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National report – Rapport national – Nationaler Bericht  
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**L'AGRICULTURE ET LES EXIGENCES DU  
DÉVELOPPEMENT DURABLE – AGRICULTURE AND THE  
REQUIREMENTS OF A SUSTAINABLE DEVELOPMENT – DIE  
LANDWIRTSCHAFT UND DIE ANFORDERUNGEN AN DEREN  
NACHHALTIGE ENTWICKLUNG**

**Sonya Bedford and Nerys Llewelyn Jones**

## **1. In which way does the concept of the sustainable development reflect itself in your country's legislation?**

The first appearance of the words 'sustainable development' in a UK statute was in the Environment Act 1995 which created the Environment Agency<sup>1</sup>. The UK's initial approach to sustainable development was largely non-legislative, however since 1991 there have been 16 statutes which refer to sustainable development.

In the UK, sustainable development may appear as a purpose for a particular agency or for the regime as a whole. More often, it is used to impose a duty on a particular body or group of public bodies.

In the UK, four key areas of sustainable development have been identified:

- sustainable consumption and production: changing the way products and services are designed, produced, used and disposed of – in short, achieving more with less
- climate change and energy – reducing greenhouse gas emissions in the UK and worldwide, whilst at the same time preparing for the climate change that can't be avoided
- natural resources – understanding the limits of the natural resources that sustain life, such as water, air and soil
- sustainable communities – looking after the places where people live and work by, for example, developing green, open spaces and building energy-efficient homes

An example of the legislation with regard to sustainable development is the Sustainable Energy Act 2003 and The Environmentally Sensitive Areas Scheme which was introduced in 1987 to offer incentives to encourage farmers to adopt agricultural practices which would safeguard and enhance parts of the country of particularly high landscape, wildlife or historic value. The scheme has now closed to new applicants and has been superseded by the Environmental Stewardship scheme.

None of the provisions establish sustainable development as a 'legal principle' and it has not achieved the status of an enforceable legal principle. However it does appear in a variety of legal forms including: duties, objectives and procedural requirements. There appears to be no hierarchy between these different forms.

### **1.1 . Which are the legislative levels of such regulations: constitution, act, other ways of regulation?**

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<sup>1</sup> Environment Act 1995, s.4(1), defining the principal aim and objectives of the Environment Agency.

Sustainable development has been utilised as a policy tool and has been a key policy objective in planning systems e.g. Planning Policy Statement 1 (PPS1) sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system. Some of the provisions relating to sustainable development are purely symbolic, some are simply material considerations to be taken into account in the decision, some could possibly create a legal rule dictating how a decision is to be made and others create a mandatory procedural requirement.

There are 6 statutes where sustainable development appears either as an overall aim of the particular public body or of the regime as a whole.

Sustainable development appears most commonly as a duty on a particular agency or Minister to act in a certain way. These provisions all vary enormously but all use mandatory language whereby the public body must at least direct its mind in some way to the concept. However, the provisions vary in intensity.

Guidance, regulations and directions are all forms of administrative rules. These rules are important tools both for confining discretionary power and for structuring it. Regulations can be used to ensure reporting obligations are publicised, monitored and reviewed. Directions are binding on those to whom they are directed. Directions apply over and above any guidance provided.

Statutes also provide for Ministers or public bodies to produce a strategy, scheme, plan or report on sustainable development. These provisions can be easily enforced and complied with since the report is either produced on time, in the specified form, containing the correct content and using the correct procedures in the correct way or it is not. A failure to comply with a statutory procedure can be grounds for judicial review (Judicial Review being review by a court of law, of actions of a government official or entity or of some other legally appointed person or body or the review by an appellate court of the decision of a trial court) which is slow, costly and not an effective means of enforcement, but it is a mechanism whereby the Court may overturn an administrative decision or remit the matter to the administrative body for further consideration on that ground.

Planning Policy Statements are prepared by the Government after public consultation to explain statutory provisions and provide guidance to local authorities and others on planning policy and the operation of the planning system.

From a Welsh perspective under section 121 of the Government of Wales Act 1998, the National Assembly for Wales (NAW) must consider sustainable development when developing policy and scrutinising legislation and, therefore, must have a strong focus on sustainable

development when considering the implementation of the CAP in Wales. In an analysis of the NAW's use of the term sustainable development it was stated that its usage is 'widespread,'<sup>2</sup> however, this report also concludes that 'there will be much greater expectation of the NAW and attention will increasingly focus on what it has achieved.'<sup>3</sup> It is important to be able to identify which legal measures have sustainable development as their objective and that there is a comprehensive and targeted way of analysing whether or not the sustainable development objective is achieved in practice.

Wales is just one of three countries in the world who have built this commitment to sustainable development into their Constitution and, therefore, it could be regarded that Wales is at the forefront of global thinking in terms of sustainable development. This is also confirmed by their membership of the Regional Government Network, formed at the World Summit on Sustainable Development in Johannesburg in September 2002.<sup>4</sup>

Under section 121 of the Government of Wales Act 1998, the NAW has a statutory duty to consider sustainable development and this statutory duty forms part of the Minister's responsibilities and the work carried out by committees that undertake detailed policy development and scrutiny work in this area. Also, the NAW is required to compile a scheme that explains how it will promote sustainable development in its everyday work.<sup>5</sup> A report assessing the effectiveness of its proposals to promote sustainable development must be published after each ordinary election of the WAG.<sup>6</sup>

The WAG published its second Sustainable Development Action Plan on October 11<sup>th</sup> 2004, in which Carwyn Jones states, reflecting the WAG's belief 'that Sustainable Development is the only process that will enable us to achieve the vision of a sustainable future.'<sup>7</sup> A consultation of stakeholders in the agricultural industry has recently been conducted and the first report of the, 'Sustainable Farming and Environment: Action

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<sup>2</sup> Flynn, A. (2003) *A Sustainable Development Agenda for the Second Term of the Welsh Assembly Government* Working Paper Series No. 10 (BRASS: Cardiff) at p. 3

<sup>3</sup> *ibid.*

<sup>4</sup> Y Tir (2003) *Carwyn Jones Travels to Australia and Puts Wales on Top Down Under* Issue 209 (October) at p. 18

<sup>5</sup> S121(1) Government of Wales Act 1998

<sup>6</sup> S121(7) Government of Wales Act 1998

<sup>7</sup> Jones, C. (2004) *Sustainable Development – Turning Good Intentions Into Action* Speech on 14.10.04 (Available at: [http://www.countryside.wales.gov.uk/fe\\_news/news\\_details.asp?NewsID=238](http://www.countryside.wales.gov.uk/fe_news/news_details.asp?NewsID=238) : Last visited 27/08/07)

Towards 2020 Task and Finish Group' was published in September 2007.<sup>8</sup> The aims of the Group were to project a vision for 2020 on sustainable farming and land use in Wales and to set out policy options for the WAG consistent with their conclusions.

