

## Scottish Government Action Plan on European Engagement (APOEE)

### Comments from LINK on Published Draft, April, 2008

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1. Scottish Environment LINK welcomes the opportunity to comment on the Scottish Government's Action Plan on EU Engagement. Established in 1987, LINK is the forum for Scotland's voluntary environment organisations - 31 member bodies representing a broad spectrum of environmental interests with the common goal of contributing to a more environmentally sustainable society. LINK provides a forum and network for its member organisations, enabling informed debate, and assisting co-operation within the voluntary environmental sector. LINK assists communication between member bodies, government and its agencies and other sectors within civic society. Acting at local, national and international levels, LINK aims to ensure that the environment is fully recognised in the development of policy and legislation affecting Scotland.

#### Politics and processes

2. LINK and its member bodies are non-political organisations and cannot therefore comment on the many political aspects of APOEE. LINK will therefore attempt to confine its comments to the *processes* of Scotland's engagement with the EU, particularly those which have implications for the environment. We also offer comment on some of the policy areas of direct relevance to LINK's agenda.

#### Summary of key points

- a. LINK broadly supports APOEE's overall aim to improve Scotland's engagement with Europe.
- b. LINK believes that the draft APOEE has a very skewed emphasis on how Europe can increase Scotland's economic growth (as measured by GDP) and fails to give sufficient priority to vital social and environmental issues.
- c. LINK already works with EU institutions on a number of the priority areas identified as priority in APOEE. We would be keen to work more closely with Scottish Government in the future on EU policy issues and would be happy to take a 'team' approach where there is consensus on policy objectives.
- d. LINK wishes to express an interest in contributing to proposed quarterly co-ordination meetings and other relevant meetings e.g. with EU Commissioners visiting Scotland.

#### Strategic approach to working in Europe

3. LINK supports the Scottish Government's aim of forging closer links with Europe. It is estimated that almost 80% of environmental legislation now originates in Brussels and it is vitally important that both Scotland's Government and Scottish

civic society engages positively and proactively with Europe, both directly and through the UK as member state.

4. LINK believes that strategic engagement must be a *two way street* with Scotland contributing ideas to the EU institutions<sup>1</sup> and countries, as well as learning from them. This will mean cultivating a culture where Scotland engages positively and proactively with the European Union and its member states. This broad aim could be clearly spelt out in the opening paragraphs. As currently drafted, it sounds as if the intention is to 'maximise the contribution' the EU can make to Scotland, rather than working in constructive partnership.
5. We feel there is an overemphasis in the opening paragraphs on the Government's stated central purpose of 'sustainable economic growth'. Whilst we understand this appears to be a non-negotiable purpose - we would emphasize that many EU environmental Directives are not necessarily intended to increase economic growth, whether 'sustainable' or not. Such Directives should still be supported by the Scottish Government and transposed in a way which is appropriate for Scotland's needs. LINK would respectfully suggest that 'sustainable economic growth' is merely a means to an end – the 'end' being an improvement in the quality of life of Scotland's people. Quality of life is more implicitly captured in the Government's 5 strategic objectives. It is these which could form a more balanced framework within which to engage with the EU.
6. Of the 3 aims in the Government's International Framework, we disagree that simply increasing GDP growth rates should be a key aim. We support current EU efforts to go 'beyond GDP' and develop indicators which are based on *societal well being* and *environmental health*. As Joaquin Almunia, the European Commissioner for Economic and Monetary Policy said at a high level conference on this subject on the 19<sup>th</sup> November, 2007
7. *"GDP was never intended to be anything but an indicator of economic performance. It cannot distinguish between activities that have a negative or a positive impact on wellbeing. In fact, war and even natural disasters may register as an increase in GDP. Also, GDP does not take into account the non-economic factors that add to well being. And many policies that contribute to wellbeing may not be adequately reflected in GDP growth. For example, GDP does not take into account the sustainability of production and consumption patterns. While investing in low carbon energy solutions may be essential for the environment and long term sustainability, it may not be the policy option preferred for short term economic growth, as measured by GDP."*

#### **An independent Scotland in Europe**

8. This section is largely about independence as a means for Scotland to engage more effectively with Europe. As this a political issue, LINK cannot comment except to say that there are likely to be both advantages and disadvantages in engagement between Scotland and EU institutions under independence.

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<sup>1</sup> The European Commission, The European Parliament and The Council..

### **Long term political objectives**

9. Again, LINK cannot comment on the political implications of these objectives, but we do have some comments on processes and policy issues. A general point here is that many of the long term political objectives should help deliver the 'greener' objective of Government – not just the 'wealthier and fairer' objective.

### **Fisheries and aquaculture**

10. This is an important policy area for LINK which has long had serious concerns about the mismanagement of the marine environment, including over fishing and unsustainable aquaculture. LINK does not have a common position statement on the Common Fisheries Policy but certain members (notably RSPB Scotland and WWF Scotland) are very active in this area through Birdlife International and WWF Europe.

### **EU Budget Review**

11. LINK member bodies are beneficiaries of EU funds both directly from the EU (e.g. LIFE) and indirectly through the Scottish Government (e.g. SRDP). We disagree fundamentally with the statement "It is important to Scottish Ministers that a future EU Budget is consistent with the themes and goals of our Government Economic Strategy and that the EU is able to make a valuable contribution to improving Scotland's economic prosperity." The EU budget is designed to deliver environmental and social objectives as well as economic ones and parts of it may or may not be consistent with the Government's Economic Strategy. Again, this statement implies that all EU priorities should be aligned to deliver economic growth in Scotland. Not only is this unrealistic, but it seriously underplays the key role that the EU budget has in delivering social and environmental outcomes (as well as economic ones).

### **Agriculture**

12. LINK's agriculture task force recently produced a paper on the future of the Common Agricultural Policy<sup>2</sup>. We are submitting this along with this response as example of what LINK, and its member bodies, can offer in terms of contributing to the debate on EU issues. LINK has considerable experience in contributing to agriculture policy issues at Scotland, UK and EU levels both directly and through our networks.

### **EU Energy policy**

13. This is another key policy area for many LINK member organisations and we would be keen to work constructively with Government in this area where we have a shared agenda. One practical suggestion is that we could agree to raise shared policy priorities at the regular meeting LINK has with the UK Minister ahead of the UK delegation attendance at the EU Environment Council.

### **Current EU priorities**

14. LINK welcomes the publication of these on the web as it allows us to see quickly which areas the Government sees as priority. Of the areas listed, LINK member bodies are most actively engaged in:
- Habitats and Birds Directives - these are seen by LINK as a vital tool to safeguard not only the first two pillars of biodiversity conservation - protected species and protected areas – but also the third pillar – the 'natural capital'

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<sup>2</sup> <http://www.scotlink.org/pdf/LINKBeyond-the-CAPReportSept08.pdf>

contained with Scotland's wider ecosystems. Future inward investment, tourism and other economic activity will depend on protecting and nurturing these three pillars (species, sites and ecosystem health), thereby contributing to the 'wealthier' as well as the 'greener' objective of Government.

- Fisheries (RSPB and WWF and their European counterparts)
- Better regulation agenda (LINK gave evidence to the parliamentary committee inquiry on EU transpositions in January 2008)
- Common Agricultural Policy
- Climate change
- Maritime Green Paper (LINK contributed to event at Scottish Parliament and is monitoring development of the maritime policy)
- Soils Thematic Strategy (Soils Directive recently redrafted by the French Presidency)

15. LINK suggests that transposition of the Marine Strategy Framework Directive (MSFD) is perhaps a greater priority than the Maritime Green Paper (now the Integrated Maritime Policy), at least in the coming 12 months with the proposed Scottish Marine Bill. One key area here is to ensure a 'regional seas' approach is enshrined in Scottish legislation to reflect both the letter and the spirit of this important Directive. Robust and timely transposition of Directives such as MSFD are one way in which Scotland can demonstrate a *two-way street* relationship with EU institutions. It may also mean that future infringements and financial penalties arising from inadequate implementation (as happened with the Nitrates Directive) would be far less likely.

#### **Improvement of transposition processes in Scotland**

16. LINK welcomes and supports efforts by the Scottish Government to introduce a more transparent and effective system for transpositions, including the development of new guidance. We also welcome the statement that the Scottish Government will "engage fully with the relevant stakeholders during the transposition process". In our experience, this is better achieved through transposing Directives by the primary legislation route. This allows more transparent and open engagement from NGOs.
17. We disagree strongly with the statement in bullet 3 on "ensuring the *least possible regulatory burden* is placed on Scottish businesses and stakeholders". LINK believes new regulations should be 'fit for purpose' and deliver the principal aims of the Directives they relate to. This will sometimes mean that robust regulation is required to protect social or environmental 'public goods' from being damaged or eroded by both private and public enterprises. Until environmental public goods (water, soil, biodiversity, air, landscapes, historic features etc.) are valued within the current economic system, we will often need regulation to ensure they are protected. This regulation should not be seen as a burden, but rather as a vital mechanism to safeguard vulnerable common resources.
18. On the issue of regulatory burdens and 'gold plating' we would reiterate that there is no evidence for this happening in the UK or Scotland. Indeed the Davidson Review on this subject concluded that: "*inappropriate over-implementation may not be as big a problem in the UK – in absolute terms and relative to other EU countries – as is alleged by some commentators*"<sup>i</sup> and Lord Davidson's comment that: "*additions made during the transposition of European legislation provide*

*benefits to business such as greater legal clarity and the streamlining of existing domestic legislation*<sup>ii</sup>.

