



**BARROSO II: THE FIRST POST-LISBON TREATY PERIOD FOR THE EU AND
THE IMPLICATION OF POLICY PRIORITIES FOR JNCC**

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JOINT NATURE CONSERVATION COMMITTEE

BARROSO II: THE FIRST POST-LISBON TREATY PERIOD FOR THE EU AND THE IMPLICATION OF POLICY PRIORITIES FOR JNCC

Paper by European Team

1. Introduction

- 1.1 As outlined in the Joint Committee meeting in December 2009 (JNCC 09 P26), significant institutional and policy driven changes have occurred in the European Union over the last few months. More recent developments since December have resolved most of the uncertainty reported to the Committee at the last meeting. However, the 'Barroso II' period only started a few weeks ago (10 February 2010) and it will take some time to assess the full impact of these recent changes for the work and policy priorities of JNCC. Some uncertainty still remains with regard to the detail of policy initiatives and work programmes for the new period, although it seems clear that almost all policy development will be either driven by, or 'filtered' to ensure compatibility with, the proposed 'Europe 2020: A European strategy for smart, sustainable and inclusive growth'.
- 1.2 This paper builds on the discussion in December and, as far as possible, addresses all of the issues raised at the time. It reports on the key institutional arrangements and policy priorities that have been agreed since December and tries to assess, at this stage, the implications of some of these changes for the work of JNCC and the country conservation bodies.

2. Institutional changes

The Lisbon Treaty

- 2.1 ***Short update summary. The Treaty entered into force on 1st December 2009.*** It established the European Union as a legal entity and 'the European Council' as a new institution, which elects its own President. This has no legislative powers but has a key role in certain areas (justice, constitutional, common foreign and security affairs). 'The Council' remains as the Institution representing Member State governments in the formal decision making process. Qualified Majority Voting is extended to almost all policy areas, many of which had been formerly decided by unanimity, including the budget, energy and cohesion policies. The Ordinary Legislative Procedure (OLP i.e. co-decision between Parliament and Council) is now the norm for almost all legislative proposals, significantly increasing the power of the Parliament.

- 2.2 ***Infringement proceedings.*** The Lisbon Treaty introduces two small but important changes. The first is in the post-litigation stage, where the Commission identifies a Member State is failing to implement the necessary measures following the Court of Justice ruling. The Treaty introduces a fast-track process cutting out the need for the Commission to issue a reasoned opinion. Instead it will now only issue a formal notice followed by a decision to refer the Member State back to the Court with a proposed penalty. The second applies in cases when a Member State has not transposed EU legislation on time. The Commission will now apply directly to the Court for the imposition of fines on the Member State. This is the only circumstance where a fine can be imposed without first going through the pre-litigation procedure.
- 2.3 ***Qualified Majority Voting (QMV).*** More policies will now be covered by QMV and from 2014 a new double majority system of QMV will make it harder for the largest Member States to create a blocking minority (see Annex 1 for details).
- 2.4 ***Scrutiny of national parliaments and role of devolved administrations.*** The Treaty does not require any change to current practice in the UK. It makes clear (Protocol No.1) that, the scrutiny role for national parliaments “is a matter for the particular constitutional organisation and practice of each Member State”. The European Scrutiny Committee of the House of Commons does not formally consult the devolved parliaments. However, the devolved parliaments have access to the Explanatory Memoranda (which the Scrutiny Committee receives on each document from the relevant Minister) and can informally communicate any concerns to the Committee. The Scottish Parliament has the expectation that it will to work with the Westminster Parliament in a way that will allow it to contribute to all EU proposals that relate to devolved issues.

The European Commission

- 2.5 The European Commission (Barroso II) took up office on 10 February. President Barroso created three new portfolios – climate change, immigration and human rights. The key portfolios and Commissioners of relevance to JNCC are outlined below:
- 2.6 ***Environment (service DG ENV) - Commissioner Janez Potocnik (SL).*** Commissioner Potocnik (formerly Science and Research Commissioner) is senior in the ‘ranking’ and this will carry some weight in ‘College’ discussions. He is an economist and statistician, who will focus on results. As Commissioner-designate he had insisted among his colleagues that conserving biodiversity must become embedded in all relevant EU policies. The three broad priorities for Commissioner Potocnik are resource efficiency, biodiversity and implementation and enforcement. DG ENV has been significantly scaled down. Climate, industrial pollution, biotechnology, pesticides, health and two civil protection units have been moved to other DGs. Karl Falkenburg continues as Director General. However, the post of Deputy Director General no longer exists. Ladislav Miko remains as the

Nature Director, although, at the time of writing, the ‘dust is not yet fully settled’ on the reorganisation.