The report recognises that, 'Farming plays a fundamental part in Welsh life, industry and culture.'<sup>9</sup> Its vision is to 'achieve a profitable, competitive and sustainable agriculture industry that is responsive to consumer demand, helps to sustain the environment of Wales and supports the maintenance of healthy, balanced rural communities.'<sup>10</sup> In order to achieve this vision, three key objectives are essential to sustainability; these are connecting to the market, delivering environmental goods and services and contributing to the sustainability of rural communities. The tools that have been identified to achieve these objectives are collaboration, local empowerment and innovation through rejuvenation. A scenario analysis approach was adopted to provide a focus for discussions by stakeholders.<sup>11</sup>

The recommendations of the working group are to reduce and simplify the regulatory burden on farmers, encourage collaborative marketing, improve differentiation and branding of Welsh food products, food chain integration, benchmarking, provide new production opportunities, productivity improvements, land management schemes should include an element of payment by results, introduce collaborative landscape scale schemes, restructure environmental designations and careful planning policies.<sup>12</sup> None of these recommendations are radical and seem to mirror the measures implemented under the Rural Development Regulation 2007-2013 and also the principles for implementation put forward by the Rural Development Regulation 2007-2013. These include the principle of collaboration and of adopting a participatory approach to policy implementation. One would have hoped that given that the working group was designed to provide policy options for sustainable farming until 2020 the recommendations put forward would have been innovative and provide for new policy suggestions.

Prior to this, the WAG published 'Farming for the Future'<sup>13</sup> which considers the importance of the sustainability of Welsh farming in Wales.

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<sup>8</sup> WAG (2007) Sustainable Farming and Environment: Action Towards 2020 Task and Finish Group (WAG: Cardiff)

<sup>9</sup> *ibid.*

<sup>10</sup> *ibid.*

<sup>11</sup> *ibid.*

<sup>12</sup> *ibid.*

<sup>13</sup> WAG (2001) *Farming for the Future* (WAG: Cardiff)

It is a long-term strategy and contains action points which the WAG and related non-governmental organisations are committed to deliver. Progress towards these action points are monitored against quantifiable indicators and the Farming Futures Advisory Group meets annually to review its progress. The quantifiable indicators are value-added in farming and related fee processing net of CAP subsidies, value-added per person employed in farming and related to food processing, total employment in farming and related food processing, amount of income which farming families derive from non-farming sources, proportion of land under agri-environment schemes or is of organic status, populations of farmland birds and populations of other key farmland species. The action points range from reform of CAP to animal health measures.

Mike German (member of the House of Lords and former member of the National Assembly for Wales ) said that

“Farming for the Future set out the WAG’s strategic long-term direction for a sustainable farming industry in Wales. We must re-shape the CAP in a way that provides meaningful support to enable our farmers to adapt to the challenges of the future. My priority is to get a CAP better for farmers, better for the environment and better for consumers, but overall to get the best deal for Wales.”<sup>14</sup>

### **1.2 . Does the realization take place by means of act, plan, administrative measures or by means of other mechanisms?**

Realization takes place by act therefore, but also by plan with sustainability and sustainable agriculture being part of the One Wales Strategy. It is important to stress however that the administration of the implementation and enforcement of agricultural law and policy in Wales is often carried out by other actors, e.g. Countryside Council for Wales (CCW) who have recently been integrated into the NAW and, it could be argued, that it makes it difficult to,

“separate out its responsibilities and actions from those of its partners and others charged with delivering sustainability. Perhaps a more important challenge for the NAW is how it can best ensure that its partners share its sustainable development agenda and that they deliver on its sustainability strategy.”<sup>15</sup>

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<sup>14</sup> Gwlad (2002) Debate begins as EU charts a new direction for farming 8 *Gwlad* 2

<sup>15</sup> Flynn, A. (2003) *A Sustainable Development Agenda for the Second Term of the Welsh Assembly Government* Working Paper Series No. 10 (BRASS: Cardiff) at p. 3

Despite this, actors such as the CCW clearly have expertise in the agricultural and environmental field.<sup>16</sup> In order to achieve an integrated approach, however, the actors involved need to also adopt integrative practices. Another important administrative actor in terms of implementation and enforcement of sustainable agriculture, as in England, is the Environment Agency.

Marsden emphasises the need for different rural regions to develop their own sustainability agenda<sup>17</sup> and, as such, this is the process of implementation and enforcement of the CAP that has been adopted in the UK, with the various regions being allowed flexibility as to how legal measures and policies should be adopted in each specific region.

The Welsh Assembly Government (WAG) also has a strategy with the aim of making farming more environmentally sustainable. This involves producing an Environmental Strategy and Environmental Opportunities Review (EOR) service, in which, Farming Connect provides farmers with a specific report of the environmental opportunities that exist for their farm. It aims to provide a more holistic approach to sustainable land management. However, given that it is one of many strategies it can be difficult to see its holistic benefit without clear integration within the other policies.

In terms of specific mechanisms available in Wales to encourage sustainable agriculture these are as follows:

Tir Mynydd – which will come to an end in 2012 (unless they decide to extend it again) – is a Less Favoured Area payment. One could argue that it does not provide much in the way of environmental sustainability and it has been criticised for not doing enough in terms of having specific environmental goals. Despite this, it does achieve on the economic and social sustainability counts. It provides additional income to farming families who live in areas which it would otherwise be difficult to farm and make a living.

Tir Cynnal and Tir Gofal in process of being phased out and replaced by Glastir – Glastir is designed to be a one scheme replacement for Tir Mynydd, Tir Cynnal, Tir Gofal and the Organic Farming Scheme. Its implementation has however been severely criticised and one could argue that this is because it tries to do too much in one go. It does not

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<sup>16</sup> Buller, H. (1998) Reflections Across the Channel: Britain, France and the Europeanisation of National Environmental Policy in Lowe, P. and Ward, S. (eds.) (1998) *British Environmental Policy in Europe* (Routledge: London) at pp. 78-80

<sup>17</sup> Marsden, T. (1999) Beyond Agriculture? Towards Sustainable Modernisation in Redclift, M.R., Lekakis, J.N. and Zantias, G.P. (eds.) (1999) *Agriculture and World Trade Liberalisation: Socio-Environmental Perspectives on the Common Agricultural Policy* (CAB International Publishing: Wallingford) at pp. 257-258

achieve on the economic sustainability count because the payments are low and are not commensurate with the effort and cost to be put in by the farmer. It does not consider social sustainability at all with none of the point scoring factors for the scheme being related to the number of people sustained by the business etc. It does deliver significant environmental benefits – but is that truly sustainable agriculture?

Young Entrant Support Scheme (YESS) – grant scheme where farmers under 40 years who become head of holding for the first time can claim 50% up to £15,000 for capital works to the farm, which in this scheme year can also include land improvement. Applications are supported by a business plan for the suggested expenditure. No expenditure can be to the detriment of the environment and all successful applications must prove they have completed Environmental Impact Assessment, Environment Agency permissions etc for any works which may require it. Provides encouragement for succession within farming businesses and an opportunity for the younger generation to gain more control over the day to day running of the farm.