19. See written evidence from LINK to Europe and External Relations Committee for more of our views on transpositions (attached with this response for information).

### **Key relationships**

20. LINK supports many of the suggestions made for improving working relationships with key EU institutions and the UK Government. We are keen to work closely with the Scottish Government on cultivating these key relationships where we have shared priorities. Some examples of ways in which we might do achieve this could be:

- LINK contributions to meetings with EU Commissioners visiting Scotland;
- LINK sharing information with Scottish Government on its key policy representations to EU institutions;
- LINK to share the content of the policy positions it represents to UK Ministers ahead of EU Environment Council;
- LINK to input into relevant Europe and External Relations inquiries e.g. forthcoming inquiry on EU budget reform.

### **Key role of stakeholders**

21. LINK proposes that we could usefully be added to the list of organisations in bullet 2 and we look forward to working constructively with the Scottish Government as a part of a team in the future (at least on those policy areas where there is consensus).

22. Specifically, we would like to suggest we could usefully contribute to the quarterly 'co-ordination' meetings as proposed in bullet 5.

### **Bilateral work**

23. LINK supports efforts to improve bilateral work with other European countries. It should be noted that aside from economic lessons, the bio-climatic and physical environment of Scandinavian countries is relatively similar to Scotland. We therefore have much to learn from these countries in terms of sustainable land management and stewardship of natural resources. Despite similar population sizes and densities, Scotland has a substantially more denuded environment than, for example, Norway, Sweden and Finland. LINK believes the quality environments in these countries, coupled with a 'culture of respect' for the environment are amongst they key reasons why they have a higher quality of life than many other parts of Europe.

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<sup>i</sup> [http://bre.berr.gov.uk/regulation/documents/davidson\\_review/davidson\\_review.pdf](http://bre.berr.gov.uk/regulation/documents/davidson_review/davidson_review.pdf) - page 4.

<sup>ii</sup> <http://bre.berr.gov.uk/regulation/news/2006/061128.asp>

## Inquiry into the transposition of EU Directives

### Written evidence from Scottish Environment LINK to Europe and External Relations Committee

Scottish Environment LINK (LINK) welcomes the opportunity to submit evidence to this important inquiry.

#### Summary

1. LINK has concerns that the inquiry to date has not adequately considered the overall purposes and benefits of EU legislation to Scotland, particularly to its environment and people, and that there is scope for the inquiry to consider wider aspects of the implementation cycle than purely transposition.
2. LINK recommends avoiding use of the term 'gold plating' as it misleadingly suggests that anything above 'minimum transposition' is always negative (which is rarely the case – as demonstrated by a recent review for the UK Government).
3. LINK believes that transpositions should be fit for purpose, reflect agreed national policy priorities and seek to be consistent with existing legislation wherever possible (see LINK's response to Consultation on the Environmental Liability Directive for an example of where a forthcoming Directive needs to dovetail with existing domestic legislation).
4. In general, LINK feels Scottish Government consultation procedures, during the period after Directives have been published and their passage through Parliament, are effective and transparent (although more explanation could be provided on why advice from stakeholders is sometimes not acted on without justification).
5. LINK feels that transposition of some Directives have been left until the 'last minute' (e.g. Environmental Liability) which may not provide stakeholders with enough time to engage adequately.
6. Input into the transposition process by stakeholders (and Parliament) is much more effective and transparent when primary legislation is used as the implementing legislation.
7. In LINK's experience, there is plenty of scope for 'differential transposition'. We urge the Scottish Government and Parliament to tailor transpositions to the needs of Scotland's people and Scotland's environment (which is very different physically and ecologically to most other parts of the UK) without unduly undermining the effectiveness of the legislation at delivering the required outcomes.
8. LINK experience is that the Parliament has been effective in scrutinising Directives during their transposition where this has been by primary legislation. However, it has been far less effective in engaging EU structures during 'upstream' policy development or when transposition is by secondary legislation.
9. LINK recommends that Government and Parliament should work together closely to set up a transparent, stakeholder-accessible process which enables direct and effective engagement with EU Directives from 'upstream' development through to on the ground implementation in Scotland.

#### General principles

10. LINK notes with interest the key recommendations of the previous enquiry into the scrutiny of EU legislation, as well as the recent UK review of the implementation of EU legislation (the "Davidson Review")<sup>i</sup>. However, we feel strongly that the Reporters Report<sup>ii</sup> did not provide a much needed overview of the **purpose** and the **benefits** arising from the transposition and implementation of EU Directives. Without this valuable context, the report reads as if there is a 'problem needing to be fixed', rather than a balanced account of the both the pros and cons of EU transpositions.

11. LINK therefore recommends that during the course of the current enquiry the Committee attempts not only to scrutinize the processes behind transpositions but also the range of benefits EU Directives bring to Scotland's environment, economy and people. LINK suggests some key benefits might include:
  - a consistent and **level legislative playing field** with other EU Member States;
  - better **protection and enhancement of the environment – this should be seen as a “public good,”** a form of **environmental capital**, which should be managed in the public interest and protected from over-exploitation by private or other public interests; and
  - the benefit of European expertise and a **wider knowledge base** on a range of issues.
  
12. In addition, LINK believes that any assessment of this kind should consider the complete implementation cycle in relation to EU Directives. Transposition is, often, only the first stage of implementation – to deliver the intended benefits (to the environment, the economy and society) such laws need to be well implemented which often requires appropriate decision making under the transposed legislation and/or adequate funding. Without these, either the benefits will not accrue or they may be unfairly distributed.
  
13. LINK also suggests that the negative connotations associated with the term ‘gold plating’ are unhelpful and misleading in the context of this current enquiry. Ministers and Parliament should be at liberty to transpose EU Directives in a way which is **fit for purpose** without being accused of ‘gold plating’. In some cases this might mean minimum transposition. In other cases this may mean going beyond minimum transposition to ensure the Directive is transposed in a way which is consistent with existing legislation, or to deliver a national policy agenda. Going beyond minimum transposition in this sense is not ‘gold plating’; it is merely a way of properly enacting the policies of Scottish Ministers and Parliament. We also note the Davidson Review’s conclusion that: *“inappropriate over-implementation may not be as big a problem in the UK – in absolute terms and relative to other EU countries – as is alleged by some commentators”*<sup>iii</sup> and Lord Davidson’s comment that: *“additions made during the transposition of European legislation provide benefits to business such as greater legal clarity and the streamlining of existing domestic legislation”*<sup>iv</sup>.

#### **How effective and transparent are the Scottish Government’s transposition procedures?**

14. In LINK’s experience, transposition procedures have generally been well structured and transparent. However, we do have some concerns that technical information, or other comments, submitted to formal consultations is often received but often not acted on. Clearly, it is the Government’s prerogative as to how to respond to comments submitted but, we believe, the consultation process would be enhanced if it was more transparent and reasons for shelving key suggestions were clearly spelt out.
  
15. Our experience with various transpositions in recent years has led us to the conclusion that these are most effective and transparent when they are transposed by primary legislation. Two examples of effective transposition of environmental Directives are:
  - Water Framework Directive (2000/60/EC) which was transposed by the Water Environment and Water Services (Scotland) Act 2002. The fact that this was transposed in Scotland through primary legislation as opposed to a statutory instrument (as it was in England and Wales) allowed both Parliament and wider stakeholders to more fully engage throughout the process of transposition and subsequent implementation. This is a useful example of where the Scottish Parliament added considerable value (beyond what might be achieved through Westminster) to the process of transposition; a process which resulted in a respected piece of legislation more tailored to Scottish needs.
  
  - The ‘Strategic Environmental Assessment Directive (2001/42/EC) which was transposed by the Environmental Assessment (Scotland) Act 2005. The Directive was first transposed into Scots law through the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (Scottish Statutory Instrument No. 258) but the Act repealed the Regulations and widened the scope of SEA to include strategies as well as plans and programmes. Again, the primary legislation route enabled stakeholders such as LINK member bodies contribute their experience and expertise throughout the passage of the legislation through Parliament.

16. It should be noted that, in both these recent and successful transpositions, the Government and/or Parliament concluded that the result for Scotland would be enhanced by (what some would call) 'gold-plating'. Thus, both the WEWS Act and the EA Act include provisions (wetlands and flooding, and strategies, respectively) not required by the original Directive. However, these provisions were included as a result of Government policy and/or Parliamentary scrutiny as they were felt to be appropriate responses to the public policy needs in Scotland.
17. Two examples where transposition of environmental Directives has been less successful include:
- The Habitats Directive (92/43/EEC) which was originally transposed by the Conservation (Natural Habitats, &c.) Regulations 1994, as well as reliance on the existing Wildlife and Countryside Act 1981 (now amended, in Scotland, by the Nature Conservation (Scotland) Act 2004). In October 2005, the European Court of Justice ruled that the UK had failed to adequately transpose certain aspects of Directive into domestic legislation (Case C-6/04); this case has also been accompanied by a series of other ECJ decisions or Commissions inquiries into the implementation (or not) of both the Birds and Habitats Directives. The 2005 case found that many of the obligations had been delivered through policies and guidance without specific legislative transposition and by means of general legal duties. Although this predates devolution of powers to the Scottish Parliament, it demonstrates the need for coherent and proactive transposition to avoid gaps and inconsistencies and crucially, to provide greater legal certainty. These cases also highlight the need for implementation beyond transposition in the decisions of Ministers, relevant agencies, Local Government, etc and for appropriate funding to be in place to support this implementation.
  - Action Programme for Nitrate Vulnerable Zones (Scotland) Regulations 2003 and other measures to implement the 1991 Nitrates Directive (91/676/EEC). Successive Governments have adopted a 'slow' and 'minimalist' approach to the implementation of this Directive. This has resulted in the European Commission taking action to require it to be more fully applied – most recently by considering to hold up approval of the SRDP until such measure are taken. This is another example of incomplete implementation – it is the decisions of Ministers beyond transposition (e.g. designations of NVZs and funding arrangements) that secure – or not – the effective implementation of the Directive. More timely, robust and adequately funded implementation would have provided farmers with greater clarity, more time and better support to achieve the outcomes necessary.