- 2.7 ***Climate Change (service DG CLIM) - Commissioner Connie Hedegaard (DK)***. As former Danish Minister for Climate and Energy she played a leading role as host for the Climate Change Conference in Denmark. Her stated goal is to mainstream climate policy among all EU policies and as a priority in the debate on the future EU budget. A new Directorate General for Climate Action (DG CLIM) has been established. Jos Delbeke (previously Deputy Director General for DG ENV) has been appointed Director General. Some appointments are not yet made and a number of resources will be shared with DG ENV. DG CLIM will be responsible for adaptation including a ‘horizontal’ role to ensure adaptation is integrated in all other relevant EU policies. Other portfolios include: the EU's international climate strategy; Europe's emissions trading scheme and industrial emissions and ozone layer protection; the promotion of the development and demonstration of low carbon and adaptation technologies; as well as the development of a strong science and economic base for the EU's climate policy.
- 2.8 ***Energy (service DG ENER) – Commissioner Günther Oettinger (DE)***. He was the conservative (CDU party) Prime Minister of Baden-Württemberg (one of Europe's so called ‘motor regions’) and is known to be pro-nuclear power. He is seen to not be overly ambitious on renewable energies, and wants to keep energy prices low. That could become problematic for moving towards environmental tax reform. He will have a dedicated Directorate-General, separated from the old DG for Transport and Energy. Philip Lowe, the former Director General of DG Competition, has been appointed as the Director-General.
- 2.9 ***Agriculture & Rural Development (service DG AGRI) - Commissioner Dacian Cioloș (RO)***. He has been dealing with the intricacies of the CAP for the past 12 years including as Minister since 2007 and so is ‘hitting the ground running’. He is well aware of the political forces at play – an important quality at a time when the appetite for ambitious reform of the CAP is limited. He is known to be in favour of keeping the two pillar system but it is certain that new criteria will be established to distribute direct payments fairly between Member States and farmers. DG AGRI appears to remain somewhat divided over the depth and direction of reform.
- 2.10 ***Maritime Affairs & Fisheries (service DG MARE) – Commissioner Maria Damanaki (EL)***. At the hearing in Parliament, she demonstrated a grasp of detail and a politically astute understanding of the broad sweep of fisheries policy. However, time will tell if the strength of her stated commitment to reform CFP towards a sustainable policy will be achieved. She was praised by the environment lobby for one of her first actions; announcing the Commission's proposal to support the proposed listing of bluefin tuna on Appendix I of CITES, albeit with a series of conditions that are unlikely to be acceptable to many Member States including the UK. DG MARE is likely to undergo some restructuring once its new Director General is appointed.

1.11

2.11 *Regional Policy (service DG REGIO) – Commissioner Johannes Hahn (AT).*

A former science minister and member of the Austrian conservative party, he considers cohesion policy is a key instrument for delivering Europe 2020. This policy must continue to concentrate resources on the poorest regions and focus funding on a limited number of priorities in line with the proposed Europe 2020 Strategy.

2.12 Future cohesion policy will be presented in late 2010, together with the 5th Cohesion report. The Spanish Presidency will prepare conclusions on the strategic report for the General Affairs Council in June which will be the precursor of a high level political debate.

2.13 *Implications*

- i. The extension of the Ordinary Legislative Procedure (co-decision between Parliament and Council) to agriculture and fisheries policies is particularly relevant for JNCC as not only will the decision process be longer and with more ‘forces’ at play, it means that successful advocacy of agriculture and fisheries requires greater engagement with the Parliament
- ii. With a new Commission, new Cabinets and considerable restructuring of the Commission services, it is important for the inter-agency groups and policy specialists to build on the reputation of their advice to develop new relationships and refresh existing associations with officials in the Commission. UK agency staff are generally well respected by key officials in DG AGRI and DG MARE. Equally, it will be important now to develop good relations with the Commissioners and their respective Cabinets. These contacts have proved extremely helpful in developing high quality and timely advice for the respective authorities in the UK.
- iii. Continued engagement with DG ENV is extremely important, but the reduction in the responsibilities of DG ENV further emphasises the need to engage with other relevant DGs. The extension of the powers of the European Parliament similarly underlines the importance of contacts with the Agriculture and Fisheries Committees in particular. Providing good scientific advice to other Parliamentary Committees will be important with regard to securing sufficient resources for protecting the environment.