**1.3. Which of the above measures (1.2.) do you consider most efficient?**

Sustainable development is appearing more often in UK legislation and has emerged in a variety of legal forms including as duties, objectives and procedural requirements. There appears to be no hierarchy between these different forms. However the more discretion a provision allows, the weaker the obligation becomes.

The most common provisions relating to sustainable development are duties. While the more recent provisions are clearer than their predecessors there is still no standard form of duty. The strength of the provisions vary enormously, but if structured to limit the scope of the provisions, subjecting it to qualifications or by requiring a reference to guidance or other monitoring devices a duty can be the most efficient way of achieving the aim of sustainable development. There are some duties where sustainable development is the primary duty but in most cases it is one of several duties or objectives. There is evidence in some statutes that the sustainable development duty could act as the mechanism for balancing other duties or objectives. In these cases, it could be interpreted as a legal rule and provide a much needed framework for decision making.

Farming Connect could be said to be an important implementing mechanism as it provides advice and support for farmers to develop and maintain sustainable agriculture practices, through education, training and financial support for farm business planning. It is thought that implementation has to be at a farmer level if sustainable agriculture is something farmers are going to engage with for the future i.e. bottom up

policy implementation with farmers being involved in the precise mechanisms that are developed.

See comments above on other schemes.

**1.4. The principle of sustainable development has no binding force. What measures can therefore be taken in order to ensure application and observation of the latter?**

None of the provisions establish sustainable development as a 'legal principle' and it has not achieved the status of an enforceable legal principle. The policies, ideals and objects which are sought under the principle of sustainable development may be mentioned in law, but are not meant to be binding. The provisions in many instances cannot in any formal sense be monitored or enforced, nor was there any legislative intent that they should be.

None of the substantive provisions are supported by criminal sanctions and only one includes a statutory appeal mechanism. Many provisions do not include obvious enforcement mechanisms but may still be effective from a more symbolic perspective, acting to educate inform and heighten awareness. A statutory provision may give rise to a moral or societal expectation (which is likely not legally enforceable) and a failure to act in accordance with it may result in criticism from a higher level of government, the media, interest groups, neighbours and the general public.

The sustainable development provisions may also be monitored and enforced pursuant to procedural requirements set out in statute itself. Adding some sort of procedural requirement to a duty substantially improves a provision's enforceability both inside and outside of court.

The principle of sustainable development application and observation could be better ensured if some of the procedures had more substantive content. If more precise sustainability indicators were used to improve the specificity of the duty, guidance could then refer to them. More procedural monitoring of the sustainable development duties would improve their impact. This is also true for the procedures themselves. It makes no sense to require the production of a report if there are no consequences for failing to do so or no obligations to act on its findings, publicise it or allow others to comment, discuss or scrutinise it.

If a provision is to be more than simply symbolic, then ideally there should be some statutory means to monitor and review compliance using administrative, political, legal or other mechanisms. Where the sustainable development duty is intended to create a framework to aid decision-making, the legislation needs to be more explicit about this role to encourage the courts to recognise it.

**1.5. Are there in your country specially designed political institutions (ministries, councils, commissions etc.) for the promotion of the sustainable development? What are the means by which the aims can be achieved? What do you think about the effectiveness?**

Within the United Kingdom there are several specially designed political institutions including :

- Sustainable Development Commission – executive non-departmental public body who “Inspires government, the economy and society to embrace sustainable development as the central organising principle.”
- Department of Environment, Food and Rural Affairs (DEFRA) – Defra is the UK government department responsible for policy and regulations on the environment, food and rural affairs.
- Environmental Audit Committee – The Environmental Audit Committee considers the extent to which the policies and programmes of government departments and non-departmental public bodies contribute to environmental protection and sustainable development, and it audits their performance against any sustainable development and environmental protection targets.
- One Wales Strategy – In terms of effectiveness it has helped focus the mind in Wales on sustainability and has identified the indicators by which the achievement of sustainable development will be measured in the various categories.

**2. Are the principles and the specific aims of the sustainable development or the sustainable agriculture specified in strategies, plans or in legal disposals?**

There are a range of instruments that the Government could use to support adapting to climate change. These include:

- Direct regulation

This includes regulatory measures such as standards or prohibitions relating to particular processes and technologies. Standards and prohibitions can help overcome information failures, and prescribe specific methods which align private incentives to the socially optimal level of adaptation. For example, the use of hosepipe restrictions can help to ease water shortages in times of drought. However, high uncertainty and the lack of a common metric of success for adaptation mean that these instruments may lock in practices or technologies which may lead to outcomes that appear to be inefficient as new evidence

becomes available – while also creating little incentive for investment in alternative adaptation actions with greater benefits.

Other regulatory instruments include framework guidance such as Planning Policy Statement 7 (PPS7), which includes broad policy objectives relevant to rural areas in England, and its proposed planning policies that will help deliver these objectives. These policies are firmly based on the principles of sustainable development and the need to protect the wider, largely undeveloped countryside for the benefit of all.

- Market-based (economic) instruments

These instruments use price or other economic variables to create incentives for people and firms to adapt. They include fiscal instruments, such as charges, taxes and subsidies; marketable (or tradable) permits; and other instruments such as licences and property rights. Market-based instruments can make individuals and businesses internalise the externality generated through their adaptive actions for example to create a price for natural resources (e.g. licences). Compared to direct regulation, these instruments can lead to efficiency gains, and generate incentives for technology innovation, as well as potential Government revenues. The most appropriate instrument should be selected with care. Taxes are not always an efficient means of generating revenues.

- Research and monitoring programmes

Research on climate change risks and adaptation technologies have the nature of public goods in that, given their non-rivalrous and non-excludable nature, they are likely to be underprovided by the private sector. Spending programmes and monitoring would contribute to improving the understanding of climate change risks, reduce information failures, and help the Government define priorities in adaptation.

Instruments under this category would include, for example, spending programmes on climate modelling; systems to monitor climate change hazards and progress in adaptation; research and development of resilient materials and technologies; research and monitoring of climate impacts on ecosystems; and research and development of climate-resistant crops.

- Information provision and public engagement

A communication strategy for adaptation can contribute to the widespread distribution of the best information available on sustainable development and adaptation options. This can include guidance, information and awareness campaigns, and systems (e.g. warning systems) to help individuals handle sustainability issues and cope with the consequences of climate hazards in the most efficient way. These instruments can help overcome problems relating to behavioural and organisational barriers (by providing individuals with information on risks

and the time scale of events); incomplete markets (by providing businesses with the information they need to offer adaptive tools, such as insurance cover); and stimulate research and development of adaptive measures. To be effective in overcoming behavioural and organisational barriers, it is important that information on sustainable development and adaptation is as clear and simple as possible, easily accessible, and tailored to the intended audience.