**How effective is the Scottish Government in working closely with the other devolved administrations and the UK Government during the transposition process?**

18. LINK is not in a position to answer this question in detail.

**Is there adequate and timely consultation with stakeholders whose interests on which a new directive will directly impact?**

19. LINK feels there is often adequate consultation, particularly where Directives are transposed through primary legislation. This is in large part due to the willingness and openness of the Scottish Parliament to engage with a range of stakeholders.
20. On the issue of timeliness, LINK would suggest that the record of the Parliament in engaging with the early development of EU Directives ('upstream engagement') could be improved and welcomes the fact this is a recommendation within the Committee's 2nd Report, 2007. A good example of upstream engagement was the event on the EU Maritime Green Paper on 4 December 2006, organized by the Europe and External Relations Committee and held in the Scottish Parliament's main chamber. The consultation provided a forum for relevant stakeholders to discuss the proposed policy and its implications for Scotland (the Maritime Green Paper could become a key driver for EU-wide marine spatial planning underpinned by a future Directive). Over 80 delegates from organisations across Scotland attended, representing industry, academia, the public sector, MSPs, MEPs and LINK. It would be useful if the Parliament could run these events for other 'on the horizon' Directives, perhaps at the start of a longer term stakeholder relationship throughout the development, transposition and implementation of Directives<sup>v</sup>. This would also help forge better links with Scotland and the European Commission and enable stakeholders to more easily input into upstream development.
21. There is also a tendency to leave some Directives to the 'last minute'. This was one major problem with the Nitrates Directive (see above) and a current example is the Environmental Liability Directive



(consulted on in Scotland 2007) which is now late in being transposed. A copy of the LINK response to the Government consultation on this Directive is attached as an Annex to this evidence. This indicates that one of our key concerns is that the transposition ‘meshes’ with existing domestic law – and applies the liability principles to biodiversity interests of national, as well as international, importance (e.g. to SSSIs as well as SPAs and SACs). We await the Scottish Government’s response but note that the cross-Party House of Commons EFRA Committee has, while also criticising a minimal approach and fear of ‘gold plating’, recommended this approach in England and Wales<sup>vi</sup>.

**Are there effective mechanisms to ensure the accountability of the regulators within the transposition process?**

22. LINK has limited comment to make on this question but we would reiterate the need for clarity and certainty about the roles of all those involved in the regulation process<sup>vii</sup>:

- those originating regulation;
- those who must enforce or otherwise achieve compliance;
- the regulated parties;
- those charged with adjudicating on appeals; and
- those reviewing and evaluating.

In supporting greater clarity, LINK would also observe, in passing, that such regulators need greater support. Too often, regulators are unfairly criticised for regulating according to the EU and/or domestic law they are responsible for implementing. Moreover, often such regulation (which is often seen as ‘negative’) would be less controversial if accompanied by the other aspects of effective implementation, such as funding measures (which would often be seen as a ‘positive’).

**To what extent does the transposition process allow for “differential implementation” and the tailoring of Scottish solutions to Scottish problems?**

23. In our experience, ‘differential implementation’ has been achieved for key environmental Directives including the Water Framework Directive and the Strategic Environmental Assessment Directive, both of which could be said to have been ‘tailored’ to Scottish needs. In future, we would like to see Scotland taking more of a lead on transpositions which relate to areas of devolved competence. In supporting such ‘differential implementation’, it must be stressed, however, that this must not result in less effective implementation – simply implementation in a manner most appropriate to Scottish needs. The end results (outcomes) must remain those required by the relevant Directive.

**How effective is the role of the Scottish Parliament within the transposition process?**

24. Our experience to date suggests that although the Scottish Parliament effectively scrutinises Directives as they are transposed by primary legislation (see above), it has not been proactive enough in engaging with EU structures during the all important Directive development phase. There are exceptions to this, for example the EU Maritime Green Paper (see above). In addition, we believe that the Scottish Parliament could be more effective at scrutinising transposition if and when this is done by secondary legislation.

**Are there examples of good practice of effective, collaborative and transparent transposition within other EU legislative regions?**

25. LINK notes that the Reporter’s Report (paras 28-29) refers specifically to the Danish example as a “widely respected” and “comprehensive and rigorous” model of good practice which involves key stakeholders throughout the process. LINK supports the Danish model and would ask the Committee to look into adopting a similar model in Scotland.

<sup>i</sup> [http://bre.berr.gov.uk/regulation/reviewing\\_regulation/davidson\\_review/index.asp](http://bre.berr.gov.uk/regulation/reviewing_regulation/davidson_review/index.asp)

<sup>ii</sup> Reporter’s Report on the Inquiry into the Transposition and Implementation of EU Directives in Scotland. (SP Paper 783).

<sup>iii</sup> [http://bre.berr.gov.uk/regulation/documents/davidson\\_review/davidson\\_review.pdf](http://bre.berr.gov.uk/regulation/documents/davidson_review/davidson_review.pdf) - page 4.

<sup>iv</sup> <http://bre.berr.gov.uk/regulation/news/2006/061128.asp>

<sup>v</sup> Denmark uses a system of 35 EC ‘Special Committees’ (whose members include key stakeholders) which scrutinise EC proposals from the ‘upstream’ proposal stage through to transposition (see Reporters Report).

<sup>vi</sup> [http://www.parliament.uk/parliamentary\\_committees/environment\\_food\\_and\\_rural\\_affairs/efra\\_pn51\\_070712.cfm](http://www.parliament.uk/parliamentary_committees/environment_food_and_rural_affairs/efra_pn51_070712.cfm)

<sup>vii</sup> See [http://www.betterregulation.ie/upload/Regulating\\_Better\\_html/accountability.html](http://www.betterregulation.ie/upload/Regulating_Better_html/accountability.html)



# Beyond the CAP

**Towards a Sustainable Land Use Policy that works for Scotland**





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Scottish Environment LINK is calling for the development of a Sustainable Land Management Policy for Europe to replace the existing Common Agricultural Policy (CAP). This would have significant benefits for Scotland's land managers, the wider public, the Scottish economy and our precious environment. It would consist of:

- **Basic measures that could be carried out by any interested land manager;**
- **Higher level payments for management which requires more of a change in practice and delivers more in the way of public goods;**

- **Payments to support High Nature Value (HNV) farming and crofting, and other systems such as organic farming which deliver an integrated farming and environmental approach;**
- **Targeted payments to enhance the status of priority species, habitats and protected wildlife sites.**

The CAP is a major policy driver for land use across the European Union and we present here the case for transforming it into a European Sustainable Land Management Policy. This document lays out our vision for how CAP funding could,

in future, be retained for rural areas, help maintain land managers' livelihoods and provide significant public goods. The development of such a common policy will require all those with an interest in sustainable land management, including land managers and environmental groups, to work together. Now is the time for bold and imaginative thinking by all those with an interest in the forthcoming debate, and Scottish Environment LINK hopes that this document will be a valuable contribution to that process.



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## Summary

The CAP is out of date and in need of radical reform. While the European Commission's current 'Health Check' proposals are relatively minor, there is no doubt that the CAP is set for continued reform in future, as the EU budget is reviewed and subsidies need to become more compliant with World Trade Organisation (WTO) demands. Many are calling for direct subsidies to be removed over the course of the next EU financial period. It looks certain that public support for land management is set to change. What is less certain is the extent to which these funds can remain within farming in future, and how far calls to redistribute them beyond land management activities will be answered.

