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Edward Mountain MSP
Convener
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The Scottish Parliament
EDINBURGH
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9 January 2019

Dear Edward,

AGRICULTURE AND FISHERIES COUNCIL: 17-18 December 2018

I am writing to provide you with a report the outcomes of the EU Agriculture and Fisheries Council meeting which I attended in Brussels on Monday 17 and Tuesday 18 December 2018.

This year's negotiations in Brussels have been undertaken against an extraordinary political backdrop, adding to the already significant challenge of securing a good deal for Scottish fishing. Assuming that Brexit takes place on 29 March 2019, this will have been the last December Council which the UK attended as an EU Member State.

Although agriculture items were discussed, as always with the December Council, the main focus was the negotiations between the European Commission and Member States on setting fishing quotas for the year ahead under the Common Fisheries Policy. As usual, the Council also ratified decisions already reached in preceding negotiations between the EU, Norway, Faroe Islands and Iceland.

My top priority at this year's Council was to secure outcomes that would avoid the fleet being tied up early under the full landing obligation in 2019. Through my direct involvement - and that of my officials - in the negotiations this was achieved.

On the west coast, I successfully resisted proposals that would have severely limited the availability of cod and whiting quota and risked throttling catches of other valuable species caught alongside such as monkfish and prawns.

In the North Sea, a package of outcomes negotiated across the different negotiating fora will ensure there is no longer a risk that incidental catches of ling and hake in our valuable whitefish trawl fisheries will result in the fleet being tied up early.

These are significant achievements that sit alongside other positive outcomes achieved at Council and in earlier talks including quota increases for hake (+27%), monkfish (+25%),

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saithe (+16%), megrim (+14%) and west coast prawns (+24%). I also successfully negotiated scientifically justifiable limits to the cuts advised on other stocks such as mackerel (-20% rather than -61%), North Sea cod (-33% rather than -47%) and North Sea herring (-36% rather than -52%).

With the very challenging scientific advice, this year's negotiations were always going to be difficult for all Member States. Any reductions in quota are clearly unwelcome but I have achieved the best possible deal that could realistically be secured in the circumstances, with an overall package worth around £400 million to the Scottish fleet.

The outcomes secured respect the scientific advice and strike the best balance between opportunities for the fleet and ensuring sustainable fishing levels. They will allow fishing to continue for the full year and deliver a sustainable and profitable future for Scottish fishermen.

As well as mitigating a number of quota reductions and finding workable solutions to the remaining choke risks, I also secured an important concession at Council for there to be a review of the operability of the landing obligation in 2019 and for this to be completed if it is required before unintended consequences unfairly and unjustly impact on our fishermen as the fishing year proceeds.

While in Brussels I worked closely with the two UK Government Ministers representing the UK at Council: Lord John Gardiner and Minister George Eustice (via telephone). I discussed and emphasised Scotland's priorities at a number of Ministerial meetings and during trilateral meetings with the European Commission and Council Presidency. Through such direct engagement, I was able to influence the UK's negotiating position which led directly to the strong outcomes achieved.

Alongside the deliberations in the Council chamber I held numerous discussions over the two days with representatives of Scotland's fishing industry who were housed in Scotland House close to the Council building. This was also where I hosted a well-attended reception on the Monday evening for fishing industry representatives and officials from across the UK.

Brexit loomed large over these negotiations. Scotland's fleet, like many industries, faces a challenging year ahead but we will continue to work closely with the sector to mitigate the adverse effects of Brexit. Regardless of the outcome of the Brexit negotiations, we will continue to seek opportunities to promote the sustainable growth of the Scottish fishing industry, both offshore and onshore.

The main agriculture item on the agenda was the proposals around the future of the CAP with the Austrian Presidency giving a progress report. Under the current CAP, an AOB item dealt with an important proposal to amend Article 31(5) of Regulation 1305/2013. At my request Lord Gardiner intervened to outline the difficult situation facing Scottish farmers and crofters and to request additional flexibility. My officials will be working in collaboration with DEFRA to submit proposed changes to the Commission with the proposals needing to be adopted before 29 March 2019 in order to apply in Scotland as 'retained EU law.' I also raised this issue directly with Commissioner Hogan during a meeting on the Monday of Council.

