27 November 2018

Dear Gillian

THE ENVIRONMENT AND WILDLIFE (LEGISLATIVE FUNCTIONS) (EU EXIT) REGULATIONS 2018
EU EXIT LEGISLATION – PROTOCOL WITH SCOTTISH PARLIAMENT

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to the exercise of powers by UK Ministers under the European Union (Withdrawal) Act 2018 in relation to proposals within the legislative competence of the Scottish Parliament.

As you know, the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, wrote to the Conveners of the Finance & Constitution and Delegated Powers and Legislative Reform Committees on 11 September setting out the Scottish Government’s views on EU withdrawal. That letter also said that we must respond to the UK Government’s preparations for a no-deal scenario as best we can, despite the inevitable widespread damage and disruption that would cause. It is our unwelcome responsibility to ensure that devolved law continues to function on and after EU withdrawal.

I attach one notification which set out the details of the above named SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters can be included in it.

You will note that this SI includes provisions which relate to the Convention in International Trade in Endangered Species (CITES). My previous correspondence to you on 16 November set out Scottish Ministers’ position on competence in relation to CITES, which the UK Government disagrees with. It is crucial that we ensure devolved interests are respected and we will continue to press our position with the UK Government in relation to CITES.

However, the UK Government has written to request the consent of Scottish Ministers to the SI and, whilst we do not agree with the UK Government’s position on competence in relation to the specific provisions which refer to CITES, Scottish Ministers are content to consent to

Scottish Ministers, special advisers and the Permanent Secretary are covered by the terms of the Lobbying (Scotland) Act 2016. See www.lobbying.scot

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this SI. This is on the basis that the measures here are technical in nature and limited to preserving the effective functioning of CITES regime, which is currently governed and implemented on a UK-wide basis.

Please note, we are yet to have sight of the final SI and it not available in the public domain at this stage. We will, in accordance with the protocol, advise you when the final SI is laid and advise you as to whether it is in keeping with the terms of the notification.

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

I look forward to hearing from you in due course.

Yours,

ROSEANNA CUNNINGHAM