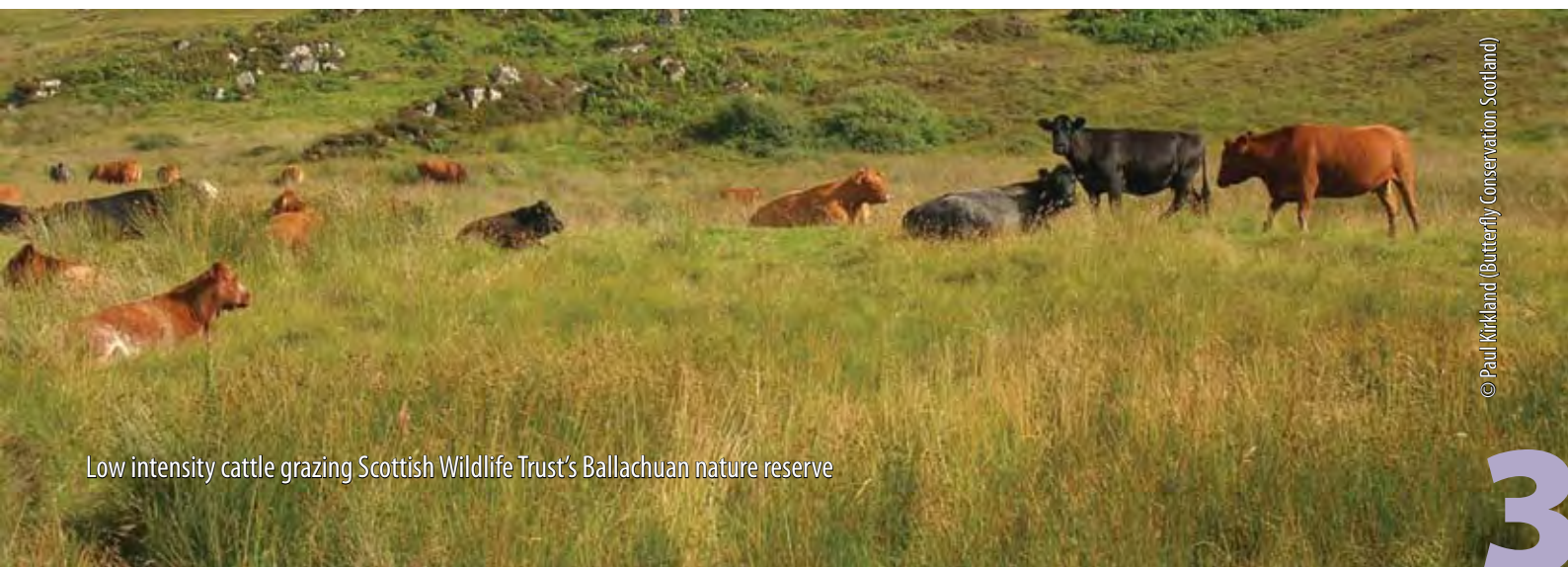
Scotland is hugely rich in natural capital but historically receives an extremely low allocation of agricultural funds. Scotland has one of the lowest land management subsidy rates in the whole of Europe, in relation to its farmed area. Retargeting funds so they are based on the provision of public goods would provide a reason to retain crucial funding within land management and would result in an increase in the European share of those funds for Scottish land managers.

## Introduction

The environmental challenges of the 21<sup>st</sup> century require a radical change in the way our land is managed. The European Union's environmental and agricultural policies need to become ever more closely integrated if they are to deliver the food and other commodities we require, the good quality environment on which both people and nature rely, and deal with the increasing threat posed by climate change. Scotland should be leading the way in Europe in identifying opportunities to reform and modernise the CAP and ensure the right policies and resources are put into place for the decades ahead.

Recently, some progress has been made in reforming the CAP. It has been decoupled from food production and its focus has widened to include delivering environmental outcomes. The establishment of a second "Rural Development" pillar for the CAP under Agenda 2000, and the decoupling of most direct commodity supports from 2005, have been major steps in the right direction. However, Pillar I of the CAP (at 40.9 billion Euros representing 74% of the CAP budget and over 30% of the EU budget as a whole) is now a fund without a clear policy objective. We believe the decoupled Single Farm Payment is an inefficient way to secure sustainable agriculture and land management and has minimal benefit to the environment and to rural communities. We are calling for a more radical re-orientation of land management policies to pay for the public goods that land management can and should provide. These include:

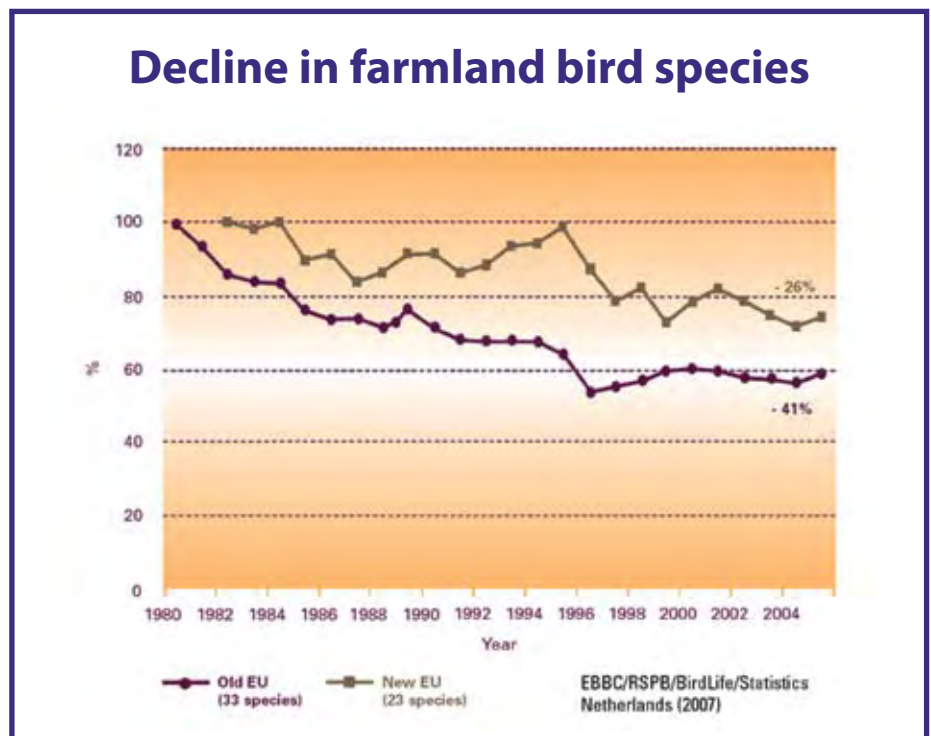
- ensuring priority habitats and species are effectively protected and enhanced throughout the wider countryside, at both the farm and landscape scale;
- securing the favourable condition of designated nature conservation sites and maintaining their value for future generations;
- effectively protecting and enhancing the historic environment, valued rural landscapes and native woodland and forestry;
- securing the long term continuance of High Nature Value farming systems that deliver biodiversity and landscape benefits;
- recognising and safeguarding the role soil and water resources play in providing vital ecosystem services and ensuring their sustainable management;
- helping reduce habitat fragmentation year on year;
- helping mitigate climate change through reducing greenhouse gas emissions from rural land uses;
- helping humans and other species adapt to the challenges arising from climate change;
- supporting sustainable rural communities;
- facilitating environmentally responsible public access to the countryside and enhancing the linkages between rural and urban society.



## The Challenges

The Agriculture Act 1947 and The Treaty of Rome in 1957 both sought to address the agricultural situation Europe faced after the Second World War when concerns over food supplies were dominant. The agricultural policies which followed were successful in helping the farming industry to increase output. However, this intensification of production has resulted in damaging consequences in many areas for the environment, and it has also come at considerable cost to the taxpayer.

The negative effects the CAP has had on the environment across Europe are well known. Water pollution, soil damage and greenhouse gas emissions are serious problems across the EU member states. The increase in artificial inputs, loss of field rotations, fallow and a general decrease in habitat heterogeneity has, for example, led to declines in farmland bird species across the EU. Farmland bird declines are common indicators of negative trends in wider biodiversity, and are reflective of the general environmental health of the farmed landscape. The focus of agricultural payments on the more productive types of farming, has also contributed to the abandonment of land which was managed using some of Europe's more "marginal" farming systems and likely to be of greater biodiversity value. There are serious concerns that the biodiversity losses seen in the old member states are now being



reflected in the new. It looks extremely unlikely that Europe will meet the target to halt biodiversity decline by 2010.

The CAP has also been criticised for distorting trade and disadvantaging farmers in developing countries. The west heavily subsidises agriculture which means that it is harder for others to compete on the world market. Figures from the Organisation for Economic Cooperation and Development (OECD) show that support to farmers in OECD countries amounts to more than the GDP of the whole of Africa.<sup>1</sup> It has been calculated that in 2000 the average dairy cow in the EU received \$913 in subsidies, compared with annual aid which averaged \$8 per person in

Sub-Saharan Africa.<sup>2</sup>

We believe that a choice cannot be made between protecting the environment and producing food. For a sustainable food supply, production must be carried out in an environmentally benign manner. We know that we are causing long-term damage to the resources we rely on and cannot assume that technical fixes for these will be found in the future. The short-term thinking demonstrated by the unexpected negative consequences of the CAP must not be repeated as it is reformed and new policies should focus on the production of good quality food without the negative environmental effects which will eventually render the basic resources we need unusable.

## Scotland's unique environment

- Scotland's temperate climate supports internationally important populations of mosses, liverworts and lichens, including several endemic species;<sup>3</sup>
- Atlantic oakwoods are identified as habitat of high importance in the European Union's Habitats Directive and are restricted to Scotland, North England, France, Ireland and Spain;
- The biodiversity-rich machair is of global importance, being restricted to the north and west of Scotland and western Ireland;
- Heather moorlands, extensive only in the British Isles, are concentrated particularly Scotland where they are an important breeding or feeding habitat for 57 bird species, 12 of which are of European importance<sup>4</sup> as well as being of fundamental importance to rarer bumblebees;
- Peatland covers over half of Scotland and it is thought that 44% of UK terrestrial carbon contained in Scottish peatlands;
- Scotland has over one million hectares of blanket bog, approximately 10% of the world's coverage.<sup>5</sup> These store around 1 billion of the 2.7 billion tonnes of carbon stored in Scotland's soils;<sup>6</sup>
- Scotland is of European importance for Marsh Fritillary, the Chequered Skipper and Large Heath butterflies;
- Scotland has the entire British population of golden eagles (over 400 pairs). Red kites and white tailed eagles were successfully re-introduced and are known to bring in significant tourism revenues;
- Scotland is also an important wintering ground for wildfowl such as the world population of Svalbard barnacle geese (23,000) which winter in Solway;
- Scotland's clean fresh water resources are essential for public water supply as well as our world famous whisky industry and salmon and freshwater fisheries;
- Scotland's landscapes have been consistently recognised in tourism and other surveys as internationally important for their attractive scenery, distinctive history and culture;
- The value of access to the natural environment has been recognised particularly in relation to physical and mental health.

