 2004-2006 produced a joint [Multi-Annual Strategic Programme for 2004-06](#). In December 2004 the UK and Luxembourg governments produced a [joint operational programme](#) for their 2005 presidencies. These two documents form the context within which the UK Presidency will operate. The UK Government has also produced a white paper entitled [Prospects for the EU in 2005](#), which outlines the priorities for the Presidency period.
5. During the remainder of the current Luxembourg Presidency, the Agriculture and Fisheries Council is scheduled to meet on 20/21 June and the Environment Council on 24 June. The Committee will continue to receive annotated agendas in advance of, and formal reports after, each of these meetings.
6. During the UK Presidency the Agriculture and Fisheries Council will meet on 18/19 July, 19/20 September, 24/25 October, 21/22 November and 19-21 December. The

Environment Council will meet on 17 October and 5 December. An informal Agriculture and Environment Council meeting will be held on 9-12 September. Meetings of heads of state in the European Council will take place on 27/28 October and 15/16 December.

Recent Committee activity on EU issues

7. In line with its agreed procedure, the Committee has agreed that it will take oral evidence in early September 2005 from the Minister for Environment and Rural Development on Scottish priorities for the UK Presidency. In advance of this meeting the Executive is expected to provide a written briefing outlining its priorities for the presidency period.
8. The Committee has continued to consider a number of statutory instruments directly relating to implementation of EU agricultural and fisheries policy as well as environmental regulation. Further subordinate legislation related to other EU legislation is expected in the next few months, including revisions to the various agri-environment schemes funded with EU resources.
9. The Committee is also currently scrutinising primary legislation (the Environmental Assessment (Scotland) Bill) to implement strategic environmental assessment, replacing regulations (which came into force in July 2004) to transpose the EU Directive into domestic law.

Relevant current issues

10. As noted above, there are a large number of EU legislative proposals which are relevant to the Committee's remit. The paragraphs below outline some current issues (along with a short note on their current status and their likely impact on Scotland or on the work of the Committee). This is not an exhaustive list, but a selection of some major items. The list contains a mixture of items – some of which are at an early stage of development or not yet concluded at EU level, and others which are concluded at EU level and await domestic implementation. The list includes updates on some issues which were identified in previous quarterly updates. These are available on the Committee's [web-page](#) with the papers for the meetings on 3 December 2003, 21 April 2004, 15 September 2004 and 19 January 2005.
11. **Members are invited to note the recent and current work programme of the Environment and Rural Development Committee. Members are invited to consider whether they wish to undertake any further work, or seek further information from the Executive, on any of the EU issues noted below.**
12. **As well as considering plans for specific areas of policy and legislative proposals, members may wish to explore in evidence with the Minister in September how Scottish Ministers are working with the UK Government to maximise the opportunities of the UK presidency period.**

a. Environment

Sustainable Development

13. The EU adopted a sustainable development [strategy](#) in 2001, and is in the process of conducting a review. The scope of the review is regarded as a clear indicator of how

effectively environment policy is being integrated into overall policy priorities. A public consultation has taken place, and a communication on the review was discussed during the European Spring Council in March 2005. (See European Council 22-23 March 2005 - [Presidency Conclusions](#)). To coincide with this the [sustainable development indicators](#) adopted by the Commission were made publicly available. A stakeholder conference was held with the European Economic and Social committee on 14-15 April 2005 in Brussels.

14. On 25 May the Commission adopted a draft Declaration on Guiding Principles for Sustainable Development and a Communication. These set out key objectives and principles to guide policy. It is expected that the declaration will be adopted by the European Council at its next meeting on 16/17 June 2005, and the aim is then to adopt a revised sustainable development strategy at a further European Council later in 2005.

Chemicals policy (REACH)

15. The Commission's major [proposal](#) for a new framework to regulate the manufacture, import and use of chemical substances (called REACH) continues its progress. The proposal is for a Regulation, which will be directly applicable in UK law without the need for subordinate legislation to transpose it. It will be agreed by co-decision of the European Parliament and the Council.
16. It will remain a high priority throughout 2005. The Luxembourg Presidency organised workshops of Council and European Parliament delegations in May, to assess the need for changes to the current proposal, following the results of the Commission's three impact assessments. It is expected that it will be adopted by the EP Environment Committee in September and by plenary in October. Political agreement in Council is hoped for by the end of the UK presidency.

