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31 December 2025

Dear Edward,

### **Biodiversity Beyond National Jurisdiction Bill: legislative consent**

I am writing regarding legislative consent for the Biodiversity Beyond National Jurisdiction (BBNJ) Bill ("the Bill"), following correspondence between the Committee and myself, and my appearance before Committee to give evidence on the Bill on 9 December 2025. At that meeting, I undertook to inform you as soon as negotiations with the UK Government on the Bill had concluded, enabling me to confirm the outcome.

I am pleased to let Committee members know that I have now concluded engagement with the UK Government on amendments and underpinning commitments to intergovernmental working, and that we can now move to provide the Scottish Parliament with a recommendation in relation to legislative consent for all parts of the Bill.

The lead UK Minister, Seema Malhotra MP, Parliamentary Under-Secretary of State in the Foreign, Commonwealth and Development Office and I have agreed on a range of protections for devolution across the Bill. While there is still work to be done to finalise and formalise the detail of underpinning working arrangements that will support a range of provisions in the Bill, I am in a position to indicate to you that I intend to lodge a final supplementary Legislative Consent Memorandum (LCM) early in January that will recommend that the Scottish Parliament give its consent to the Bill in full.

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The final Scottish Government position will be set out in full in a further supplementary LCM, which I expect to lodge early in January following the tabling of relevant amendments in the UK Parliament during the week commencing 5 January 2026 ahead of the Lords Report Stage (expected 12 January 2026). The final content of the next LCM is still subject to confirmation that amendments are tabled as expected, and to approval by my ministerial colleagues in the Scottish Government.

Within this context, and without prejudice to final outcomes, I can confirm some of the detail that we have agreed with the UK Government. Most significantly are Clauses 9 (Part 2) and 11 (Part 3) relating to marine genetic resources and area-based management tools respectively. We expect amendments to be tabled at the Lords Report Stage that protect devolution by ensuring UK Ministers do not have sole power to legislate in potentially wholly devolved areas at Clauses 9 and 11.

We have also requested, and the UK Government has committed to, a range of underpinning intergovernmental ways of working and agreements across relevant clauses that impact on devolved matters. This commitment covers remaining clauses and provides assurance that devolved interests will be appropriately respected and protected in formalised and mutually agreed ways.

As you know, I share the Committee's frustration with the lack of time available for scrutiny of this important Bill, and that the Scottish Government has not been able to provide a full position on legislative consent sooner. As I have explained previously, analysis and engagement across the clauses of the Bill had to be undertaken in parallel to the Bill's rapid passage through the UK Parliament, resulting in partial and multiple LCMs. This work was necessary to protect devolution. Given the challenges for devolution and managing the time-constrained parliamentary processes generated by this particular legislation, it was not possible to manage legislative consent the way I would have preferred had circumstances been otherwise.

I can assure you that the supplementary LCM that the Scottish Government will lodge in January will provide full detail on the protections we have secured for devolution, and the Scottish Government's justification for recommending legislative consent across relevant clauses. I would also like to take this opportunity to reassure Committee members that we are conscious of the importance of Scottish Parliamentary scrutiny, and have been, and will continue to be keen to identify ways in which the Scottish Parliament can be appropriately involved in the implementation and operation of the Bill as it touches on devolved matters.

I, and my officials, remain ready to support the Committee in any way we can in the coming days and weeks.

Yours sincerely,

**GILLIAN MARTIN**

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