## What Scotland has to offer

Scotland's varied geology, climatic and meteorological influences, coastline and topography mean that it encompasses a range of landscapes and habitats and can support a diversity of fauna and flora. The value of these assets is difficult to measure, which means that they are often underestimated. As well as an intrinsic worth and a place in our culture and national psyche, Scotland's natural and historic environment is a valuable source of income from tourism and as an image is used extensively by the food and drink industry to promote Scottish products.

75% of Scotland's land area is farmed, and a further 17% forested. Farming and other rural land management activities have created the landscape and wildlife

we all enjoy today, and have the potential to change them in future, either positively or negatively. Tied to that, rural land management also has the potential to damage or maintain and improve Scotland's reputation as a green tourist destination and producer of quality food and drink.

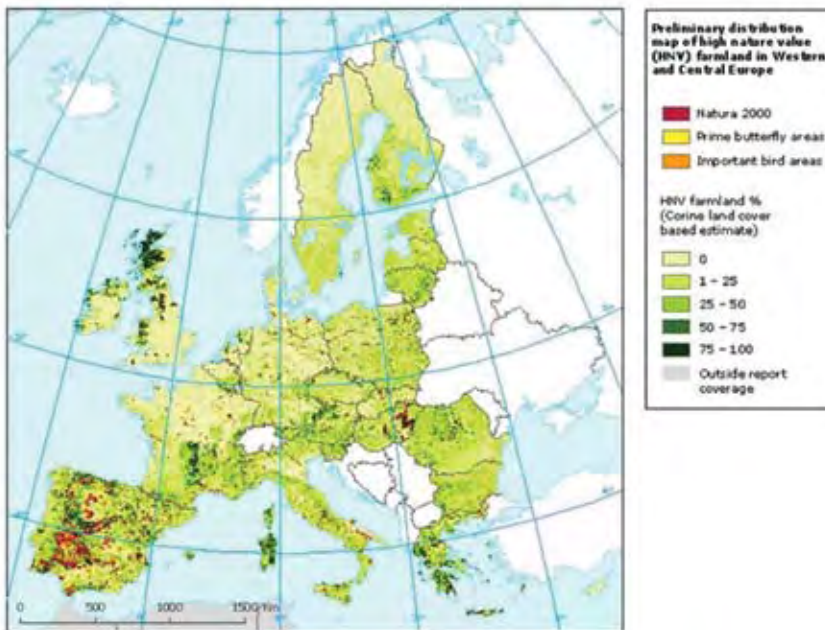
High Nature Value (HNV) farming is a term defining farming systems which are inherently good for biodiversity and landscape. The protection of HNV is one of the aims of the current Rural Development Regulation and the Scottish Rural Development Plan. An ongoing European Commission mapping exercise gives some indication of where most HNV farmed land is located (see Map 1). Compared with other EU countries, Scotland has a very high percentage of land likely to be of high nature value.



© Chris Gomersall (rspb-images.com)

HNV farmland in Scotland. Over two thirds of the world's machair is found in the north and west of Scotland. It owes its continued existence to extensive crofting agricultural management systems, notably cattle systems. Extensive grazing and cropping for winter cattle fodder are essential elements of the habitat and serve to support its wildlife.

### Map 1 HNV farmland in Europe



EEA (2007) Europe's Environment, The fourth assessment, Report European Environment Agency



© Tom Marshall (ispb-images.com)

The corn bunting is a high priority species under the UK Biodiversity Action Plan (BAP) and a Red List species of high conservation concern. In Scotland, this once widespread farmland bird now has a national population of between 800 and 1000 singing males. Loss of set-aside is likely to further impact on remaining corn bunting populations particularly in Fife and Tayside.



© Andy Hay (ispb-images.com)

Loss of field boundaries impacts on a wide range of farmland species.



© Ben Hall (ispb-images.com)

By allowing land to flood more naturally, farmers and land managers can make a real difference and reduce the risk of flooding to communities downstream.

## The CAP doesn't work for the Scottish Environment...

As with the rest of Europe, the negative environmental effects driven by the CAP in Scotland are well known. Reduced field boundaries; decreasing crop diversity and higher levels of fertiliser and pesticide use have led to habitat loss at the farm and landscape scale. At the other end of the scale, abandonment in more marginal areas has led to loss of the extensive management systems that benefited many of Scotland's farmland species most.

Farmland birds are a key indicator of this trend towards intensification in some areas and loss of active management in others. Monitoring in Scotland has not been good enough to give a long-term picture, however losses are illustrated by comparing the percentage decline in ranges for particular species from 1968-72 and 1988-91 Breeding Bird Atlases such as grey partridge (-25%); tree sparrow (-30%); barn owl (-34%); corn bunting (-60%) and corncrake (-65%).<sup>7</sup> In the UK as a whole, there was a 45% decrease in the farmland bird indicator (an average of the population trends of 19 lowland farmland species) between 1970 and 2006<sup>8</sup>

The diversity and value of Scotland's landscapes depend on the protection of interesting features. Recently published data from England<sup>9</sup> show that 19% of nationally important monuments were identified as at risk from agriculture (mainly ploughing and erosion by stock). Monitoring has been less thorough in

Scotland, but is thought that equivalent levels of attrition are likely.<sup>10</sup> A 2005 survey<sup>11</sup> recorded that there were 1,858 scheduled monuments in Scotland on arable land and a further 2,630 on improved grassland. The monuments on arable land totalled only 0.6% of the total arable area and yet remain inadequately protected from damage by ploughing and erosion under the existing Class Consents permitted under the 1979 Ancient Monuments and Archaeological Areas Act.

Diffuse pollution is the largest source of pollution to Scotland's aqueous environment and is likely to be the main obstacle in the way of meeting Water Framework Directive objectives by 2015.<sup>12</sup> Although Scottish waters are generally in good condition, around 2025km of river; 143 km<sup>2</sup> of loch; 177km<sup>2</sup> of estuaries; 973km of coastal waters and almost 17,000 km<sup>2</sup> of ground water are classified as being in poor or seriously polluted condition.<sup>13</sup> High levels of agricultural pollution can cause health problems for humans; however, lower levels may impact on biodiversity and damage ecosystems.<sup>14</sup>

There has been less research carried out into the state of Scotland's soils but there is some evidence of problems such as loss of organic matter, damage to peatlands, erosion, loss of soil biodiversity, structural degradation, destruction of archaeological and palaeosols, compaction and sealing.<sup>15</sup> Good agricultural practice can address some of these problems.

Soil management is very important for regulating greenhouse gas emissions particularly for carbon dioxide. The

agricultural sector also emits large quantities of nitrous oxides (largely from fertiliser use) and methane (largely ruminant livestock) as well as being heavy fuel and energy users. The recent report of the Scottish Government's Agriculture and Climate Change working group<sup>16</sup> identified the problems in working out agriculture's greenhouse gas emissions. The sum of emissions from various agricultural activities from the "national inventory" makes up around 25% of Scotland's total emissions.

This section has concentrated on the negative environmental effects driven by the CAP. Knowledge of the environmental effects of CAP reform in Scotland is not as good as it might be, particularly when compared with England where the Agricultural Change and Environment Observatory Programme provides information on the interactions between agricultural policy and the environment. The "State of the Farmed Environment"<sup>17</sup> was produced by LINK in 2005 to provide an overview of the environmental condition of farmed land, analyse change and suggest likely future directions given current policies.

In order to ensure that future funding to land management is achieving its purposes, however, thorough ongoing monitoring is essential. We call on Scottish Government to create a central repository of information on the environmental impacts of CAP-related changes to land management as a matter of urgency, especially in light of recent drastic declines in livestock numbers in some part of the country.<sup>18</sup>

Although monitoring needs to be improved, some aspects of recent reforms of the CAP, such as the increase in funds for rural development, are proving to be beneficial for the environment. Scottish land managers have a good level of environmental awareness and are often keen to incorporate environmentally beneficial practices into their management.

Farmers in Scotland have recently started to reduce levels of artificial inputs. For example, nitrogen application rates have decreased from 127kg/ha on all grass and crops in 2001 to 90kg/ha in 2007<sup>19</sup> and the Voluntary Initiative<sup>20</sup> was established to encourage farmers to use pesticides more sustainably.

Farmers and crofters have also shown increasing enthusiasm for agri-environment schemes. Indeed, demand for the Rural Stewardship Scheme in its final year of operation was so high in relation to available funding that only 22% of applicants were successful.<sup>21</sup>

Agri-environment schemes have proved effective where they are well targeted and advice is provided to land managers. For example, corncrake numbers have recovered from a low of fewer than 500 in 1993 to well over 1,200 in 2007 thanks to farmers and crofters working together with the Government and conservation organisations. Further reform of the CAP including greater levels of funding to rural development would assist land managers who are keen to farm in a more environmentally sustainable way but currently do not have the resources to do so.