Climate change review

17. A number of developments in EU climate change policy are being pursued in 2005. The EU-wide emissions trading scheme became operational on 1 January 2005. The Commission produced a [Communication on future climate change strategies](#) in February. (This document has previously been circulated to members.) The Communication includes proposals for the EU's approach to negotiations on the future of the Kyoto Protocol for the post-2012 period.
18. The Communication was discussed at the March European Council. The Council agreed:
 - To develop a medium and long-term EU strategy to combat climate change, consistent with limiting climate change to a global temperature increase of no more than 2°C above pre-industrial averages.
 - To urge the Commission to continue its cost-benefit analysis of CO₂ reduction strategies (including the costs of inaction).
 - That emissions reduction pathways for the group of developed countries in the order of 15-30% by 2020, compared to the baseline envisaged in the Kyoto Protocol, and beyond, should be considered.
 - That the European Council will keep this issue under regular review.
19. Both the UK Government and the new Environment Commissioner have stated that they wish to see aircraft emissions included in climate change discussions. This may therefore be an important part of the agenda for the UK presidency. A public

consultation on [Reducing the Climate Change Impact of Aviation](#) ran from March to May 2005.

6th Environmental Action Programme (EAP)

20. Progress continues on the seven thematic strategies which are being developed as part of the [6th EAP](#). The strategies are intended to tackle environmental issues which are thought to require a holistic approach because of their complexity and the need to find multiple and innovative solutions. Each strategy may be a mix of non-legislative communication, consultation and legislative proposals likely to develop at a later stage.

21. The strategies are on:

[air pollution](#)

[waste prevention and recycling](#)

[sustainable use of natural resources](#)

[protection and conservation of the marine environment](#)

[soil protection](#)

[sustainable use of pesticides](#)

[urban environment](#)

22. An [internet consultation](#) on the **marine environment** strategy closed in May. The Commission is currently finalising a proposal for the strategy, due for adoption later in 2005. The strategy is aimed at protecting Europe's seas and oceans and ensuring that human activities in these seas and oceans are carried out in a sustainable manner. The Strategic objectives of the Commission for 2005-2009 recognise "the particular need for an all embracing maritime policy aimed at developing a thriving maritime economy and the full potential of sea-based activity in an environmentally sustainable manner". In its Communication of 2 March 2005 "Towards a Future EU Maritime Policy: A European Vision for Oceans and Seas," the Commission committed itself to presenting a Green Paper in the first half of 2006 defining the scope and priority issues to be considered as part of the development of a new EU Maritime Policy, to be followed by a wide consultation.

23. At present the intention is that the marine strategy would comprise a package of a Communication, and a framework directive. The Communication would describe the state of the marine environment, the pressures acting on the marine environment and the need for action. suggest an ecosystem-based approach, in line with the concept of sustainable development. The new marine framework directive would be applicable to all European marine waters under the sovereignty or jurisdiction of the Member States. The objective of the directive would be to protect, conserve and improve the quality of the marine environment in these marine waters, through the achievement of good environmental status in European seas within a defined time period.

24. The Commission intends to propose the thematic strategy on **soil protection** in November 2005. This is expected to consist of three elements including a framework directive, a communication and an extended impact assessment. The Commission is expected to carry out a consultation. Rather than focus solely on data gathering, it is now expected that the strategy will include some common principles and basic requirements within a framework directive. It is expected to include some basic monitoring requirements. Scotland Europa reports that to what extent and in which format bio waste and sewage sludge will be covered in the soil strategy or the recycling strategy has not been decided yet.

Waste electrical and electronic equipment (WEEE) directive

25. [Directive](#) 2002/96/EC aims to promote re-use, recycling and other forms of recovery of electrical and electronic waste. This should have been transposed into UK law by 13 August 2004. The Minister previously indicated to the Committee that a combination of UK and Scottish subordinate legislation may be used to transpose this. In April 2005 the Minister wrote to the Committee indicating that he was now aiming for implementing regulations for producer responsibility and for the permitting requirements in summer 2005, with the producer responsibility obligations commencing in January 2006.
26. The Executive has advised that producer responsibility regulations will apply to the UK as a whole, and will be laid before the UK Parliament with no Scottish parliamentary procedure. It is still expected that this will be done before the summer recess in the UK Parliament, probably in July. The regulations relating to permitting retirements are devolved and are not expected to be ready for laying before the Scottish Parliament until the autumn – probably November.
27. The UK Government has been notified by the Commission that it is commencing proceedings because of the UK's late implementation of the Directive. However, the Minister indicates that he expects that full transposition will have taken place before these proceedings reach the European Court of Justice.