3. Europe 2020: The Context for Future EU Policy Development

3.1 The major policy developments (some already in ‘the pipeline’) that will form the backbone of the current period to the end of 2013 will follow President Barroso’s political guidelines¹. These are described as the means “to revise the Lisbon strategy to fit the post 2010 period, turning it into a strategy for convergence and coordination to deliver on this integrated vision of EU 2020”. The headline actions set out in these guidelines are as follows:

- making a successful exit from the (economic) crisis;
- leading on climate change;
- developing new sources of sustainable growth and social cohesion;
- advancing people’s Europe;
- opening a new era for global Europe.

3.2 These guidelines have been formalised as “*Europe 2020: A strategy for smart, sustainable and inclusive growth*”² (hereafter referred to as Europe 2020), which replaces the former Lisbon Agenda and is likely to be agreed in March by The European Council. Europe 2020 will shape EU policy over the next five years and it is likely to act as a ‘filter’ (or ‘test’) for all new policy developments. The three priorities for growth are designed to be mutually reinforcing and to achieve five objectives related to employment, investment in research, CO₂ emissions, tertiary education and poverty. Europe 2020 proposes a number of ‘Flagship Initiatives’. One of these, a ‘Resource efficient Europe’ includes an action to allow the EU to achieve its biodiversity targets.

3.3 The major policy tasks for this Commission are listed below. Some of these are outlined in more detail in this paper. For others (in italics), the details are not sufficiently developed at this stage or they are beyond the scope of JNCC:

- *EU budget review*
- Climate change and energy policy
- Common Agricultural Policy reform
- Common Fisheries Policy reform
- Post-2010 biodiversity policy
- *Sustainable consumption and production policy*
- *Framework for the use of Market-Based Instruments*
- *Phasing out environmentally harmful subsidies*
- *Guidelines for EU transport networks and a White Paper on the Future of Transport*
- *7th Environmental Action Programme*

¹ [Political Guidelines for the next Commission.](#)

² [COM\(2010\)2020](#) (3 March 2010).

3.4 *Implications*

- i. Despite a commitment in the draft 18 month programme for the Council to ‘ensure synergy between the post 2010 Lisbon Strategy and the EU Sustainable Development Strategy’, there is no reference to the EU SDS in Europe 2020, and limited priority given to the environment beyond issues related to climate change. Therefore, additional effort will be required to ensure that biodiversity is given sufficient priority among the mainstream sectoral policies.

4. **Priorities for environment policy (Commissioner Potocnik)**

4.1 Biodiversity will be the most important priority for the new Environment Commissioner in this first year in office. The Commission’s annual work programme for 2010 and its longer-term five-year plan, and the trio of Presidencies (Spain, Belgium and Hungary) programme provide an outline of the priorities over the next 18 months as follows.

- i. Integration of the environment in other relevant policy areas, in particular transport, energy and agriculture. This is a message that was repeated by many Commissioners during their hearings in the Parliament.
- ii. The new Commissioner’s own priority to focus on implementation of existing legislation will add impetus to this drive in DG ENV. In particular, ensuring the full implementation of the EU Birds and Habitats Directives to finalise the Natura 2000 network with appropriate management and financing. Especially as this is the main tool for achieving the post-2010 biodiversity target. This will require more robust implementation methods (e.g. reporting through the Shared Environmental Information System).
- iii. Preparation of measures with a view to addressing environmentally harmful subsidies, to ‘greening’ fiscal instruments and to promoting resource and energy efficient products.
- iv. Working towards a 7th Environment Action Programme (doubts remain as to whether a successor EAP will be proposed and if so what form it may take).

Furthermore, there is a range of more detailed policy issues that DG Environment will focus on during the coming period. The following sections provide some brief information on the most relevant planned developments in EU environment policy.