© Paul Kirkland (Butterfly Conservation Scotland)

Argyll is of European importance for the Marsh Fritillary butterfly, which is dependent on the continuation of extensive grazing of unimproved grasslands and moorlands.



© Andy Hay (rspb-images.com)

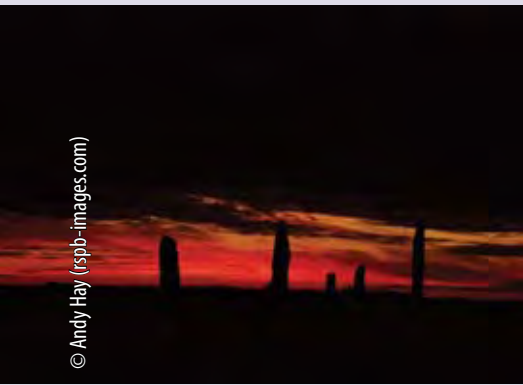
Loch Leven was once the finest trout fishery in Scotland. It is designated a Ramsar site, an Special Protection Area and a National Nature Reserve. The loch suffers nutrient enrichment from a variety of sources. These initially included sewage treatment works, a woollen mill and agricultural run-off. Considerable efforts have been made to reduce the nutrients imbalance that has caused the decline in water quality.



© Andy Hay (rspb-images.com)

Many of Scotland's peatlands are in poor condition. Over the twentieth century, inappropriate planting of non-native conifers has been a problem. It is important that new forestry is appropriately situated.





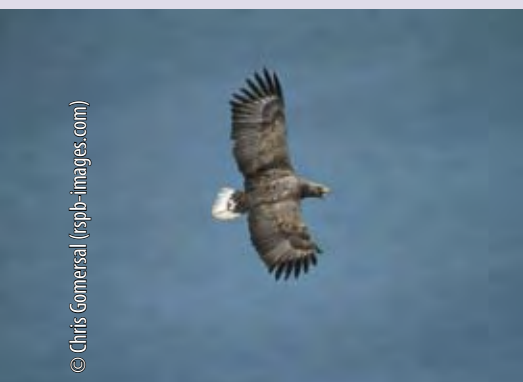
© Andy Hay (rspb-images.com)

The Ring of Brodgar is the finest known truly circular late Neolithic or early Bronze Age stone ring and is part of the area known as the Heart of Neolithic Orkney which was designated a UNESCO World Heritage Site in 1999. The area around is also managed as a reserve by the RSPB and is important for waders, wildfowl and great yellow bumblebee.



© Ramblers' Association

Walkers at Channel Farm, Loch Leven, Kinross. A welcoming countryside can improve the quality of life for both rural and urban Scots.



© Chris Comerford (rspb-images.com)

It has been calculated that white-tailed sea eagles generate revenue of £1.4-1.6m and sustain between 36-42 local FTE jobs<sup>31</sup> on Mull alone.

## The CAP doesn't work for the Scottish public...

### ...in terms of money

The CAP is entirely funded by the European tax-paying public. Each British family of four pays around £20 per month<sup>22</sup> towards it. On top of this, the public pays, through taxes, for the environmentally damaging externalities of some farming practices, such as treatment of drinking water.<sup>23</sup> In 1996, the total external cost of UK agriculture was £2,343 million arising largely from contamination of drinking water, damage to ecosystems, gaseous emissions, soil erosion, soil organic carbon losses and food safety matters.<sup>24</sup> Given the amounts of public funding going towards the CAP, it should address the issues seen as important by the public. An EU wide survey<sup>25</sup> showed that alongside ensuring supplies of reasonably priced food, a third of European citizens believed that "promoting respect for the environment" was an important function of the CAP. A majority were in favour of CAP reform.

Evaluating the economic worth of ecosystem services is not easy; however several high profile studies have attempted to demonstrate the effects of inaction on particular environmental issues. The Stern review<sup>26</sup> estimated that without action the overall costs and risks of climate change would be equivalent to losing between 5 and 20% of global GDP each year, now and forever. In contrast, the cost of reducing greenhouse gas emissions, to avoid the worst impacts of climate change can be limited to around 1% of global GDP per year. As part of the work of the parties to the Convention on Biological Diversity, research was commissioned into the economic losses that would result from following a 'business as usual' approach to biodiversity loss. It was estimated that at our current rate of biodiversity loss, we lose ecosystem services every year that would be worth 50bn€ per year that year and for ever. If this rate of loss continues until 2050, the opportunity

cost lost from not preserving biodiversity from the year 2000, would amount to \$14 trillion.<sup>27</sup>

In Scotland, there have been a number of attempts to calculate the economic value of our natural and historic heritage. Scottish Natural Heritage will shortly launch an assessment of the economic impact of Scotland's natural environment which demonstrates that it generates billions of pounds for the Scottish economy every year. In rural areas, the natural environment is a key source of income generation both through funding to preserve it and marketing based on its intrinsic worth. Many employment activities have been classed as dependent on the natural environment.<sup>28</sup> These include jobs directly related to environmental protection; jobs extracting services from the environment such as farming, fishing and mining and jobs reliant on a good quality environment such as tourism, food and drink marketing. It is thought that these last indirectly "reliant" activities are most likely to generate income from outside for rural areas.

An SNH study<sup>29</sup> attempted a calculation of the tourism benefits countryside that is perceived as "wild land" can provide to the economy. It suggests that wild land accounted for up to 19.9 million day visits in the HIE area in 2003, with associated expenditure of £411-£751 million supporting up to 20,600 full time equivalent jobs. There have also been studies which demonstrate that individual natural attractions, such as sea eagles on Mull, can generate large amounts of income for rural areas. The historic environment is also of key importance to tourism. A VisitScotland survey in 2005 recorded that 16.4 million visits were made to historic attractions and a survey by visitor attraction operators in 2006 suggests 35% of these visits were from overseas. Clearly not all of these were in rural situations but many of them such as the Castles of Aberdeenshire, Culloden Battlefield or Glencoe depend on attractive landscapes to tell their story.<sup>30</sup>

## ...in terms of culture

There is strong public support for action on environmental issues. According to a recent survey,<sup>32</sup> the loss of national biodiversity is seen as a serious problem by 88% of those surveyed and most also believe it will effect us economically. 90% of respondents believe that we have a moral responsibility to act as guardians of nature. The rural environment in Scotland is clearly valued by those living in rural areas, as demonstrated by the fact that most believe they have a better quality of life than people in towns.<sup>33</sup> Research<sup>34</sup> has also indicated that businesses relocate to rural areas because of the good quality environment available. Rural areas have been particularly important for Scotland's cultural development as reflected by the outputs of many of our poets, writers and musicians.

## ...in terms of health

It is increasingly recognised that access to the countryside whether in peri-urban or remote areas has a considerable impact on the well-being of both individuals and communities. However, it has also been demonstrated that those living in rural areas are also less likely to walk as a mode of transport<sup>35</sup> and often do not have access to paths or cycle routes connecting local populations. The Land Reform Act 2003 has increased opportunities for public access to the countryside. This, however, requires sustained funding to maintain access routes through the core path network and local ranger services to facilitate this access.



Bird watching attracts visitors from all over the world to Scotland and brings additional revenues to rural areas.



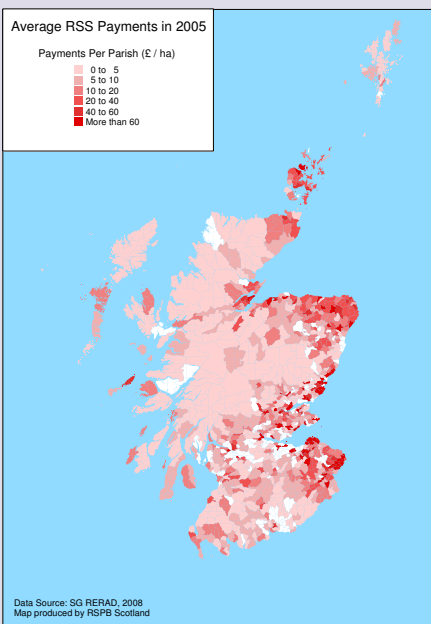
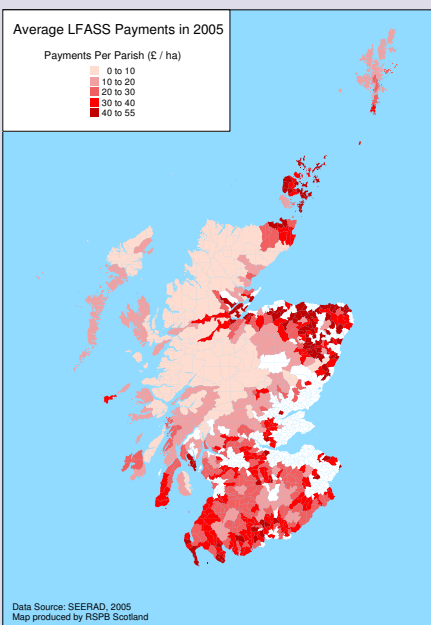
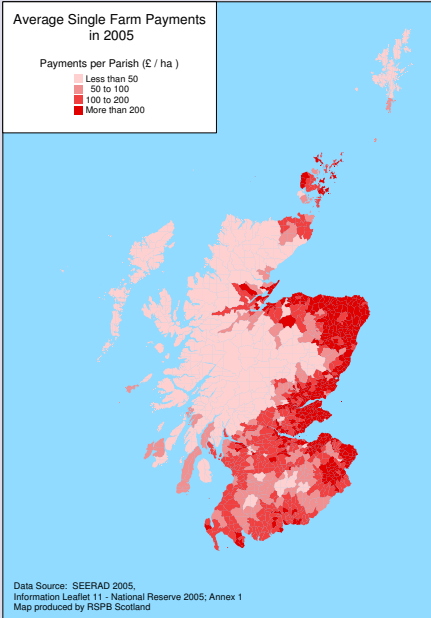
It is important that young people are brought up with an awareness of the environment and wildlife and that schools take pupils out in rural areas and on farms.