Batteries directive

28. In November 2003 the Commission adopted a [Proposal](#) for a new Batteries Directive, which will require the collection and recycling of all batteries placed on the EU market. Following previous discussions the Committee wrote to the Minister, seeking information on the progress of this proposal, and its practical preparations for implementing it. The Executive indicated in January 2004 that it was too early to consider preparations for implementation, and that it was likely to approach transposition in conjunction with the other UK administrations. The December 2004 Environment Council reached political agreement on this proposal, and it is expected that final agreement will be reached in 2005. **The Committee may therefore wish to seek an update from the Minister on progress on this.**

Groundwater directive

29. Article 17 of the Water Framework Directive requires the development of specific measures to prevent and control groundwater pollution by defining common criteria on good chemical status and on quality trends. In September 2003 the Commission adopted a proposal for a Groundwater 'daughter' [Directive](#) to meet that requirement. This is subject to the co-decision procedure, and is likely to require Scottish legislation to implement it in due course. Agreement on this is expected in 2005.

b) Fisheries

Stock management - TACs and Quotas

30. The key dossier for fisheries to be decided under the UK presidency will be to fix fishing quotas and days at sea at the December Agriculture/Fisheries Council meeting. Last year the Scottish Fishermen's Federation suggested moving the decisions on quotas to April to allow more time for the scientific advice and the Commission's proposals to be digested. This idea appeared to gain some support from the Commissioner for Fisheries (Joe Borg), but so far no move has been made to bring effect to this, and the decisions on quotas for 2006 will be taken in December. The process will start with the publication in late October of the scientific advice for

most stocks of interest to Scottish Fishermen. The UK Presidency will have a key role in securing agreement.

Shetland Box

31. The CFP reform of 2002 confirmed that the restrictions on access to fishing within coastal waters (6 and 12 mile limits) would continue until 2012. The Member States agreed that the Commission would prepare a report on access restrictions outside coastal waters. These access restrictions include the Shetland box which restricts trawling in the waters around the Shetland islands. The Commission was due to publish its own report which will review the arguments in favour of and against the retention of the box during the first half of 2005. This report is expected to be published before the end of 2005.

European Fisheries Fund

32. EU support for fisheries from 2000-06 has been provided by a single structural fund, the Financial Instrument for Fisheries Guidance (FIFG). In common with the other structural funds, agreement on the next multi-annual 'financial perspective' will involve decisions on the budget and expenditure rules for 2007 to 2013. The Commission has recently tabled a proposal for support for fishing for this period. It proposes to rename the FIFG the European Fisheries Fund (EFF). As with the FIFG the proposal contains a menu of options for supporting fishing, aquaculture, and fishing communities. As decided under the 2002 CFP reform, subsidies for building new fishing boats will no longer be allowed. The revised measures are intended to target support at projects to encourage more sustainable fishing methods, at aquaculture, and at areas which have been particularly affected by declining fish stocks. Once the rules and budget have been decided, Member States will produce programmes indicating how they intend to spend this money. If this proposal is not finalised under the Luxembourg Presidency, it will be adopted under the UK Presidency.

European Fisheries Control Agency

33. The Council reached agreement on the proposal for the control agency in March 2005, and the legislation has now been finalised and adopted (Council Regulation 768/2005/EC). The Agency will be based in Vigo, Spain, and is scheduled to begin work formally within a year.

Multi-annual management plan for North Sea plaice and sole

34. The Commission is expected to make a proposal for the management of North Sea plaice and sole during the UK presidency. This would include quota setting rules and effort limits. Any measures would be designed to be integrated into the existing recovery plan for North Sea cod. They would be unlikely to result in stricter controls of fishing days than already apply to the Scottish fleet targeting whitefish.

Report on the economic management of fisheries

35. In the "roadmap" on the reform of the CFP the Commission said it would present a report on the economic management of fisheries with a view to explore the application of alternative management instruments such as individual transferable quotas (ITQs). This report is scheduled to be produced during the UK presidency.