4.2 ***Biodiversity Policy post -2010.*** This is the immediate priority for the Commission and for JNCC until October 2010 when the Convention on Biological Diversity COP10 takes place in Nagoya, Japan. The EU anticipates that a European long-term 2050 vision and a 2020 headline target will be agreed by the March Environment and European Councils. The councils are

being asked to ‘agree to halting the loss of biodiversity and the degradation of ecosystem services in the EU by 2020, and restoring them in so far as possible, while stepping up the EU contribution to averting global biodiversity loss’. The 2050 vision being proposed is that ‘by 2050 European Union biodiversity and the ecosystem services it provides – its natural capital – are protected, valued and restored for biodiversity's intrinsic value and for their essential contribution to human wellbeing and economic prosperity, and so that catastrophic changes caused by the loss of biodiversity are avoided’. Annex 2 provides a list of the key meetings and events in the run up to the COP in Nagoya.

- 4.3 ***Invasive Non-Native (Alien) Species.*** The Commission Communication³ “*Towards an EU Strategy on Invasive Species*” outlined the possible policy options and initiated a wide discussion on the possible scope and content of the future strategy. At its June 2009 meeting, the Environment Council signalled its support for an EU strategy with the UK stressing the need to accommodate both legislative and non-legislative measures. A legislative proposal for an EU framework on invasive species is expected in 2010 and the Commission has appointed consultants to assist with its development. A meeting with Member States representatives is likely to be convened in the near future. The plant-health framework is to be reviewed and an evaluation report, due in June 2010, on the existing legislation will be the basis for future discussions. Currently, biodiversity has a low profile within the plant health regime, with most priority going to pests and diseases that affect commercial crops and horticulture. It is hoped that in the new regime there will be an equal opportunity for the conservation sector to prioritise pests and diseases, in line with the greater recognition of the economic value of biodiversity.
- 4.4 ***Marine Strategy Framework Directive (MSFD).*** The MSFD⁴ represents the environmental pillar of the Integrated Maritime Policy (IMP) and requires Member States to achieve Good Environmental Status (GES) for their waters by 2020 with reference to a series of eleven descriptors. Member States are required to agree on what constitutes GES at a regional level – in other words, the UK must make its determination of GES in consultation with those other Member States (and third party countries) with which it shares its seas, and through Regional Conventions such as OSPAR (Convention for the protection of the marine environment of the North-East Atlantic). The MSFD requirements must be transposed into UK law (The Marine Strategy Regulations) by 15 July 2010. The Directive does not specify measures that Member States should adopt to achieve GES, except for the establishment of Marine Protected Areas (MPAs).
- 4.5 ***Soils Directive.*** The Spanish Presidency wants to reach agreement on the Soils Directive in the March Environment Council. However, there is a blocking minority resisting this proposal becoming law and, if these Member States succeed in halting adoption, the Directive is likely to go back to the Commission for a complete re-think. The Commission supports the Spanish

³ [COM\(2008\)189](#) (3 December 2008).

⁴ [Directive 2008/56/EC](#) (17 June 2008)

attempt to reach agreement, as it sees this as the gap in the legislation to protect air, water and soil.

- 4.6 **Water.** The Presidencies are aiming to develop an integrated approach to a sustainable water policy. Spain will focus on the evolving strategy (envisaged for 2012) for water scarcity and droughts. The Drinking Water Directive is expected to be revised in the first half of 2010. Steps will also be taken to promote the assessment and management of critical water-related problems such as extreme events (flooding, water scarcity and accidental water pollution), climate change and endangered ecosystems. The first series of river basin management plans will be evaluated.
- 4.7 **Sustainable use of natural resources.** Action in this field will focus on transportation, waste, chemicals and mining and the elaboration of a ten-year framework programme for sustainable consumption and production (10YFP). This framework will address both national and regional levels in the EU and international cooperation through increasing exchange of information and best practices. The Presidencies will focus on the Joint Action Plan on SCP (Commission proposal from 2008) and Sustainable Industrial Policy, and aim to enhance its coherence with other plans, such as the Environmental Technologies Action Plan (ETAP). The Council will seek agreement on a proposal for a Regulation to prevent illegal timber imports. Emphasis will also be placed on green public procurement and sustainability criteria for biomass. A proposal for a Directive on biowaste remains a possibility. In the revision of the Thematic Strategy on Waste, clarification is needed on definitions, coherence with existing legislations and monitoring of targets.
- 4.8 **Green infrastructure**⁵. Experts and the Commission recognise the importance of spatial planning to promote Green Infrastructure (GI) but it is not an EU competence and thus there will be no EU spatial planning approach in the near future. For the moment the Commission is promoting and supporting exchanges of best practice as a basis for an EU strategy on GI to be developed after 2010. In 2010 the Commission will organise a seminar on GI and its links to spatial planning.
- 4.9 **Environmental Impact Assessment (EIA) review.** Following the Commission report on the application and effectiveness of the EIA Directive, the Commission is considering a range of methods to simplify the process. The approach chosen and the extent of the modification are not yet clear but the process will start with a stakeholder consultation procedure.
- 4.10 **Preparing Forests for Climate Change.** From the 1st March 2010 DG ENV opened a consultation on a Green Paper on forest protection and information in the EU⁶, with a deadline for responses of 31st July 2010.