I have attached a brief note summarising the main discussions that the Council had for the interest of the Committee. I am copying this letter to the Convener of the European and External Relations Committee, for information.

I hope this information is helpful.

Yours sincerely,

A handwritten signature in black ink that reads "Fergus Ewing". The signature is written in a cursive style with a large loop at the end of the word "Ewing".

FERGUS EWING

AGRICULTURE AND FISHERIES COUNCIL REPORT: 17-18 DECEMBER 2017

SUMMARY OF KEY OUTCOMES

AGRICULTURE

Agriculture

1. Commissioner Hogan presented the Commission's new Bioeconomy strategy and welcomed complementary Member State initiatives such as BIOEAST (which Hungary provided an update to Council on). Council also debated the Commission's proposals for reform of the CAP post-2020 where a wide range of issues remain open: above all, the budget, and the performance monitoring system.

Agriculture AOBs

2. Commissioner Hogan set out the Commission's proposal to amend the present CAP legislation for payments in 2019-20. One of the proposals, if adopted before March 2019, would allow LFASS payment rates in 2020 to be made at 40% rather than the current 20%. The UK intervened to support this proposal but outlined the difficult situation facing Scottish farmers and crofters and requested additional flexibility.
3. Commissioner for Health and Food Safety Andriukaitis provided an update on the 2017 fipronil egg contamination incident. Other AOBs focussed on the EU Forest Strategy, Plant Proteins, and a Polish request for intervention in the pigmeat market which the European Commission rejected.
4. The Austrian Presidency also gave an update on the progress made on legislative files during its tenure, namely, Unfair Trading Practices, Spirit Drinks, and Fertilisers.

FISHERIES

5. The main fisheries item on the agenda concerned the annual **European Commission Policy proposal for fishing opportunities in 2019**. Commissioner Vella presented this to the Council, noting that 2019 will see full implementation of the landings obligations, and further action is needed to overcome complex issues and move further towards Maximum Sustainable Yield (MSY) targets.
6. The scientific advice for 2019 has been very challenging with significant cuts advised for a number of key stocks. Additionally in 2019 the landing obligation will be fully implemented for the first time which brings with it the very real risk of the fleet having to tie up in-year in the event of insufficient quota being available for certain 'choke' species that are inadvertently and unavoidably caught alongside the intended target stock in the mixed whitefish fisheries in which our fleet operates.
7. This December Council spent considerable time negotiating how to deal with the most critical manifestation of choke risk – that is for stocks with scientific advice for very low or zero catches which may lead to vessels needing to tie up very early in the year when any quota is exhausted. For the Scottish fleet, cod and whiting on the west coast fall into this most acute category with zero catches advised for both.
8. My officials engaged intensively with the European Commission and with other Member States at the Regional Groups to attempt to find a solution to these critical choke risks. During these precursor meetings it became clear that Scotland's preferred solution – which was that originally proposed by the Commission for a common pool held centrally rather than by individual Member States – would not be

achievable. As expected the issue went all the way to Council for political resolution where my objective was to negotiate the best available alternative solution. The solution I negotiated minimised as far as realistically achievable the cost to the Scottish fleet of obtaining the quota of these stocks it will need to keep fishing all year through swaps with other countries.

9. Other somewhat less acute choke risks have been addressed through a combination of outcomes secured across a number of different negotiating fora. For North Sea hake, at Council I successfully negotiated an increase in the TAC and an at EU/Norway an increase in the availability of Norway Others quota which can include hake catches in the Norwegian zone of the North Sea. For North Sea ling, at Council I successfully negotiated an increase in the TAC and secured an increase in the west to east geographic flexibility provision from 15% to 35% that will allow North Sea catches in excess of quota to be increasingly covered by unused quota held on the west coast.
10. Alongside these significant achievements other positive outcomes were achieved at Council and in earlier talks including quota increases for hake (+27%), monkfish (+25%), saithe (+16%), megrim (+14%) and west coast prawns (+24%). I also successfully negotiated scientifically justifiable limits to the cuts advised on other stocks such as mackerel (-20% rather than -61%), North Sea cod (-33% rather than -47%) and North Sea herring (-36% rather than -52%). Together these amount to a package worth around £400 million to the Scottish fleet in 2019.
11. Of the thirteen key Scottish stocks, ten have scientific advice based on the Maximum Sustainable Yield (MSY) approach. The challenging advice this year, and the need to find workable quota levels that strike the best balance between opportunities for the fleet and avoiding choke, and ensuring sustainable fishing levels, has meant that only six of these stocks (60%) have had TACs set at MSY levels for 2019. This is a reduction from 69% last year.
12. A summary of the main outcomes from the 2018 negotiations is at Annex 1.

