

PE1637/D

Cabinet secretary for environment, climate change and land reform submission of 22 May 2017

The Scottish Government recognises the concerns of the communities who live around the Moray and Cromarty Firths, related to the application from the Cromarty Firth Port Authority to undertake ship to ship transfers of crude oil at sea in the inner Moray Firth.

Scottish Ministers have no regulatory or legislative powers over the process for determining whether a ship to ship oil transfer licence should be granted or not. That is why the Scottish Government continues to press for devolution of this function. Devolution would allow decisions to be taken by the administration with responsibility for protecting the environment.

Applications for ship to ship oil transfer licences are considered under The Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010, as amended. The subject matter of these regulations is wholly reserved to the UK Government, and therefore the Scottish Government has no power to amend the application process provided by them. The regulations do include provisions to ensure that the licensing process complies with Environmental Impact Assessment requirements and the EU Habitats Directive. Ensuring adherence to the proper process is a matter for the Competent Authority, which in this case is the Secretary of State for Transport.

The governance model for Trust Ports is well established and supported by Scottish Ministers as well as part of the diverse range of port governance models operating in Scotland. That support was also demonstrated by cross party support in the Scottish Parliament during the passing of the Harbours (Scotland) Act 2015. Trust Ports are statutory bodies in their own right and their constitution requires them to ensure that the harbour facilities are fit for purpose and are secured for future generations. There are no shareholders and any profits made must be returned to the harbour for this purpose.

This does mean that Trust Ports are operating within a commercial and often competitive environment and it is for their boards to ensure they operate effectively in this way, taking account of stakeholder views, but also to ensure they are complying with the powers set out in their legislation and acting in the best interests of the port overall.

I trust this addresses the concerns raised in the Petition, and I thank you for your interest in this environmentally sensitive matter.