⁵ Defined in the Biodiversity Communication [COM\(2010\)4](#) (19 January 2010) as ‘an interconnected network of natural areas, including agricultural land, greenways, wetlands, parks, forest reserves, native plant communities and marine areas that naturally regulate storm flows, temperatures, flood risk and water; air and ecosystem quality’.

⁶ [COM\(2010\)66](#) (1 March 2010).

4.11 ***Governance of biodiversity policy implementation.*** The Co-ordination Group for Biodiversity and Nature (CGBN) was established in 2008 in order to bring together Member States' representatives and various stakeholders (mainly NGOs) to coordinate all issues related to the implementation of the Nature Directives and the delivery of the EU Biodiversity Action Plan and the 2010 target. The Habitats and ORNIS Committees continue to exist and generally meet only when formal decisions are required under the respective directives. Under the old governance arrangements, these committees were advised by their respective Scientific Working Groups, but these have now been replaced by themed technical working groups (currently 20 in existence). The working groups advise the CGBN and support the Commission in the delivery of the work plan for the Natura and Biodiversity Units.

4.12 ***Implications***

- i. ***Post-2010 Target.*** JNCC will continue to engage with the negotiations around the agreement of a global framework of targets and indicators at CBD COP 10 in Japan in October 2010. The implications of the global targets for the UK will be the subject of the annual UK Biodiversity Partnership conference in Scotland (Stirling) in November 2010. The further expansion of the EU long-term 2050 vision and headline 2020 target into sub targets and indicators will also be a high priority after CBD COP 10 and will inevitably lead to consideration of how EU policies, planning and action can be brought to bear to achieve the target. JNCC is expecting to engage with all of these processes.
- ii. ***MSFD.*** JNCC, Natural England and the Countryside Council for Wales provided coordinated responses to the Defra consultation on this transposition (which closed 22nd January 2010). JNCC has an active role in shaping regional approaches to monitoring and assessment of GES through OSPAR groups. It will be important to be involved in the process of defining GES targets and measures. The UK MPA network will comprise Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the EC Habitats and Birds Directives, SSSIs, Ramsar sites and new national MPAs under the forthcoming Marine Acts. JNCC and the staff of the country conservation bodies are heavily involved in the processes around these protected sites. Fisheries management measures for the sites may prove the greatest challenge to achieve. The UK Marine and Coastal Access Act and Scottish Bill will also create new marine planning and licensing systems designed to bring together the conservation, social and economic needs of UK seas, in line with the objectives of the MSFD. A Northern Ireland Marine Bill is also planned to dovetail with the UK Act.
- iii. ***Invasive species.*** The Invasive Non-Native Species GB Programme Board will steer input to the EU Strategy and JNCC and the country conservation bodies have opportunity to input to that process. It is important to allocate adequate time to try to ensure that EU strategy development considers best practice from the existing GB strategy and develops in line with UK objectives. With reference to Plant Health, JNCC engages in UK stakeholder meetings to ensure biodiversity aspects are taken into consideration. There will also be a report on the effectiveness and consistency of sanitary and phyto-sanitary

controls on imports of food, feed, animals and plants and work will be initiated on possible ensuing legislative proposals.