***This is my country  
The land that begat me.  
These windy spaces  
Are surely my own.  
And those who here toil  
In the sweat of their faces  
Are flesh of my flesh  
And bone of my bone.***

From *Scotland* by Sir Alexander Gray



The rural population is declining in the remotest areas of Scotland whereas in other rural areas it is rising as people are attracted to the lifestyle.



## The CAP doesn't work for Scotland's land managers...

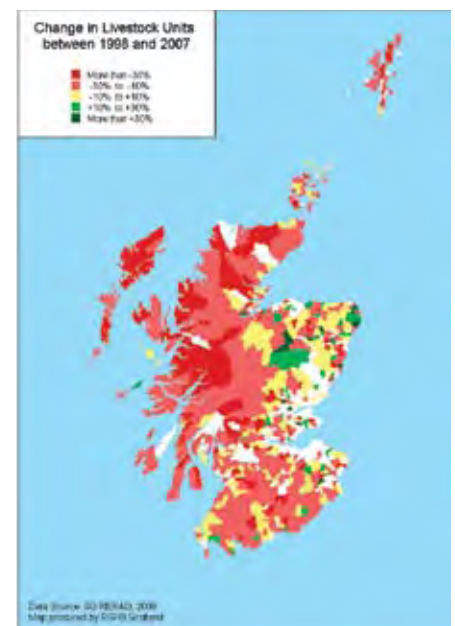
One of the principal defences of the current CAP is that it maintains farmers' and crofters' incomes and the economic health of the sector, yet the number of people working in agriculture has been in continual decline since the CAP was introduced.<sup>36</sup> Agricultural subsidies are also an inefficient way of supporting land managers. The OECD has concluded that most of the money ultimately goes to larger players (input suppliers, landowners) in the agricultural industry. As little as 25% of public money spent on market support instruments stays with the farmer or crofter.<sup>37</sup>

The way in which subsidies are distributed within Scotland is unfair and outdated and does not support those land managers who are delivering the most for society or the environment. The maps on this page show how agricultural subsidies across Scotland are distributed. By far the largest Single Farm Payments go to the historically more productive east of the country. More surprising is the distribution of the Less Favoured Area support payments which are also biased towards more productive regions despite the purpose of the scheme being to compensate for the disadvantage of farming less productive land. Distribution of agri-environment funding through the Rural Stewardship Scheme paints a similar picture, with most funding claimed on the east side of the country. Comparison of these maps with the distribution of HNV farmland in Scotland, demonstrates how inadequate our current payment systems are in recognising and rewarding land management systems and practices that are environmentally beneficial.

These outdated modes of distributing subsidies, have had a direct effect on livestock producers. In Scotland, cattle numbers fell by around 8% between 1995

and 2007 and the number of holdings has declined by 24%, suggesting an intensification of farming in the remaining holdings. Sheep numbers have dropped even more dramatically (21%) while holdings have fallen by 22%.<sup>38</sup> Scottish Agricultural College (SAC) has carried out detailed analysis of livestock declines<sup>39</sup> and point out that these vary across Scotland, for example, sheep numbers have declined most in the Highlands and Islands and South West. Cattle declines are most marked in the Highlands and Islands, South West and Eastern Scotland.

According to SAC and RSPB's own analysis, there is also considerable sub-regional variation (see map below). Rising input costs, which for livestock producers are not balanced by increased returns, mean that they are doubly penalised – both by market returns and an outdated subsidy system that rewards historic production and not the quality of public goods produced. There may be some cases where lower stocking rates or destocking can have environmentally beneficial effects, particularly if stocking rates were high before; however, some habitats, species and landscape features rely on continued grazing and we are extremely concerned by this unplanned loss of livestock from the hills.



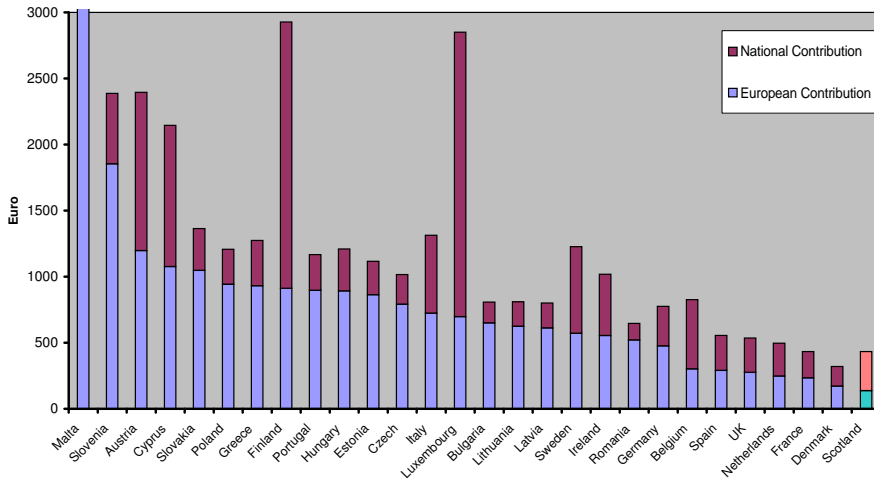
# The CAP doesn't work for Scotland...

As demonstrated on page 4, Scotland is extraordinarily rich in natural and cultural capital. However, we are particularly poorly served by the way in which CAP funding is currently distributed across Europe. If the average payment per hectare of farmed land is calculated, Scotland receives the lowest rural development funding contribution from Europe of any EU country (see graph 1). Even when national contribution to the Scottish Rural Development Programme (70% of the total

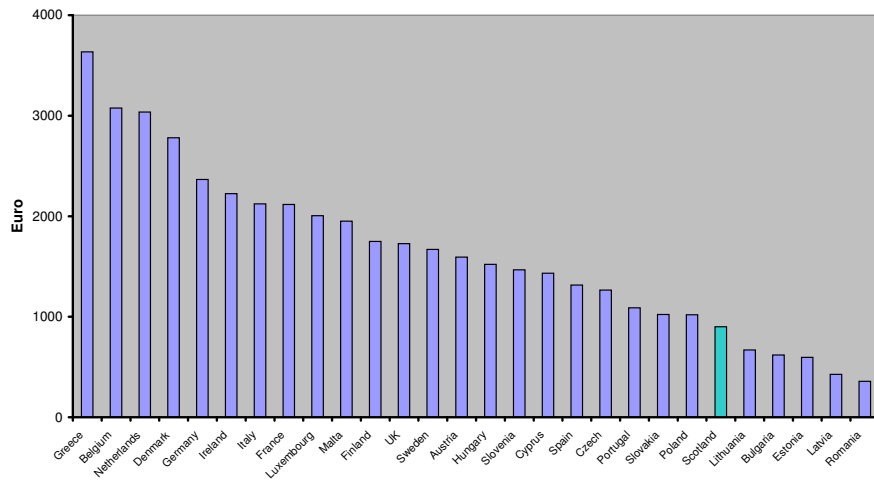
funding) is taken into account, Scotland has the third worst funded rural development programme for its area of farmed land.

Scotland also does badly out of direct Pillar 1 funding (the Single Farm Payment) (see graph 2). The new member states generally have lower Single Payment Schemes, since they did not receive the earlier agricultural subsidies tied to production. However, Scotland still has the sixth lowest amount of funding per hectare of farmed land out of the 27 member states. If we look at the EU-15 (the older members), Scotland receives by far the lowest amount of funding.

### Graph 1 Rural Development Payments per ha farmed land



### Graph 2 Direct Payments per ha farmed land



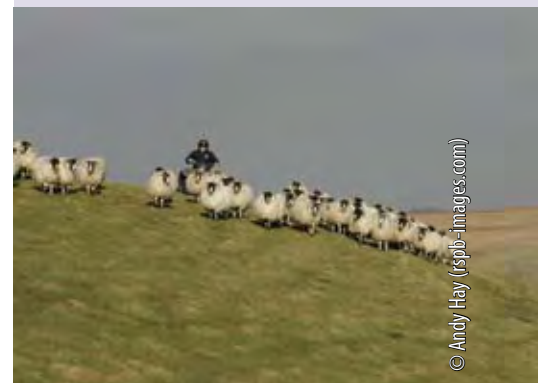
© Andy Hay (rspb-images.com)

Caledonian Scots pine now covers roughly 1% of its original distribution in Scotland. It is limited to the Northwest of the country.