- Investment in infrastructure and other adaptive actions

Adaptive actions include investing in new infrastructure for adaptation, or enhancing the resilience of the existing stock. These include, for example, improving the resilience of roads and railways; investing in renewable technologies such as solar farms, wind farms and wave technologies; investing in large-scale infrastructure such as sea walls, coastal defences and flood barriers; or investing in green infrastructure for adaptation. To ensure the best use of public finances, different options for funding and delivering infrastructure services and other adaptive actions can be investigated.

- Redistributive measures

Redistributive measures include compensation or credit schemes which look at correcting for the distributional impacts caused by issues related to climate change. These may be used to help the most vulnerable adapt, or ensure their vulnerability is not exacerbated by climate change. The existing trade off between equity and efficiency in adaptation requires redistributive measures to be used carefully, and with a view to ensuring they do not weaken the incentives created by other measures or encourage moral hazard.

- Institutional reforms

When existing programmes and policies prevent adaptation from being undertaken at the appropriate level, intervention might entail reforming existing regulation. This should be pursued with a view to ensuring climate change risks are accounted for across sectoral policies (e.g. water, agriculture, biodiversity) in a coherent and effective way. Some reforms can also contribute to reducing transaction costs and building adaptive capacity. For instance, institutional reforms could be introduced to improve communication and co-operation between different stakeholders at different levels of decision making (national, regional and local).

### **3. Which do you consider the difficulties or preferences realizing the principal aims of a sustainable development:**

Sustainability is a long term commitment. Recession forces people to think in the short term in many instances to resolve immediate concerns

and this is where the difficulty lies in promoting sustainable development. There is a lack of a binding global agreement.

**3.1. to ensure the food health guarantee; the preservation of the environment and the mineral resources, which the agriculture needs;**

“Sustainable Intensification” is often discussed – producing enough food for our increasing population without compromising the environment.

In 2009 The Royal Society prepared a report entitled: “Reaping the benefits: Science and the sustainable intensification of global agriculture”

This report highlights the fact that the difficulties in food crop production are;

- availability of water and good soils
- Significant losses in crop yields occur due to pests, diseases and weed competition.
- The effects of climate leading to dramatic yield reductions.

The report highlights that “Current approaches to maximising production within agricultural systems are unsustainable; new methodologies that utilise all elements of the agricultural system are needed, including better soil management and enhancement and exploitation of populations of beneficial soil microbes. Agronomy, soil science and agroecology—the relevant sciences—have been neglected in recent years”

The difficulties lie in producing enough food whilst mitigating the impact to the environment and dealing with climate change. Caroline Spelman, the Secretary of State for Environment, Food and Rural Affairs, highlighted this difficulty and recently stated “Farmers have to grow more food at less cost to the environment”.

Dramatically reducing food waste is also crucial. "Thirty per cent of all food produced is never consumed," said Charles Godfray, at the University of Oxford. Investing in better trucks, roads and infrastructure is vital to getting food to people before it rots. In rich countries, such as the UK, preventing food being unnecessarily thrown away could save a family £500-700 a year, said Godfray.

**3.2. support the feasibility of the agricultural activities and improve the quality of life of the farmers and the society in general;**

Sustainable Farming with regard to the quality of life of the farmer means many things but includes having someone to pass the farm on to. Without succession and continuity in the farming practices the farm cannot be sustainable

Sustainable agriculture can also enhance people's ability to acquire food and contribute to the regeneration of rural economies. It should be

emphasised that sustainable agriculture does not represent a return to some form of low-technology, 'backward' or 'traditional' agricultural practices. Instead it implies an incorporation of recent innovations that may originate with scientists, with farmers or both. And it is not just about food production, but about increasing the capacity of rural people to be self-reliant and resilient in the face of change, and about building strong rural organisations and economies

**3.3 the participation of the public in the adoption of resolutions. Does a specific right on access to information concerning the environment exist?**

There are two main laws concerning access to information on the environment. The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). Both laws apply in England, Wales and Northern Ireland.

"environmental information" [is] any information in written, visual, aural, electronic or any other material form on –

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);"

Reg. 2 Environmental Information Regulations 2004

Under FOIA and EIR there is a right of access to nearly all recorded information that is held by 'public authorities', regardless of when the information was created. That right is subject to exceptions. For most exceptions even where the exception applies, the information must still be released unless "the public interest in maintaining the exception outweighs the public interest in disclosing the information". This is known as the public interest balancing exercise. These exceptions are known as 'qualified exceptions'. All of the exceptions under the EIR are qualified exceptions.

Therefore, for all EIR exceptions and for most of the relevant FOIA exceptions an authority wishing to withhold information must:

- show that the information is exempt, and
- show that the public interest in the particular exception is greater than the public interest in its disclosure.

If the authority cannot meet both the above tests, the information must be disclosed.

There are further places you can find environmental information without having to make a request for it. This information is to be made publicly available in the form of environmental and planning registers.

DEFRA maintains a 'register of registers' setting out environmental information registers held by them and other Government departments covering a huge range of issues from matters such as Bee Health or Disposals at Sea through to Energy Efficiency, Waste and Water Quality, and many more.

As well as providing information when asked to do so, the access to information legislation also require public bodies to be proactive in the release of official information. As a result, each organisation covered by the FOIA must produce a Publication Scheme, giving details of what information it already makes available or intends to publish as a matter of course.

For example Natural England (An Executive Non-departmental Public Body responsible to the Secretary of State for Environment, Food and Rural Affairs whose stated purpose is to protect and improve England's natural environment and encourage people to enjoy and get involved in their surroundings) have a publication which is a guide to key information routinely published by or available from them. It focuses on information relating to their key executive, advisory and promotional duties and also standards and guidance by which we make their decisions.

**4. Which do you consider the best measures to be taken in order to lead to a sustainable agriculture? Which experiences has your country made?**

A sustainable agricultural system is one that can indefinitely meet the requirements for food and fibre at socially acceptable, economical and environmental costs. Crossen (1992)

On 28th February 2011, the UK Coalition Government published its vision for sustainable development and a package of measures to deliver it through the green economy, action to tackle climate change, protecting and enhancing the natural environment, and fairness and improving wellbeing, and building a big society.

The DEFRA definition is:

- Ensuring the continuing availability to the consumer of adequate supplies of, wholesome, varied and reasonably priced food, produced within accordance with generally accepted environmental and social standards
- Maintaining a flexible and competitive industry which contributes to an economically viable rural society
- Ensuring effective protection of the environment and prudent use of natural resources
- Conserving and enhancing the landscape, wildlife, cultural and archaeological value of agricultural land
- Respecting a high level of animal welfare

The key sustainable development objective is to balance the competing demands for the finite quantity of land available. The main issues are to minimise the loss of rural land to development and to maintain the vitality and viability of town centres with people living close to where they work. The indicators relevant to these issues are the area of land covered by urban development, household numbers, re-use of urban land for development, reclamation of derelict land, the amount of land used to build new roads, the growth in out of town shopping centres and vacant retail space in town centres, regular journeys by car and other modes for shopping and commuting and for taking children to and from school, money spent on urban regeneration, and green spaces in urban areas for recreation.