- iv. **Green Infrastructure.** This is one of nine priority themes for future inter-agency work. JNCC will prepare some ideas about Green Infrastructure work 2010/11, as part of the Habitats and Ecosystems Project; the key output will be a review of Green Infrastructure initiatives in the UK. The Inter-Agency Science Management Group wishes to have a Green Infrastructure theme leader identified and appointed. JNCC is planning to identify potential members of any future Green Infrastructure group, so that we can move forward in partnership with the Country Agencies when the time comes.
- v. **Governance.** In the reorganisation within DG ENV, the Biodiversity Unit (François Wakenhut - Head of and Unit) has responsibility for wider biodiversity strategy and the Natura 2000 Unit (Stefan Leiner - Acting Head of Unit) has responsibility for the Habitats and ORNIS Committees. The complexity of the new governance arrangements and the emphasis on implementation of the Habitats and Birds Directives requires a more coordinated UK approach and JNCC is assisting Defra to achieve this. Information exchange across the agencies will be key to successful input on many policies at European level. This is particularly true in developing strategic approaches to surveillance and reporting to deliver on obligations under the nature Directives.

5. Priorities for climate change and energy policy (Commissioner Hedegaard and Commissioner Oettinger)

- 5.1 A first priority for the new DG for Climate Action will be to ensure the implementation of the EU climate and energy package but it will also cover: the EU's international climate strategy; the EU emissions trading scheme; industrial emissions and ozone layer protection; promoting development and demonstration of low carbon and adaptation technologies; as well as the development of a strong science and economic base for the EU's climate policy. Europe 2020 highlights a priority to establish a roadmap for low carbon energy systems by 2050. Other new policy initiatives related to climate change will include a climate and transport package. The new Commissioner also wants to push for an international carbon market across the OECD by 2015.
- 5.2 **Climate and Energy Package.** Work will continue to implement the climate and energy package. The Spring Council is expected to adopt the Energy Action Plan 2010-2014, which will frame Europe's policy for the next five years and set out guidelines for the revised EU energy efficiency action plan. A reformed tax system to promote energy savings and renewables is deemed essential. Member States' National Renewable Energy Action Plans are due in June 2010.

5.3 ***Adaptation to climate change.*** The White Paper⁷ divides the adaptation policy into two phases. Phase 1 (2009-2012) lays the ground work for the preparation of a comprehensive adaptation strategy focusing on building a solid knowledge base, integrating adaptation into EU key policy areas, employing a combination of policy instruments (market-based instruments, guidelines, public-private partnerships), and strengthening international co-operation on adaptation. From 2013, in the second phase, the EU Adaptation Strategy itself will be developed. Preparatory work for the implementation of the Strategy will start now. The White Paper features the following deadlines for action:

- i. By 2011: the establishment of the Clearing House Mechanism, development of vulnerability indicators for each sector and assessment of the costs and benefits of EU adaptation options;
- ii. By 2012: Member States are encouraged to develop national and regional adaptation strategies.

5.4 The White Paper also calls for the establishment of a cross Member State Impacts and Adaptation Steering Group (IASG) that will have a series of topic specific working groups under it. A preparatory meeting of the IASG was held last year but nothing has happened since then. At least one of the working groups has met: the Working Group on Knowledge Base on Climate Change Impacts, Vulnerability and Adaptation which it is assumed will have some bearing on development of the CHM.

5.5 ***Implications***

- i. JNCC has been actively engaged with the DG ENV Ad Hoc Working Group on Biodiversity and Climate Change. This group is likely to become one of the IASG working groups on biodiversity and ecosystem services and should provide a conduit for promotion of biodiversity in the ongoing adaptation debate. Work done by JNCC to develop the evidence base of impacts on biodiversity will inform this work.
- ii. With regard to bioenergy, JNCC will continue to assist government in the development of sustainability criteria for biofuels for transport and bioliquids under the EU Renewable Energy Directive through comitology negotiations, in order to protect UK and global biodiversity. We will also assess the implications on biodiversity of the Commission's recently proposed voluntary sustainability criteria for solid biomass and biogas for electricity, heating and cooling.
- iii. JNCC will need to understand the implications for our work caused by the creation of two new DGs; Climate (CLIM) and Energy (ENER) and their interplay with DG ENV. As specific portfolios leave DG ENV, e.g. renewable energy targets, we will need to try to ensure that issues affecting the natural environment, e.g. sustainability criteria, are

⁷ [COM\(2009\)147](#) (1 April 2009).

as robust as possible. It is worth noting that climate change adaptation is now in DG CLIM and not in DG ENV. Work in these areas is discussed further in the Committee paper on ‘Scope and Priorities for JNCC work on Climate Change and Energy’.