© Jane Begg (Woodland Trust Picture Library)

By reducing the stocking density, using particular animal husbandry methods, and managing deer, the Woodland Trust Scotland encourage natural regeneration of woodland pasture and help to protect and buffer existing ancient woodland.



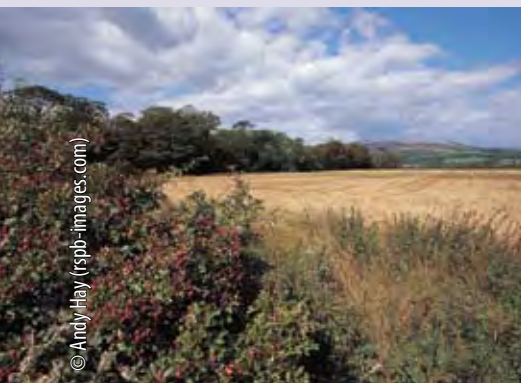
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Sheep numbers are currently declining fast across Scotland. In some cases, this may have negative effects on biodiversity.



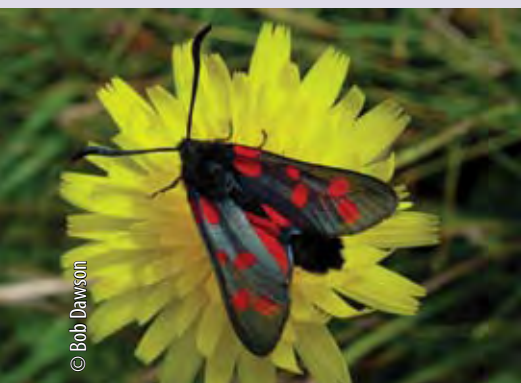
© Andy Hay (rspb-images.com)

The chough has a range limited to small areas on the west coast in the UK. It needs a habitat of short grazed grass and its diet includes insects that live in cattle dung.



© Andy Hay (rspb-images.com)

Berries in hedgerows provide important food sources for birds and mammals.



© Bob Dawson

The six-spot burnet is a day flying moth whose larvae feed on bird's-foot trefoil. It lives in grazed, extensively managed meadows and open woodland.

## A new European Sustainable Land Management Policy

The CAP has supported the production of food in Europe for almost 50 years. However, the high environmental and economic costs of the CAP make a radical change of direction increasingly necessary to ensure the production of food for domestic and export markets continues, but within an improved context of environmental sustainability. Currently, by far the greatest proportion of CAP funding (74%) is allocated through Pillar 1 with cross compliance providing a safeguard against environmental deterioration. A much smaller budget is available for those whose farming contributes to environmental maintenance or management undertaken through agri-environment schemes. This budget is likely to be insufficient to meet the aim to halt biodiversity loss by 2010. In Scotland, it is thought that there is an annual funding gap of at least £43m to meeting our UK Biodiversity Action Plan targets.<sup>40</sup>

Now that subsidy payments are decoupled, and farmers free to produce according to the demands of the market, policy intervention should be directed towards the provision of public goods through targeted agri-environment measures and those that address problems across the wider countryside. Agricultural systems that inherently benefit the environment

should also receive support even where this does not involve a significant change in management practice. For successful delivery of public goods, their value needs to be assessed and recognised. It is important that payment structures are both robust and flexible enough to be applied across a broad range of agricultural activities.

While we support the abolition of direct subsidies, delivering the public goods society needs and expects from sustainable land management has a value. Realising this value will come at a cost and therefore we do not necessarily envisage a direct saving on the current EU CAP budget, although there will be economic benefits from reform – both direct (greater levels of funding to Scotland) and indirect (a better quality environment).

Without subsidies of any kind, many of the systems that deliver most in the way of important habitats and species, and culturally significant landscapes could become unprofitable. A European Sustainable Land Management Policy could provide a mechanism, within the international trading system, that offers sufficient incentives to ensure these environmentally important activities can continue. The only way to retain funding for land management in the long run will be by diverting funds away from direct payments which have no policy purpose, into funding specifically designed to deliver public goods. In the absence of this mechanism, land management subsidies may be lost entirely.

## How Scotland could benefit

Redistributing European funding based on the provision of public goods could allow greatly increased levels of funding to come to Scotland, which would be a net 'winner' from changes to the CAP funding pot in Europe. Hundreds of millions pounds a year could be brought into the Scottish economy if funds were divided on the basis of the environmental goods a country's land management delivered.

Scotland is currently in the enviable position within Europe of having enough of our natural heritage and natural resources left to allow us to become environmental leaders. If our agricultural subsidies are well directed, Scottish land managers will not only have access to greater levels of funding but would also have more choice about their farming methods and could extensively farm in some areas while continuing highly productive farming for market rewards in others.

The Scottish public would gain, both from increased levels of funding but also by the decrease in environmental problems that would result from agricultural subsidies being better directed to solving them. While the Scottish taxpayer would fund the CAP only to the existing extent, we could expect very much better returns in terms of public good provision as well as paying less to clean up environmental problems at the end of the pipe.

In addition to the economic benefits that would result from reforming the CAP in Scotland, we could also:

- **ensure priority habitats and species such as machair, corn bunting and corncrake are effectively protected and enhanced throughout the wider**

**countryside, at both the farm and landscape scale;**

- **secure the favourable condition of our Special Areas of Conservation, Special Protection Areas and Sites of Special Scientific Interest and maintain their value for future generations;**
- **effectively protect and enhance the historic environment, valued rural landscapes and Scotland's native woodland resource including native atlantic oakwoods ;**
- **secure the long term continuance of Scotland's High Nature Value farming and crofting systems that deliver biodiversity and landscape benefits;**
- **recognise and safeguard the role soil and water resources play in providing vital ecosystem services and ensuring their sustainable management;**
- **help reduce habitat fragmentation year on year through contributing to the delivery of a National Habitat Network for Scotland;**
- **help mitigate climate change by enabling Scotland's rural land use sector to lead the world in reducing its greenhouse gas emissions;**
- **help people and other species adapt to the challenges arising from climate change;**
- **support sustainable rural communities;**
- **facilitate environmentally responsible public access to the countryside and enhance the linkages between rural and urban society.**



© David Coulson (Bumble Bee Conservation Trust)

The great yellow bumblebee has its last UK refuge in parts of the north and west of Scotland, and is heavily reliant on the continuation of traditional crofting practices on the machair. Together with species such as corncrake it embodies the biodiversity value of this form of High Nature Value farming.



© Jon Wold

Rhagonycha fulva is a Soldier beetle commonly seen in June and July on flower heads such as cow parsley. Well managed field margins can help provide suitable habitat



© Andy Hay (ispb-images.com)

Irises provide useful cover for corncrakes. Farmers and crofters are funded through agri-environment schemes to establish iris beds for corncrake management.

## How do we get there?

In order to ensure that Scotland's rural areas and the Scottish public benefit as they can from CAP reform, Scotland should be at the forefront of calling for radical reform beyond the Health Check and beyond the pillars of the CAP. Since there will need to be some redistribution of funding amongst recipients, total reform should not happen immediately. Changes can be made now, however, to move us along this path and maximise opportunities presented, including those encompassed by the Health Check and Less Favoured Areas (LFA) reform.

### Action can be taken now

Scottish Environment LINK calls for the following immediate reforms:

1. Move towards an area basis for payment of direct subsidies. The historic basis for the SFP has become irrelevant, as we have moved so far from the reference period (2000-2002). This will have the effect of re-distributing funding to the less commodity productive north and west, areas which have the potential for delivering multiple public goods;
2. Ensure that cross compliance is properly implemented and is equipped to address the challenges presented by diffuse pollution, climate change and biodiversity loss;
3. Introduce new measures through cross compliance and Rural Development Contracts to mitigate for the loss of the environmental functions of set-aside and the access it provided for walkers;
4. Modulate funds away from pillar 1 into pillar 2 to allow more access to rural development funding;
5. Increase support to HNV farming systems through a new national envelope better targeted for this purpose;
6. Reform LFA support to include meaningful eligibility criteria which target payments better towards HNV areas.

### Development and research are needed

The Scottish Government should simultaneously begin work on what is wanted and needed as part of a wider range of reforms. This could include:

1. Improving the monitoring of the environmental impacts of land use change in Scotland;
2. Gathering evidence on what the Scottish taxpayer wants to see to justify public spend;
3. Ensuring we have ways of valuing public environmental and social goods that make sense for Scotland;
4. Developing a definition of HNV farming that suits Scotland and an understanding of the types of system that deliver HNV outcomes;
5. Developing and delivering an integrated land use policy for Scotland including a national debate on 'land use futures' together with a sustainable food policy;
6. Reinstating or creating of a vibrant Scottish food culture through, information, education and debate.

### Scotland must take a lead in shaping reform

Scotland should start taking a lead in moving towards a sustainable land use policy, and use this to influence future CAP reforms and EU budget discussions. This would include:

1. Baseline regulatory standards which prevent environmental damage and apply to all land managers regardless of whether they receive subsidies or not;
2. Basic measures which can be carried out across all farmland;
3. Payments for maintaining HNV farming systems even where this does not require a change in practice but the continuation of current practice which might not be economically viable without support;
4. Payments for farming systems which deliver an integrated farming and environmental approach, such as organic farming;
5. Higher payments directed towards changes in practice which will deliver improvements of the environment;
6. Targeted payments to enhance the status of priority species, habitats and protected wildlife sites to meet regional, national, European and international biodiversity targets.



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