One of the objectives of sustainable development is to promote a healthy economy in order to generate the resources to meet people's needs and improve environmental quality. This in turn can further the protection of human health and the natural environment

The key sustainable development objectives are to ensure supplies of energy at competitive prices, to reduce adverse impacts of energy use to

acceptable levels, and to encourage consumers to meet their needs with less energy input through improved energy efficiency. Indicators relevant to these objectives concern the depletion of fossil fuel reserves, the capacity of nuclear and renewable energy sources, energy usage by sector, and fuel prices.

**4.1. The financial aids? In which form (investments, support, from European funds and/or help by the government)?**

See above

**4.2. Which do you consider the most stimulating criteria for the approval of such supports? What do you think of the principle of conditionality and its conversion?**

**4.3. Do special legal regulations exist in your country in relation with the professional training and with the aim to increase the salaries according to the capacities and the professional abilities? Does one organize certain forms of professional training and advice centres in your country?**

With the exception of the National Minimum Wage legislation there is no legislation specifically aimed at promoting the pay and/or training of agricultural professionals. The definition of agricultural professional is so wide as to encompass those who work daily on our farms, to those in professions supporting the agricultural community and with such a broad spectrum, levels of pay and training will vary enormously. Not only our agricultural colleges, but our universities are becoming increasingly aware of the demand for agricultural "training" and as mentioned earlier, more and more courses are springing up in response to this demand.

On a broader scale, government organisations are beginning to recognise the need to provide training to agricultural training. The government organisation, DEFRA, is taking steps to address the historical lack of training and skills in a bid to counteract the traditional lack of demand for important skills that increase competitiveness and profitability (particularly business skills and risk management). DEFRA is implementing an Agriskills Strategy and Action Plan called "Towards a new professionalism" aimed at addressing the lack of important skills in the sector through a variety of initiatives including IT skills, business planning, management accounting and marketing. This is a relatively new scheme and its knock on effect remains to be seen.

The Rural Development Programme for England has operated from 2007-2013 and provided approximately £70m for funding for training and

skills development for the farming sector including horticulture, food and forestry sectors.

In the meantime there is a wealth of independent agricultural organisations from the CLA, the Agricultural Law Association, the NFU and National Federation of Young Farmers Clubs all of whom provide courses, many of which are free of charge, to agricultural professionals, no matter what area of agriculture they are operating in.

**5. Which role plays the democratization of the social relations and the participation of the public in the adoption of resolutions in the process of the sustainable development? Which are the legal consequences of a decrease of the participation of the public?**

See comments on Farming Connect

**5.1. Do the international conventions with the EU and/or with your country, as well as, the European regulations and the territorial regulations concerning the access of the public to information and the access to the judiciary, become actually applied?**

See comments on Access of public to information.

**5.2. Do legal guarantees and sanctions exist for the case that these rights get breached? Is there any jurisdiction on the subject? Is an inclusion of the public and the non-government organizations realistic in case of adoption of resolutions? Do obligatory legal procedures exist concerning this matter?**

**6. The first step in the direction of a sustainable development demands to include the environment and to respect its necessities in the development process. Another approach suggests the integration of the sustainability in the economic issue. Is the connection between the application of the preventative measures, with the idea of the pollutant who has to pay, inseparable? How are these principles applied in your country? Which are the rules, the procedures and the jurisdiction in that issue?**

There is a mixture of application in Wales with schemes being developed to encourage and incentivize particular actions by farmers and landowners and then penalties being imposed to enforce the rules of those schemes or the legal mechanisms that have been put in place to protect the environment and animal welfare. It may be worth mentioning that there are some actions which can lead to financial penalties under cross compliance rules for all schemes a farmer is

signed up to as well as criminal sanctions by a Local Authority or Environment Agency if a prosecution is pursued. E.g. cutting hedges in closed period and without a felling licence could lead to farmer losing 50% of his SPS, Tir Mynydd and Tir Gofal payments and be prosecuted with a penalty of up to £5,000 for cutting those hedges/trees without a licence.

The position is similar in England. Financial support or incentive is available through agri-environment schemes (although since the basis of such schemes is payment to replace income forgone and there is no element of profit, the incentive is minimal). Apart from loss of single farm payment for breaches of cross compliance, there are other regimes – for example, pollution control – which impose financial penalties for acts which harm the environment. There are others in the context of planning control which may impose conditions on the use of land which may have an environmental benefit.

**7. Which are the main instruments available to protect the environment and to improve the quality of the environment, the landscape and the mineral resources (instruction, authorisation, approval)? One could say in this respect: the water resources necessary for the agriculture (application of the directive concerning the water); the soil (the directive concerning the contamination of soil); the biological variety (the directive Natura 2000); the preservation of the landscape (the directive concerning the preservation of the landscape in Europe).**

Environmental Law is a widely embraced evolving but topical area of the law today in view of the increasing environmental threats and legal and policy challenges facing the world today.

Environmental law is split into 3 key aspects, substantive law, procedural law and relevant institutional mechanisms for environmental law.

It is important to note that international and European environmental law has a very strong influence on the development of UK domestic environmental law. As a result the main sources of UK environmental law include the following:

#### **INTERNATIONAL SOURCES**

1. International environmental law: This includes both treaties, custom, soft law and case law as provided under Statute of the International Court of Justice. In the UK, the Secretary of State is empowered to make regulations to implement UK's environmental obligations (s.2 and sch.1 para3 of the Pollution Prevention and Control Act, 1999).
2. European Community Law: Community law, especially Directives, have formed an important body of UK environmental

law. EC law adopts a purposive approach. Several EC environmental Directives have been transposed into UK domestic law.

### **NATIONAL SOURCES**

1. Primary legislation: These include Statutes such as the Wildlife and Countryside Act 1981, the Environmental Protection Act 1990, the Environment Act 1995 and the Natural Environment and Rural Communities Act 2006. Even the European Communities Act, 1972, s.2(2) gives powers for the passing of secondary legislation that is necessary to comply with EC law.
2. Secondary legislation that provides procedures, standards or defines categories or enables the transposing of European environmental obligations.
3. Tertiary legislation, guidance and other rules: These are usually aids to the interpretation of statutory provisions, as a flexible form of informal guidance or rule, provide statements of regulatory agency practice, a way of structuring discretion, and promoting consistency and transparency in decision making as well as rules and guidance on procedural or other technical matters.
4. Case law on environmental law and protection.

The 4 national sources of environmental law above are supplemented by the following instruments:

#### **1. ECONOMIC TOOLS**

Economic tools encompass all approaches that seek to use process, or economic incentives or disincentives and deterrents, to achieve environmental objectives. Notable examples include fiscal instruments and market instruments. The EC has also contributed to use of economic instruments through the use of the Polluter Pays Principle, stressing that producers of goods or other items should be responsible for the costs of preventing or dealing with any pollution that the processes cause.