6. Priorities for agriculture and rural development policy (Commissioner Ciolos)

6.1 **CAP reform.** Discussions on the goals (food security, market stability) and ‘new challenges’ (climate change, water management, biodiversity, biomass) of the future CAP are well under way and will be intensified, particularly once the Commission Communication on a future CAP expected in 2010 has been published. It seems likely that a CAP post-2013 will still have a two pillar system (pillar I: direct payments; pillar II: rural development). However, the way the two pillar system operates will be reformed. Within pillar I the aim is for a more equal distribution of funds among Member States as well as among farmers within a Member State. CAP reform will respond to the ‘new challenges’ identified in the CAP health check, in particular climate change, which was the subject of a Communication on the role of agriculture in mitigating and adapting to climate change. In terms of the EU Budget Review, CAP is expected to face substantial cuts. A legal proposal on the future of CAP is expected in mid-2011, in parallel with the details of the future budget.

6.2 **Less Favoured Area (LFA) review.** In April 2009 the Commission published a Communication⁸ on LFA asking Member States to collect by 21 January 2010 bio-physical data and produce maps in line with the eight criteria provided in the Communication. A legislative proposal is foreseen in the second half of 2010. A new intermediate LFA classification system has to be introduced by 2014.

6.3 *Implications*

- i. **CAP reform.** The inter-agency Land Use Policy Group (LUPG) has gained respect among the EU Institutions with its ‘[Vision for the Future of the CAP post-2013](#)’⁹. LUPG will continue to develop more detailed proposals in response to the reaction from officials in DG AGRI, who welcomed the vision for the CAP but also requested ideas as to how to achieve it. There are also connections between CAP and cohesion policy with regard to rural development measures and renewable energy that will need to be taken into account.

7. Priorities for fisheries and maritime policy (Commissioner Damanaki)

7.1 **Reform of the Common Fisheries Policy (CFP).** The results of the EU consultation will be summed up by the Commission during the first half of 2010. An impact assessment will form the basis for a Commission Communication due to for the second half of 2010. JNCC and the country conservation bodies submitted a joint position paper, which also fed into the

⁸ [COM\(2009\)161](#) (21 April 2009).

⁹ To be found on the LUPG website: <http://www.lupg.org.uk>

UK and the devolved administrations' responses. The Agriculture and Fisheries Council plans to adopt working guidelines at its meeting on 28-29 June 2010. A new Regulation will be proposed in early 2011 with adoption scheduled for December 2012.

7.2 ***Integrated Maritime Policy (IMP)***. In October 2009 the Commission published a progress report¹⁰ on IMP setting out six strategic policy orientations for the future. A detailed policy document to develop these six strategic orientations will be published during 2010. Maritime Spatial Planning (MSP) is identified as a key instrument for IMP and the MSFD, while not the responsibility of DG MARE, is regarded as 'the environmental pillar' of IMP. Following the stakeholder consultation during 2009, the Commission will come forward with its recommendations in 2010. To facilitate a common approach towards MSP in the EU, the Commission has initiated two cross-border pilot projects in the North Sea and the Baltic Sea calling for proposals on preparatory action by 30 April 2010.

7.3 ***Implications***

- i. ***CFP Reform***. Due to a temporary lack of resources, work on influencing the CFP reform has been suspended by JNCC support company staff in the short term due to the imperative need to progress work on fisheries in relation to MPAs (under both the Scottish and UK Bill/Act). JNCC should be able to pick up the work again around the middle of 2010. However, Natural England proposes to continue engagement with the Commission and European Parliament in the run up to the publication by DG MARE later this year of a Communication giving more details of its CFP reform proposals.
- ii. ***IMP***. At present JNCC staff have a watching brief and are picking up some issues (e.g. MSP) as part of the implementation of the UK Marine Act.

8. **Regional Policy (Cohesion) (Commissioner Hahn)**

8.1 The Lisbon Treaty establishes, for the first time, a legal basis for pursuing territorial cohesion in addition to economic and social cohesion. However, defining what this will mean in practice is proving difficult, especially how it might bring together the economic, social and environmental dimensions of development. The Green Paper¹¹ broached the issue of how territorial cohesion might be integrated into and influence major EU policies, namely: the CAP and rural development; the sustainable development of territories and climate change; the Lisbon process; and integrated territorial development and governance. The 5th Cohesion Report to be published in October 2010 will form the basis for a first legislative proposal on a new cohesion policy expected in January 2011.

