Edward Mountain MSP
Convener of Rural Economy and Connectivity Committee
Scottish Parliament
Edinburgh
EH99 1SP

13 June 2019

Dear Edward,

THE COMMON FISHERIES POLICY AND AQUACULTURE (AMENDMENT ETC.) (EU EXIT) REGULATIONS 2019
PROTOCOL WITH SCOTTISH PARLIAMENT

Following confirmation that your Committee was content for them to do so, the Scottish Ministers confirmed to the UK Government that they were content for the following EU exit SIs to contain provisions that would be within the competence of the Scottish Parliament:

- The Common Fisheries Policy (Transfer of Functions) (EU Exit) Regulations 2019; and
- The Common Fisheries Policy (Amendment etc.) (EU Exit) (No. 2) Regulations 2019.

These two SIs were ultimately combined into a single SI and were laid in draft in the UK Parliament on 28 February 2019 (and made on 28 March 2019) with the title “The Common Fisheries Policy and Aquaculture (Amendment etc.) (EU Exit) Regulations 2019”.

A number of changes were made to the SI following your Committee’s consideration of the notifications and prior to the SI being laid. Most of these changes were minor and technical in nature and would not have affected the information put in the notification to the Scottish Parliament had they been made prior to us sending you the notification. There are, however, a few more significant changes that I wish to mention. These changes are not substantial enough have affected the Scottish Ministers’ decision to consent but would have affected the content of the notification. I would like to reassure you that these changes are not expected to have an impact on private or voluntary sectors and that the changes continue to adhere to the environment and animal welfare principles as set out in the notification.
The more significant changes are summarised as follows:

1) Two EU Regulations (Council Regulations (EC) No 600/2004 and 601/2004) concerning fishing activities in the area covered by the Convention on the Conservation of Antarctic Marine Living Resources (CCAMLR): At the time of the notification the intention was to include amendment to these EU Regulations in the SI. However, the decision has since been taken to amend them in a later EU exit SI instead. This is because the CCAMLR Regulations fall within the remit of the FCO instead of Defra and there was insufficient time to reach agreement with the FCO as to the approach to be taken to the amendments. The Scottish Ministers are content with that approach because there are no Scottish vessels currently active in the CCAMLR area so the amendments are not a day one critical issue.

2) Regulation (EU) 2016/1627 concerning a multiannual recovery plan for bluefin tuna in the eastern Atlantic and the Mediterranean: At the time of notification, the intention was to omit a number of provisions in this Regulation because the UK has no quota for bluefin tuna. A concern was then raised by Defra that the UK’s ability to join the relevant regional fisheries management organisation (ICCAT) might be affected if we did not have the Regulation in full in domestic law. A decision was therefore taken to leave the provisions that were going to be omitted in the Regulation, without amending them, with a view to amending them at a later date. The Scottish Ministers are content with this approach as the change has no practical effect.

3) Commission Regulation (EC) No 1922/1999 lays down detailed rules for the application of Council Regulation (EC) No 850/98 as in regards to conditions under which vessels exceeding eight metres length overall shall be permitted to use beam trawls within certain waters of the Community: At the time of the notification, the intention was to roll this Regulation over into domestic law and use the SI to correct deficiencies. It was then decided that this Regulation was not required in domestic law because the waters it concerns are outwith UK waters. Consequently, the Regulation is no longer being amended but is being revoked by the SI instead.

I am copying this letter to the Convener of the Delegated Powers and Law Reform Committee.

FERGUS EWING