#### **2. FISCAL INSTRUMENTS**

The UK Treasury now has a statement on green taxation promoting tax policies which bear down on 'environmental bads' and encourage environmental 'goods'. Though environmentalists want the Government to go further and faster, the Climate Change Levy and the Landfill Tax escalator are powerful drivers for change; and smaller tax breaks, such as for certain types of fuel, or renewables, are also in place. Taxation can be an alternative or complement to conventional regulatory instruments. Whereas permitting is site-specific and deals well with point

sources of pollution, tax can be a relatively simple way of sending broad price signals aimed at achieving fairly widespread changes in behaviour.

Taxes cannot work in isolation, but can be used effectively with other tools to create a balanced policy package which takes account of economic as well as environmental objectives. For example, the UK Climate Change Levy depends on the Agency's knowledge of the processes controlled by Integrated Pollution Prevention and Control regulation to validate the quantities of carbon emissions. And we cannot rely on tax or other economic signals to deliver compliance with environmental standards, so the tax instrument is an incentive to outperform the regulatory standard, not a means of securing it. A substantial part of the revenues from Landfill Tax is being ploughed back into sustainable waste management, recycling and waste minimisation.

### 3. MARKET INSTRUMENTS

Market instruments have some of the same features as fiscal ones - they can powerfully affect behaviour on a wide scale but are relatively indiscriminate. The range of market instruments vary. A non-trading example might be water metering, which has an impact on water efficiency. Some instruments, such as energy efficiency commitments, for example, are effectively special forms of taxation.

In the UK, trading in greenhouse gas emissions and packaging material recovery is in place. The Waste and Emissions Trading Act 2003 allows for trading in biodegradable municipal waste disposal. The Water Act introduces trading in water abstraction rights; and there are plans for trading emissions of sulphur dioxide from power stations, and oxides of nitrogen.

Trading schemes need to be carefully tailored to suit the particular environmental objectives and almost always need to be supported by a permit scheme to ensure protection of the local environment.

Typically a trading scheme consists of the following elements:

- a binding target such as a cap on total emissions or resources
- a clear unit of trade, for example one tonne of Nitrogen Oxide, one tonne of waste
- a system for distributing initial allowances to participants in the scheme
- a penalty system for non-compliance and
- a specific compliance period, for example a year.

At the end of the compliance period, participants must hold sufficient allowances to cover their emissions or resources used within the period, or a non-compliance penalty will be invoked. Participants covered by the scheme can choose either to operate within their allowance by reducing

emissions (or resource use), to buy extra allowances in the market to cover any excess above their initial allowance, or to sell surplus allowances if they perform better than their initial allocation. They therefore have greater flexibility to choose which is the most cost-effective option.

Such a scheme achieves the environmental objective because collectively the participants must meet the overall cap, which is the sum of the initial allocations. The cap can be reduced from year to year to achieve a progressive reduction.

#### 4. NEGOTIATED AGREEMENTS

The next area is the vexed question of negotiated or voluntary agreements. They do not have a good press, and rarely succeed as a substitute for direct regulation. But there are successful examples delivering substantial improvements beyond what regulation demands; and there are large sectors of economic activity for which voluntary agreements may be workable, such as the small enterprises. They can achieve higher commitment from the parties involved than an imposed requirement and are good for negotiating enhancements above a legislative minimum. They can secure early buy-in before formal regulation is required. The disadvantages are that they are not usually appropriate for managing serious risks, considerable resources may be required to set up the agreement for sectors with several small enterprises. They are unlikely to be successful unless effective penalties are in place to deal with under-performance. Such agreements are most suitable in industries where a small number of relatively major companies with the ability to deliver performance agree to achieve a small number of clearly identifiable outcomes.

#### 5. EDUCATION AND ADVICE

Education and advice may not feel like part of the regulatory toolkit, but it is in fact vital to raise awareness, and it can deliver significant impacts on the environmental outcomes which regulation is designed to secure.

For example, NetRegs is web-based resource ([www.netregs.gov.uk](http://www.netregs.gov.uk)) promoted by Government to help small and medium sized businesses navigate environmental requirements by explaining them in simple language. For more than 100 small business sectors it allows SMEs and their advisers to see, in plain terms, the regulations that are likely to apply to their activities, but also provides help and good practice. This is activity which regulators cannot undertake alone and requires partnerships with NGOs and industry associations to succeed.

#### 6. SELF REGULATION: ENVIRONMENTAL MANAGEMENT SYSTEMS

Environmental management systems (EMASs) are an increasingly important component of business practice. While EMAS or the various ISO standards might not tell us much about regulated emissions, they do tell us something about management and systems. Environmental management systems help to improve the management of environmental risks from a site or activity. This will reduce their risk profile and help maintain sound environmental protection. For EMAS, businesses take responsibility for the environmental impacts of their activities and the UK regulatory agencies must ensure that these businesses are delivering consistent compliance with regulation. Moreover, businesses that effectively manage their environmental impacts can, in some circumstances, deliver cost savings from waste and resource use minimisation and can avoid the cost associated with pollution incidents. The disadvantage is that EMAS are voluntary and the standards cannot necessarily be guaranteed, although failures may be detected by external assessments by the regulator, assessors may not always operate to the same standards and smaller companies may not have adequate resources to implement and maintain certified EMASs and failure of a company's EMAS could undermine public confidence and result in a need for even greater resources than previously required.

#### 7. CRIMINAL AND CIVIL LAW

Criminal and civil legal techniques have a role to play in environmental management. Criminal law can be used to provide direct criminal sanctions for environmental harm or complementing other regulatory techniques. Civil liability has increasingly been used to sort out the question of liability in incidents/facilities that pose high environmental risk.

Environment is defined as:

“all, or any, of the following media, namely air, water and land and the medium of air includes the air within buildings and the air within other natural or man-made structures above or below ground” (Source; Environmental Protection Act 1990, s.1).

Hence, a body of law has grown up to protect the environment. However, environmental law comprises hard law, statutes and case law as well as soft law such as guidance and other policies. Moreover, environmental law needs to be defined critically and within its context. It is important to note that the environmental protection enterprise is not based on legal considerations alone. Economic demands, scientific evidence and political factors often trigger action to protect the environment. In this connection, environmental protection and laws are also influenced by environmental (ecological) perspectives, economic perspectives, social and cultural (human health) and scientific perspectives.

UK Environmental law has been in evolution since the 19th Century from the passing of the Alkali Act 1863, the Rivers Pollution Prevention Act 1876 to the modern and current environmental law statutes. The UK development has also mirrored international and European legal developments that have heavily influenced the development of UK environmental law. These have led to what may be termed as the evolution of different generations of environmental law. The main UK environmental statutes have included the Environmental Protection Act (EPA) 1990, Town and Country Planning Act (TCPA) 1990, Pollution Prevention and Control Act (PPCA) 1999, Water Resources Act (WRSA) 1991, Water Industry Act (WIA) 1991, Wildlife and Countryside Act (WCA) 1981 and Environment Act 1995.