¹⁰ [COM\(2009\)540](#) (15 October 2009).

¹¹ [COM\(2008\) 616](#) (6 October 2008).

8.2 *Implications*

- i. On the face of it, territorial cohesion has the potential to deliver a more sustainable development model. The inter-agency European Regional Policy Group (ERPG) will monitor progress and provide advice as appropriate to encourage proper integration of measures to conserve biodiversity and ecosystem services.

9. Concluding remarks

- 9.1 The paper summarises the influence of the EU on the development and implementation of UK environment policy. It also highlights the importance of gathering intelligence on, and understanding the implications of, changes in the EU Institutions in order to provide informed and timely advice to the governments of the UK.
- 9.2 Europe 2020 is a critical development; as the successor to the Lisbon Agenda it will guide the emphasis of EU policy implementation for the foreseeable future. As a consequence, the low profile given to the environment and biodiversity in particular, is a concern and may mean that extra effort is required to emphasise the importance of biodiversity across all sectors. This task is made more difficult by the missed opportunity (for the second time) to set the growth and jobs agenda within the framework of the EU SDS.
- 9.3 In addition to the specific ongoing and new policy developments, it is important to note the underlying process across all policy areas related to the Better Regulation 'agenda' including simplification and governance, as well as a giving priority to implementation of existing legislation over the development of new legislation. As much as anything this reflects the increasing difficulty of finding agreement among 27 Member States (soon to be more) on more detailed, prescriptive legislation. It is worth noting that the Environment Committee of the European Parliament has called on the Commission to distribute lists of member states that fail to properly implement EU legislation on waste, water and nature protection.

ANNEX 1 The Council Qualified Majority Voting (QMV)

Under the Treaty of Lisbon decisions in 54 additional policy areas will be taken using Qualified Majority Vote (QMV), leaving only key, sensitive issues to be decided unanimously (including tax, social policy, defence, foreign policy and treaty revision).

As from 1 November 2014, the Treaty of Lisbon (TEU Article 16(4)) introduces a "double majority" system for the QMV. Under this system a positive decision will require a majority of votes according to two separate conditions as follows:

A qualified majority shall be defined as at least 55 % of the members of the Council, comprising at least fifteen of them and representing Member States comprising at least 65 % of the population of the Union. This system according to some countries better reflects the true size of populations and at the same time acknowledges the smaller member states' fears of being overruled by the larger countries.

A blocking minority must include at least four Council members, failing which the qualified majority shall be deemed attained.

In Article 238(3a) it states in addition that A blocking minority must include at least the minimum number of Council members representing more than 35 % of the population of the participating Member States, plus one member, failing which the qualified majority shall be deemed attained;

The Europa website explains that to understand the impact of a blocking minority having to include at least four Member States, one has to take into account the population of the various Member States. Without this clause, it would be possible for just three of the four biggest Member States (Germany, France, Italy and the United Kingdom) to form a blocking minority: their populations together represent more than 35% of the Union's population.

Therefore, this clause facilitates decision-making in the Council, as it makes it more difficult to form a blocking minority. It can be considered a safeguard clause against a hypothetical alliance of the "big" Member States. In practice, it is unlikely to be very important, as such clear divisions between "large" and "small" Member States hardly ever occur.

ANNEX 2 Current position on progress towards a new biodiversity Target and Policy

The following are the main meetings planned between April and October at which discussions, positions and decisions on the post-2010 framework will be held.

WPIEI - Biodiversity	13 April 2010
G8 Environment Ministerial Meeting	April 2010, Canada
SBSTTA-14 , Nairobi	10 - 21 May 2010
WGRI3, Nairobi	24 - 28 May 2010
EU Nature Directors	May 2010
WPIEI Biodiversity	8 June 2010
Environment Council	21 June 2010
G8 Summit	25 - 27 June 2010, Canada
WPIEI Biodiversity	29 June 2010
UN General Assembly 65	Sept 2010, NY
COP10	11 - 29 October 2010

These all provide key opportunities for JNCC with Defra to influence an effective EU position, which is complimentary to the overall international negotiations and mechanisms being suggested