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Edward Mountain MSP  
Covener of Rural, Economy and Connectivity  
Committee

The Scottish Parliament  
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Dear Mr Mountain,

Thank you for the Committee's consideration of the Sea Fish Licensing (Foreign Vessels) (EU Exit) (Scotland) Order 2019 and the Sea Fishing (Licences and Notices) (EU Exit) (Scotland) (Amendment) Regulations 2019. I am happy to provide further information in reply to questions from Committee members following their meeting on 27 March.

As you will be aware, the current situation surrounding the UK's departure from the EU is highly unpredictable. As such, these SSIs will not come into force until the UK leaves the EU, whether that is 31 October or another date. A licensing regime to manage the fishing activities of foreign vessels, including those from the EU, undertaking fishing activity in Scottish Waters will be required as a result of leaving the Common Fishery Policy. There is provision for this in the UK Fisheries Bill, however given that it is not at all clear if that Bill will be in force by exit day, a contingency is required. Therefore, the UK Fisheries Administrations have agreed to make regulations prohibiting fishing by foreign vessels without a licence using existing powers under the Sea Fish (Conservation) Act 1967. There are no powers for UK Ministers to legislate to require foreign vessel licensing on a UK basis. Once the Fisheries Bill provisions come into force these SSIs will need to be revoked.

To respond to the specific questions asked:

**What scope is there for taking such action [putting in place a licensing regime] independently of when, in what way or if we leave the EU?**

As outlined above, these SSIs only come into effect if and when the UK leaves the EU, such regulations cannot be put in place whilst the UK remains a member of the EU. As a Member state EU access to Scottish waters is dealt with under EU law. Within the EU vessels of Member states currently have reciprocal access to each other's waters under the Common Fisheries Policy, and it is the responsibility of Member states to ensure that their own vessels comply with all relevant legislation through their own domestic licensing regimes, in line with EU law. In relation to third country vessels, such as those of Norway or the Faroe islands, the EU has exclusive competence in agreeing access to Union waters. An authorisation regime, linked to access agreements is in place under which the Commission grants

authorisation to vessels to access EU waters. This is provided for by EU Regulation 2017/2403 on the sustainable management of external fishing fleets.

### **How can foreign vessels obtain a licence**

The Sea Fish Licensing (Foreign Vessels) (EU Exit) (Scotland) Order 2019 will have the effect that foreign vessels require a licence from the Scottish Ministers to fish in Scottish waters. The Scottish Ministers are making arrangements with the Marine Management Organisation (the “MMO”) for the MMO to exercise this licensing function on behalf of the Scottish Ministers. The MMO will be also be issuing foreign vessel licences in respect of English waters, Welsh waters and Northern Ireland waters which will mean that foreign vessels will have a single contact point for obtaining foreign vessels licences. Under the arrangements with the MMO owners of foreign fishing vessels will need to apply for a foreign vessel license via their domestic authority, or, in the case of EU Member States, the European Commission, who will pass the details of vessels to the MMO. The MMO will issue a single licence document containing, as appropriate, licences for Scottish, Northern Irish, Welsh and English waters. Scottish Ministers will determine the licence conditions that apply to foreign vessel licences for Scottish waters. Licences will only be issued where the UK has a bilateral agreement in place with the relevant party (mostly notable, Norway, Faroes and/or the EU).

I hope this is helpful and as always, happy to discuss.

**CAROLINE COWAN**