**8. How do you estimate the role and the importance of the participation of the social market participants (producer, public and private institutions, labour unions) concerning the political decision-making, the elaboration of plans concerning the regulation of sustainable agriculture?**

The wider agricultural market, including producers and both private and public institutions, has historically had a significant influence on policy making in relation to sustainable agriculture and will no doubt continue to do so. The UK is fortunate insofar as it has an agricultural sector represented by several large organisations, including in particular the National Farmers Union and the Country Land and Business Association.

It is usual, when creating policies, for the relevant Government department – usually the Department for Environment, Food and Rural Affairs (DEFRA) – to consult, both formally and informally, with various relevant bodies and the public and to invite their comments. Several organisations representing different interests within the agricultural sector and within the wider community, including Local Authorities, the Environment Agency, Natural England (who are responsible for nature and conservation and landscape protection), the National Farmers Union and the Country Land and Business Association are regular consultees.

The Country Land and Business Association have, for example, recently produced a consultation paper on planning policy for equine business aiming to promote equine businesses in the countryside. When complete, this paper will be presented to government and taken into account in their policy making decision and is just one example of their regular contribution to policy decisions.

Notably the UK government have recently responded to calls for a cull of badgers who have a significant impact on the spread of bovine tuberculosis (TB). This has arisen out of calls, from various agricultural organisations for action to be taken to combat the spread of TB. There

has been some opposition from animal rights groups and other organisations, however the government has recognised that some action must be taken to stop the spread of TB and have answered the call of the agricultural community.

### **Which are the forms of participation in your country?**

The UK policy makers are keen to promote sustainable agriculture and is supported in this by the agricultural community. The demand for food worldwide is set to increase significantly within the next 20 years and producers and processors of food in the UK recognise the importance of evolving to meet these demands and the fundamental role that sustainable agriculture plays in the longer term.

The UK government, through DEFRA, is engaged in consultations on sustainable agriculture both in the UK and similarly in conjunction with the Department for International Development in an international context.

Sustainable Agriculture is a cause that is being adopted not only by government but by individual MPs. For example, a bill – the Sustainable Livestock Bill – was presented to Parliament in November of last year aimed at regulation to reduce the environmental impact of livestock production. (As a Bill sponsored not by the Government but by an individual MP its progress is not guaranteed; the next scheduled Parliamentary stage will not take place until March 2012.)

The Government has issued new planning guidelines in July 2011 to allow planning policies which promote the development and diversification of agricultural businesses. It also aims to encourage development of renewable energy and has received support from the wider community. This guidance is currently in the consultation period, once again allowing organisations in both the rural and the wider community to have their say.

A Sustainable Agriculture and Food Innovation Platform has been launched. This is a partnership between the Technology Strategy Board, DEFRA and the Biotechnology and Biological research Council (BBSRC) which aims to “stimulate the development and adoption of new technologies to help improve the productivity of the UK food and farming industries, while decreasing their impact on the environment”.<sup>18</sup> It will invest £90m in such projects over the next 5 years, in many cases such investments will be made jointly with industry.

### **Which social influence does this form of participation have?**

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<sup>18</sup> Technology Strategy Board: Sustainable Agriculture and Food Innovation Platform. Innovateuk.org

The importance of sustainable agriculture in the UK is reflected by the influence that it is having in a wider social context. It is always of value to look at education to see growing trends and it is encouraging that many of the UK's top universities are offering courses, including masters degrees, in sustainable agriculture in all its forms. For some this means the technology associated with sustainable agriculture, for others, it may mean microbiology and for others economics. As a result it is clear that it is influencing several sectors of society and by no means only the agricultural sector.

Dedicated research and consultancy services are emerging, to promote sustainable farming. Recently summits have been held and attended by expert food processors, retailers and growers. The retail industry in particular are recognising that they have a huge part to play as consumers demand more sustainably produced food on their plates.

Ultimately on a wider scale the consumers themselves are beginning to recognise the need for and indeed to demand, more sustainably produced food, for both environmental and economic reasons. With food prices rising, the consumer has a vested interest in seeing their food farmed sustainably and the prices they are paying remaining as low as possible.

#### **Is it of importance, not so important or does it not exist at all?**

It seems clear that the social influences in the UK are important and by no means limited to the agricultural community. Its importance is increasing and is likely to continue to do so. The government both on its own account and with the influence of social market participants is forming policies and creating initiatives promoting sustainable agriculture with such policies continuing to evolve. In the meantime, agricultural organisations such as the National Farmers Union and the Country Land and Business Association continue to produce documents and consultation papers aimed at influencing change in policy as well as supporting farmers and rural businesses in the move towards sustainable agriculture.

### **9. Other factors for a sustainable agriculture**

**9.1. Does organic agriculture exist in your country? Which are the measures that can be taken in order to make the organic agriculture more attractive? Are these measures limited to politics, the plans or are there also instruments like the protected indication of origin, protected geographic designation or guaranteed traditional specialties? Is there a label for organic products? Do institutional aspects concerning the organic agriculture exist already?**

Organic control bodies (CBs) license individual organic operators. They are approved by the Department for Environment, Food and Rural Affairs (DEFRA). A producer must be registered with one of the CBs, comply with their standards and meet their requirements in order to market produce as 'organic'.

Each or all of the following activities require registration with an approved CB:

- producing or processing organic food or products
- importing organic food or products from third countries, i.e. those outside the EU (with named exceptions)
- producing organic animal feeds
- re-labelling organic products at any stage of the distribution chain

Organic Entry Level Stewardship is one element of the Environmental Stewardship scheme delivered by Natural England under the Rural Development Programme for England to promote effective environmental management. It provides funding if the farmer is already farming organically on land registered with a CB. Aid is also be available as top-up to Organic Entry Level Stewardship payments if the farmer converts to an organic system.

The scheme operates only in England. Separate but equivalent schemes are available in Wales (Organic Farming Scheme in Wales), Scotland and Northern Ireland.

As a general rule, all prepacked food in the UK to be delivered to the ultimate consumer, has to be marked with the following items:

1. the name of the food
2. a list of ingredients
3. the quantity of certain ingredients or categories of ingredients
4. the appropriate durability indication
5. any special storage conditions or conditions of use
6. the name and address of the manufacturer or packer, or a seller established with the EC;  
and, where necessary,
7. particulars of the place of origin if necessary to avoid misleading the purchaser to a material degree
8. additional requirements
9. instructions for use if necessary.

Labels on food sold as organic must indicate the organic certification body that the processor or packer is registered with. The labels must, at

the minimum, include a code number that denotes the approved certification body. The name or trademark (logo) of the certification body may also, but does not have to be, shown on the label.

Manufacturers of organic food are permitted to use specific non-organic ingredients provided that organic ingredients make up at least 95% of the food.

