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Rural Affairs and Islands Committee
c/o Clerk to the Committee
The Scottish Parliament
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Your ref: The Sandeel (Prohibition of Fishing) (Scotland) Order 2024

19 April 2024

Dear Finlay,

Thank you for your letter as of 27 March regarding the prohibition of fishing for sandeel in all Scottish waters and its compliance with the UK-EU Trade and Cooperation Agreement (TCA), as well as the related communication with the Danish Government and potential implications for international fisheries negotiations.

Article 496 of the TCA provides that both the UK and EU may decide on any management measures applicable to their respective waters in pursuant of objectives and having regard to principles set out in Article 494 of the TCA. I am confident that prohibition of fishing for sandeel in all Scottish waters is a management measure which is in pursuant of the objectives in Article 494 (1) and (2) and the principles in Article 494 (3), specifically, the principle in Article 494 (3) which states that the parties shall take due account of and minimise harmful impacts of fishing on the marine ecosystem and take due account of the need to preserve marine biological diversity.

Under Article 496(3) of the TCA, there is a requirement for the UK and EU to notify each other of any new measures that will impact each party's fishing vessels, allowing sufficient time for the other Party to provide comments or seek clarification. In compliance with this provision, the UK sent an EU notification letter on 5 February, confirming the closure of both Scottish and English waters prior to its implementation on 26 March. All necessary steps with sufficient notification time were taken throughout the process to ensure the prohibition of fishing for sandeel in all Scottish waters is fully compatible with the TCA.

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The Scottish Government has been consistent in setting out our position of not supporting sandeel fishing in Scotland's waters, as set out in Scotland's Future Fisheries Management Strategy. These discussions with EU counterparts have taken place throughout the international negotiations, both at Ministerial and official levels.

I met with European Commission officials in Brussels on 8 June 2023 and followed up with a letter on 24 July 2023 when the Scottish Government sandeel consultation was launched, inviting them to respond to the consultation. Following a detailed analysis of all responses and representations received during the 12-week consultation, including the response received from the EU and the Danish Government and an analysis and consideration of the current scientific evidence base, I made the decision to prohibit the fishing for sandeel in all Scottish waters.

Following this on 2 February 2024, I sent letters to the European Commission and the Danish Fisheries Minister notifying them of the above decision. In response to their inquiries, further correspondence followed, with letters sent on 12 and 21 February to the Danish Fisheries Minister and the European Commission, respectively. In those letters, I offered a meeting with Scottish Government officials should they require to discuss the underlying policies that led to our decision.

I have been clear and consistent throughout to explain the rationale for our decision and emphasised that it is important to manage our marine environment sustainably, to help protect biodiversity and ensure healthy functioning ecosystems. Further, I am confident that this decision is fully aligned with our national and international commitments, which include, but are not limited to, the UK-EU TCA, Scotland's National Marine Plan, Scotland's Fisheries Management Strategy, the UK Joint Fisheries Statement, the Fisheries Act 2020 and the Marine Strategy Regulations 2010.

The decision to prohibit the fishing for sandeel in all Scottish waters was based on scientific evidence of the importance of sandeel as a forage species for key species of seabirds. Sandeel form a particularly important component of the North Sea ecosystem and a link between different levels of the marine food chain from plankton up to commercial fish species, seabirds, and marine mammals. It is hoped that this decision will contribute towards the achievement of Good Environmental Status for biodiversity and commercial fish under the UK Marine Strategy.

The Committee may wish to note that the bilateral negotiations with the EU on the setting of the Total Allowable Catch (TAC) for sandeel in 2024 took place in March, concluding with the negotiated outcome, agreed with EU and in line with the UK/Scotland's position. During these negotiations, the EU was already aware that any sandeel TAC could not be fished in the UK waters once the measure was in place.

The Scottish Government values its longstanding relationship with the EU and is committed to continuing constructive collaboration, particularly regarding international fisheries negotiations. On 16 April, the EU requested consultations with the UK under the dispute settlement mechanism of the EU-UK TCA regarding the UK's decision to prohibit sandeel fishing. The aim is to reach a mutually agreeable solution within 30 days, or more if both Parties consent. Scottish Government officials are working closely with Defra and FCDO officials in considering our response and handling in this process.

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Yours Sincerely,



MAIRI GOUGEON

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