Aquaculture

36. The Commission will make a proposal revising existing legislation on product quality for farmed fish and shellfish and on the control of fish diseases. The current system is based on the production of salmon and oysters. The main changes to the rules are

designed to accommodate new species both as a result of enlargement (e.g. carp) and as a result of new species being used for aquaculture (e.g. cod).

c) Agriculture and Rural Development

Rural Development Regulation

37. In July 2004 the Commission made a [proposal](#) for the rules which will govern EU rural development spending from 2007-13. During its inquiry into implementation of CAP reform, the Committee expressed its desire to see the UK secure an increased share of the available EU funds, and to see a range of options available which will allow Scotland to maximise the opportunities for rural development.
38. The Commission proposes that in the 2007-13 period funds will come from a European Fund for Rural Development¹. The actual measures which Member States can support – e.g. LFA, agri-environment, farm woodland, processing grants, support for young farmers, early-retirement premiums, wider rural development measures etc. are largely the same as for the 2000-06 period.
39. The European Parliament's opinion on the proposal is due to be adopted on the 8 June 2005. The Luxembourg Presidency hopes to finalise agreement on this proposal at the May Agriculture/Fisheries Council (scheduled for 30-31 May 2005). Once a decision on the rural development budget has been taken by the Heads of Government meeting in the European Council (agreement is hoped for at the June Council, but may not be reached until December 2005), then the Member States will prepare their plans in 2006 to begin implementing them in 2007.
40. Two issues of particular interest for Scotland are the amount of EU money that will be available for rural development, and the future of LFA support. The UK currently has only a small share of the rural development budget for 2000-06 - around 3% of the total for the EU15. The UK had hoped to argue for an increased share of this budget, which would have increased the amount available for Scotland. However, since discussions over the EU budget have included proposals to cut the funds available for rural development obtaining an increase will be more difficult.
41. The second issue relates to Less Favoured Areas (LFA). Following criticism from the European Court of Auditors, the Commission has proposed to reclassify areas designated as "intermediate or simple LFAs". 85% of Scotland is under this designation, and there were concerns that reclassification would reduce the eligible area. Reclassification which would result in big changes in LFA areas in Member States was rejected, and negotiations are ongoing. **The Committee may wish to seek a detailed update from the Minister on developments on this.**

Protection of Geographical Indication

42. The EU has a system for registering products of unique geographical origin, called products of protected geographic origin (PGO), e.g. Parma ham, Scotch beef. Only products produced within the specified geographic area in accordance with certain conditions can be marketed with this name. This system has been disputed by a group of third countries in the WTO (including USA, Australia), who think that the procedures for registering a product are too complicated, and that there is insufficient mutual recognition for their products. The WTO made a ruling in March 2005 which

¹ Instead of the complicated arrangement which exists at present where a combination of the Guarantee and Guidance sections of the EAGGF are used, requiring separate programmes for Objective 1 and non-Objective 1 areas.

both sides heralded as a victory. The Commission will make a proposal to amend the existing Regulation during the UK Presidency.

Organic farming

43. The Commission will make a proposal during the UK Presidency to replace the current Regulation on organic farming. This will define the basic principles of organic farming, but will minimise the amount of detail laid down at EU level so as to apply the principle of subsidiarity. It will also replace the current rules on imports of organic produce.

Welfare of broiler chickens

44. The Commission will make a proposal establishing minimum welfare standards for broiler chickens.

Other issues during the UK presidency

WTO deal

45. Final agreement on the current WTO round is scheduled for the Ministerial meeting in Hong Kong in December 2005. This agreement will almost certainly have consequences for the CAP, particularly the tariffs which the EU applies to imported farm produce, and the use of export subsidies to make products from within the EU competitive on the world market. At the moment, it seems unlikely that the newly introduced Single Farm Payments will be cut as a result of any WTO deal.

Enlargement and financing of the CAP

46. Bulgaria and Romania are set to join the EU in 2007, and negotiations with Croatia and Turkey about possible EU membership are ongoing. The deal on the CAP budget done in October 2002 looks likely to survive the current EU budget negotiations. That deal fixed the amounts available for farm subsidies for the then EU15 and the 10 acceding Member States up until 2013. However, there is currently a debate about whether farm payments for Romania and Bulgaria can be included within the ceiling set for the EU25, or whether the CAP budget needs to be increased to accommodate them. If they are incorporated within the existing budget, this is likely to result in cuts for farmers in the current Member States.

Summary

47. Members are invited to note the recent and current work programme of the Environment and Rural Development Committee. Members are invited to consider whether they wish to undertake any further work, or seek further information from the Executive, on any of the EU issues noted at paragraphs 13-46 above (or on any other EU issue). If so, members are invited to consider whether they wish to:

- pursue these in evidence with the Minister in writing or in oral evidence in September;
- authorise the Convener to seek a detailed briefing from the Minister on any topic of particular interest;
- request further information and detailed options for further consideration of any particular issue from the Convener as part of future work programme discussions.

Sarah Boyack MSP
Convener
26 May 2005