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JOINT NATURE CONSERVATION COMMITTEE

THE NATURAL ENVIRONMENT (DELIVERY) BILL: ISSUES RELATING TO THE JNCC

Paper by Marcus Yeo

1. Background

- 1.1 Defra are currently preparing a Natural Environment (Delivery) Bill that will, among other things, establish the new Integrated Agency in England. The intention is to have a draft Bill ready for pre-legislative scrutiny early in 2005.
- 1.2 The proposed legislation provides an opportunity to implement those recommendations arising from the Financial, Management and Policy Review (FMPR) of the JNCC that require primary legislation, as well as to make certain other changes relating to the JNCC.

2. Possible legislative items relating to the JNCC

- 2.1 There will be some changes in relation to the JNCC that follow on as a consequence of the creation of the Integrated Agency. These are:
 - i. removing the chairman of the Countryside Agency from Committee;
 - ii. replacing the two English Nature members of Committee with two members from the Integrated Agency.
- 2.2 Following consultation between Defra and the devolved administrations, it is expected that the following items relating to the JNCC will also be included in the draft Bill:
 - i. increasing the number of independent members on the Committee from three to five;
 - ii. providing voting rights for the two Northern Ireland Committee members;
 - iii. extending the special functions to cover the UK rather than just GB;
 - iv. enabling the Department of Environment for Northern Ireland to contribute formally to the JNCC's funding;
 - v. enabling the JNCC to give advice and exercise the special functions having regard to the principles of sustainable development.

- 2.3 Defra will also look to include any items that fall out of the Regulatory Reform Order during the Parliamentary scrutiny process if that proves to be necessary.
- 2.4 These proposals would deliver significant benefits for the JNCC. The changes relating to Northern Ireland and the number of independent Committee members are especially welcome.
- 2.5 It should be noted that the exact wording of the proposed sustainable development item has not yet been agreed. It is important that this is phrased in such a way that the JNCC can give appropriate regard to social and economic issues, but retains its focus as a statutory adviser to Government on nature conservation. The terms of the Integrated Agency's sustainable development 'duty' have also yet to be finalised.

3. Outstanding issues

- 3.1 The following items had been suggested for inclusion in the draft Bill, but will not be included in the draft Bill when it is published for pre-legislative scrutiny:
 - i. establishing the JNCC as a body corporate;
 - ii. changing the name of the JNCC;
 - iii. giving JNCC an enabling power to advise the country councils and Government on any of the councils' function that affect the UK as a whole (e.g. landscape);
- 3.2 The possibility of establishing the JNCC as a body corporate was kept open by Government in their response to the FMPR in 2002. However, recent discussions with the country agencies and devolved administrations have confirmed that there is little desire to take this proposal forward, as it is seen to be too close to the establishment of the JNCC as an independent NDPB.
- 3.3 Whether item 3.1.ii is worth pursuing is dependent on the conclusion of discussions by the Committee on the future name of the JNCC.
- 3.4 A range of views has been expressed on the enabling power described in 3.1.iii. The FMPR Sub-Group has expressed support for the proposal, but Defra and the devolved administrations remain to be convinced that it is desirable.
- 3.5 Defra has indicated that it may be possible to incorporate further JNCC items during later stages of the legislative process, including after pre-legislative scrutiny (provided, of course, that agreement can be reached with the country agencies, Defra and devolved administrations). Defra has also indicated that it is content for there to be further discussion of these items at the forthcoming JNCC FMPR Steering Group to be held on 29 November.