If the product contains between 70% and 95% organic ingredients, organic ingredients can be mentioned only in the ingredients list, and a clear statement must be given on the front of the label showing the total percentage of the ingredients that are organic.

Recently a DEFRA spokesperson made it clear that no special treatment would be given to the Organic sector: "Organic farming is one of the pioneering approaches to sustainable production and remains influential but it's not the only one and it would not be right to increase taxpayer support for one particular sector"

A report commissioned last year by Foresight comments that there is a place for organic agriculture, but it "should not be adopted as the main strategy to achieve sustainable and equitable global food security". Scenarios suggesting organic production can satisfy future global demand assume major changes in peoples' diets, which "may be unachievable," says the report.

The Soil Association has accused the UK of being 'lazy' and lying at the 'bottom of the league' when considering the organic sector. The UK organic sector has been hit hardest by the recession and yet at the same time the Coalition Government has pledged to be 'the greenest government ever' and the Agriculture Minister Jim Paice said recently that organic principles lead the way on sustainable farming, and organic farming should be fostered for this reason.

**9.2. The promotion of the biofuel. Which importance has the production and the use of biofuel in your country? Are there regulations which make the production interesting?**

The UK has announced it would be implementing the Renewable Energy Directive, which contains criteria for sustainable biofuels, by the end of 2011. The Renewable Energy Directive will bring in criteria that should ensure biofuels sold in Britain meet sustainability standards.

Transport minister Norman Baker told the Low-Carbon Vehicle Partnership conference in London that following consultation with the European Commission, the government was set to implement the directive by 15 December 2011.

Biofuel production has sparked fierce debate in the UK and many countries, particularly over whether or not biofuels will cause fuel shortages.

A recent Renewable Energy Review carried out by the Committee on Climate Change has called for a cautious approach to using biofuels for transport. "Farmers and Land Managers can help mitigate climate change by enabling biogas to displace fossil fuels" Country Landowner Association president.

**9.3. Can you find amongst the measures against the climate change also such to reduce the greenhouse gases caused by the agriculture (strategies, plans, disposals)?**

One of the aims of Glastir (in Wales) is to prevent further climate change. It is not clear that the actual prescriptions within the scheme will achieve this in practice, at least partly because of difficulties in measuring the result.

**9.4. Considering the problem of responsibility: see the directive No. 2004/35/EU from the 21.04.04 concerning the responsibility for the environment. Which do you consider the origin of this responsibility and the effectiveness of its application in your country?**

Directive 2004/35/EC (The Environmental Liability Directive) seeks to achieve the prevention and remedying of environmental damage – specifically, damage to habitats and species protected by EC law, damage to species or habitats on a site of special scientific interest for which the site has been notified, damage to water resources and land contamination which presents a threat to human health. It reinforces the "polluter pays" principle – making operators financially liable for threats of or actual damage.

The Environmental Damage Regulations transpose the requirements of the Environmental Liability Directive into national law in England, came into force in March 2009. A number of legal systems already exist in the United Kingdom which provide for the remediation of environmental damage. Under these regimes, action is taken in the public interest by public authorities such as local authorities or the Environment Agency. They can require damage to be put right by those responsible for it, or put the damage right themselves and then recover the costs afterwards from those responsible.

The Regulations supplement existing environmental protection legislation such as the Environmental Protection Act 1990, the Water

Resources Act 1991 or the Wildlife and Countryside Act 1981 and the Control of Major Accident Hazards Regulations 1999. Those pieces of legislation still apply, and to the extent that they impose additional obligations to those in these Regulations, still need to be complied with in the UK.

Part 2 of the Regulations contains powers, rather than duties for authorities to require operators to prevent damage and further damage. Authorities in the UK have discretion therefore whether to use these powers or not and may choose to require preventive measures using similar powers in other regulations, for example in the Water Resources Act 1991 or the Environmental Permitting Regulations 2007.

Part 3 of the Regulations contains a duty for authorities in the UK to require remediation where they establish that there is 'environmental damage' and a liable operator. In such cases the Regulations would generally take precedence over other regimes. In cases where the outcomes required by the Regulations have already been fully achieved however, including through other legislation which can be applied more rapidly, the Regulations need not be applied.

Other legislation remains in place to address any damage that falls outside the scope of the Regulations. If other legislation goes further than the Regulations those aspects that go further may be applied in addition to the Regulations. In cases where authorities have duties to require preventive or remedial measures under other legislation then those aspects that go further than the Regulations must be applied.

To the extent that the Regulations secure the outcomes required under that other legislation those responsible will not be expected to take preventive or remedial action both under the Regulations and that other legislation.

Environmental liability is only a 'backstop'. The emphasis should be on proactively putting in place appropriate pollution prevention measures so that imminent threats and damage do not arise.

The Environmental Liability Directive requires member states to report to the European Commission on the experience gained in the application of the Directive by 30th April 2013. The UK Government has proposed to

use this opportunity to review the application of the regulations to establish whether they are working effectively and to see whether any amendments are appropriate. Authorities within the UK are being required to report details of all qualifying incidents to the Government

**10. Which are your suggestions, within the framework of the renegotiations of the CAP (2013-2020) to strengthen the instruments and the cooperation mechanisms within the EU, considering the aim of a sustainable agriculture or which other criteria should be considered?**

More mechanisms that allow farmers to set the agenda together with stakeholders so that farmers' support may be given more readily.

Ensure that the social and economic balancing factors of sustainable agriculture are not overlooked by environmental considerations.

The CAP has been implemented throughout the UK on a regional basis given that this allowed the legal measures and policies to be tailored to the specific issues to each of the regions' agricultural industries. Farming in Wales, for example, is typified by the traditional Welsh family farm and the Single Payment Scheme and agri-environment schemes that have been implemented in Wales have considered this style of farming and have tried to develop policies which encourage the continuation of this traditional farming structure. This farming structure is also important for the achievement of sustainable agriculture given that many farms are located in mountainous areas which if not looked after would become wild. Without an income from their farming business, farmers in those areas would be forced to move away and make a living elsewhere.

By contrast, English farming tends, with the exception of the uplands of the north and south-west, to be larger scale and more industrialised and there is less focus on specific measures aimed at smaller farmers.

The UK Government, acting as representative of this Member State, also remains convinced that the best way to ensure the success of all farming businesses and rural communities – whether large or small and whether in the hills or in the lowlands – is to ensure a vibrant commercial market for the sector. In its view, this vibrancy will promote the success of agriculture and rural business without the need for specific measures of support from public funds directed to particular types of farming activity.

In Wales, sustainable development has been integrated fully into the objectives and functions of the NAW. However, this integration is not always apparent in the implementation of schemes at a practical level. Although sustainable development is often noted as the objective of the various schemes, including SPS and other agri-environment schemes, it

is not always clear which specific measures within those schemes are seen to further this objective. Better quantification or measurability of the achievements of those schemes would therefore be advantageous before embarking on the next policy period.