The next Agriculture and Fisheries Council will be held in Brussels on the 28 January 2019.

STOCK	TAC CHANGE / OUTCOMES	ACHIEVED?
NS COD	32% DECREASE	YES – EU/NOR
NS HADDOCK	31% DECREASE	YES – EU/NOR
NS WHITING	22% DECREASE ¹	YES – EU/NOR
NS SAITHE	16% INCREASE	YES – EU/NOR
NS HAKE	37% INCREASE	YES - DEC COUNCIL
NS ANGLERFISH	25% INCREASE	YES - DEC COUNCIL
NS MEGRIM	14% INCREASE	YES - DEC COUNCIL
NS NEPHROPS	10% DECREASE ²	TBA - DEC COUNCIL
WS HADDOCK	31% DECREASE	YES – EU/NOR
ROCKALL HADDOCK	103% INCREASE	YES - DEC COUNCIL
WS SAITHE	6 % INCREASE	YES – EU/NOR
WS HAKE	28% INCREASE	YES - DEC COUNCIL
WS ANGLERFISH	25% INCREASE	YES - DEC COUNCIL
WS MEGRIM	6% INCREASE	YES - DEC COUNCIL
WS NEPHROPS	24% INCREASE ³	TBA - DEC COUNCIL
NS LING	5% INCREASE ⁴	YES - DEC COUNCIL
WS LING	ROLLOVER	YES - DEC COUNCIL
ATLANTIC MACKEREL	20% DECREASE	YES – COASTAL STATES
BLUE WHITING	18% DECREASE	YES – COASTAL STATES
A-S HERRING	35% INCREASE	YES – COASTAL STATES
NS HERRING	36% DECREASE	YES – EU/NOR
WS HERRING	Monitoring TAC – rollover	YES - DEC COUNCIL
SKATES AND RAYS	North Sea - Rollover, +5% West of Scotland	YES - DEC COUNCIL
BYCATCH TACS	Ensure approach to management of bycatch TACS is case-by-case where necessary, simple and fair.	TOP PRIORITY – West of Scotland cod and whiting. Through negotiation, secured: <ul style="list-style-type: none"> • Incentivising reduction of 5% rather than 20% originally proposed • Swapping pool deduction of 6% WoS cod and 3% WoS whiting rather than 7% proposed in 1st compromise. • Council statements on bycatch reduction plans, landing obligation review.
QUOTA DEDUCTIONS	Ensure all deductions are correctly calculated and applied	Deductions for landing obligation exemptions – <i>de minimis</i> and high survivability. A number of calculations remain to be confirmed. See above where relevant.
FLEXIBILITY	Ling: secure 35% W→E flex	YES - DEC COUNCIL
HAGUE PREFERENCE	Ensure HP invoked and counter invoked on stocks where appropriate	TBA - DEC COUNCIL. Commission acknowledged that figures need to be tidied up for HP invocations declared.
EU-FAROE AGREEMENT	Secure a balanced quota exchange. Mackerel access back on the negotiating table, with an aim to decrease from current 30%.	Reduction in Herring transfers Mackerel access maintained at 30%

¹ Expect further *de minimis* deduction of 6.32% subject to agreement of new Joint Recommendation text by North Sea Regional Group. Expect final TAC change to be -27% (TBC).

² Current proposal includes an adjustment for high survivability but awaiting updated calculations from Commission.

³ Current proposal includes an adjustment for high survivability but awaiting updated calculations from Commission.

⁴ Expect *de minimis* deduction of 2.72% to be applied to this to give net change of around +2%.