Dear Graeme,

UK APPROACH TO EUROPEAN PARLIAMENT BREXIT AMENDMENT FOR EU EMISSIONS TRADING SYSTEM (EU ETS)

I am writing to inform the Committee that, with my agreement, the UK Government laid the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2017 in Westminster on 6 December. The Regulations come into force on 27 December 2017.

The 2017 Regulations amend the Greenhouse Gas Emissions Trading Scheme Regulations 2012 (“the 2012 Regulations”), which were made by UK SI to transpose EU Directive 2003/87/EC establishing the EU Emissions Trading System (the “EU ETS”). It is desirable that the amendments made for other parts of the UK should extend to Scotland for devolved purposes to ensure that obligations for the 2018 scheme year do not lapse.

The EU ETS is the world’s largest carbon market, is central to the EU’s commitments under the Paris Climate Change Agreement, and provides the legal framework covering 35% of Scotland’s emissions under our domestic climate change legislation. It covers around 100 participants in Scotland, in electricity generation and energy intensive industries such as oil refining, chemicals, and distilleries. Participants are required to obtain allowances, either from auctions or freely allocated from each Member State’s share, and surrender an equivalent number to their annual emissions by 30 April each year.

For the 2018 emissions year, the EU ETS compliance deadline is after the UK leaves the EU. In the absence of a clear signal from the UK Government on future participation in the EU ETS, the EU Council and Parliament intervened to protect the EU ETS. Without further provision, the intervention would invalidate allowances issued by the UK from 1 January 2018. This would negatively impact Scottish participants in the EU ETS, who would have to buy allowances on the secondary market to meet their obligations.

To forestall this intervention, the UK Government laid the Greenhouse Gas Emissions Trading Scheme (Amendment) Regulations 2017 to bring forward the compliance dates for the 2018 emissions year to before the date of EU exit, so that UK participants’ EU ETS obligations for that year do not lapse. These amendments are expected to satisfy the
European Commission that it is not necessary for it to take immediate action to invalidate UK allowances with effect from 1 January 2018.

I am content that this approach is the most appropriate way to progress this matter with regard to Scotland. Scottish Government officials are working closely with officials in BEIS to ensure Scotland’s interests are maintained. I enclose a copy of the Regulations and the Impact Assessment.

A copy of this letter has also been sent to the Convener of the Culture, Tourism, Europe and External Relations Committee.

Yours,

Roseanna Cunningham