



The primary purpose of the House of Lords European Union Select Committee is to scrutinise EU law in draft before the Government take a position on it in the EU Council of Ministers. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published where appropriate.

This edition includes correspondence from 1 February 2020 – 23 April 2020

## EU ENERGY AND ENVIRONMENT SUB-COMMITTEE

### CONTENTS

Court of Auditors Special Report no. 2019/16 ‘European Environmental Economic Accounts: usefulness for policy makers can be improved’ (Unnumbered) .....	2
COMMISSION DELEGATED REGULATION (EU) .../... of 1.10.2019 specifying details of the landing obligation for certain demersal fisheries in North-Western waters for the period 2020-2021 (12739/19, C(2019) 7048).....	2
COMMISSION DELEGATED REGULATION (EU) .../... of 1.10.2019 specifying details of implementation of the landing obligation for certain demersal fisheries in the North Sea for the period 2020-2021 (12741/19, C(2019) 7078).....	2
RECOMMENDATION FOR A COUNCIL DECISION AUTHORIZING THE OPENING OF NEGOTIATIONS ON BEHALF OF THE EUROPEAN UNION FOR THE CONCLUSION OF A SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENT AND A PROTOCOL WITH THE GOVERNMENT OF DENMARK AND THE HOME RULE GOVERNMENT OF GREENLAND (13389/19).....	4
PROPOSAL FOR A COUNCIL REGULATION FIXING FOR 2020 THE FISHING OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS, APPLICABLE IN UNION WATERS AND, FOR UNION FISHING VESSELS, IN CERTAIN NON-UNION WATERS (13438/19).....	5
GENERAL CORRESPONDENCE.....	8
Access to UK fisheries post-Brexit.....	8
UK membership of North Seas Energy Cooperation.....	8

COURT OF AUDITORS SPECIAL REPORT NO. 2019/16 'EUROPEAN  
ENVIRONMENTAL ECONOMIC ACCOUNTS: USEFULNESS FOR POLICY MAKERS  
CAN BE IMPROVED' (UNNUMBERED)

**Letter to the Chair from Chloe Smith MP, Minister for the Constitution, Cabinet Office**

I am writing in response to your letter sent on 16 January 2020 regarding European Environmental Economics Accounts.

The Office for National Statistics (ONS), coordinates with other government departments to ensure the UK fulfil all requirements of producing data for the European Environmental Economic Accounts (EEEA), including providing annual quality reports UK data to Eurostat

The ONS maintains a regular dialogue with Eurostat on measures to improve the EEEA. In recent years, Eurostat has recommended to all member states to make these statistics more timely and helpful to policy makers, and ONS has now completed work to improve the timeliness of estimates of the size of the Environmental Goods and Services Sector, one component of the EEEA.

Following the UK's departure from the European Union on the 31 January 2020, the ONS will continue to feed into the EEEA over the course of the Implementation Period, while also continuing to publish the UK data as the UK's Environmental Accounts, alongside associated quality and methodology information, as now.

The ONS aims to comply with all international recommendations when producing the UK's Environmental Accounts and it is important to note much of the European framework for statistics is derived from standards set by other bodies – in the case of the EEEA, the UN System of Environmental Economic Accounting.

Longer-term UK participation in the European Statistical System, including the EEEA, will be determined as part of the formal negotiations between the UK and European Union.

Regardless of the UK's future relationship with the European Union, the UK statistical system will continue to collect, regulate and disseminate statistics under the well-established and robust domestic framework, based on the Statistics and Registration Service Act 2007 . The UK Statistics Authority's Code of Practice for Statistics will continue to safeguard the comparability and continuity of statistics for the public good, and producers will continue to work with decision-makers to make sure they have the data they need.

I hope the Committee find this response helpful and can now release the Report from scrutiny.

*4 February 2020*

COMMISSION DELEGATED REGULATION (EU) .../... OF 1.10.2019 SPECIFYING  
DETAILS OF THE LANDING OBLIGATION FOR CERTAIN DEMERSAL FISHERIES IN  
NORTH-WESTERN WATERS FOR THE PERIOD 2020-2021 (12739/19, C(2019) 7048)

COMMISSION DELEGATED REGULATION (EU) .../... OF 1.10.2019 SPECIFYING  
DETAILS OF IMPLEMENTATION OF THE LANDING OBLIGATION FOR CERTAIN  
DEMERSAL FISHERIES IN THE NORTH SEA FOR THE PERIOD 2020-2021 (12741/19,  
C(2019) 7078)

**Letter to the Chair from George Eustice MP, Minister of State, Department for  
Environment, Food and Rural Affairs**

Thank you for your letter of 23 January about whether the exemptions from the landing obligation set out in the EU delegated regulations will apply to the UK following the end of the transition period.

The UK remains committed to sustainable fishing, including ending the wasteful discarding of fish. This will not change now that we have left the EU. However, leaving the EU and the Common Fisheries

Policy means we have flexibility to address the issue of discards in a way which reflects the nature of UK waters and UK fisheries.

Exemptions which are currently included within the EU delegated acts facilitate the implementation of the landing obligation. Some of these exemptions apply only to fisheries that are not applicable to the UK and may not be needed. It is also possible that some of the exemptions in the current delegated acts will have changed by the time the transition period is over.

Whilst we may continue to use some of the tools in the CFP toolkit, after the transition period, including science-based exemptions, we will also have the opportunity to adopt new measures that will reduce discarding whilst also preventing choke.

*10 February 2020*

**Letter from Lord Teverson, Sub-Committee Chair to George Eustice MP, Minister of State, Department for Environment, Food and Rural Affairs**

Thank you for your letter dated 10 February 2020, which was discussed by the Committee in our meeting on 26 February 2020.

We note your assessment that not all the exemptions under the delegated acts will have relevance to UK waters and UK fisheries. Of the exemptions which do affect UK waters and UK fisheries, which would the Government seek to continue after the Brexit transition period?

Your letter highlights that some exemptions may change. We note that EM 12739/19 states that some exemptions are for one year only, pending further evidence from the North Western Waters Regional Group. This evidence is to be submitted in May 2020, before the Brexit transition period ends. Will the Government review this evidence and take a view whether to continue these exemptions, if they are relevant to UK waters and UK fisheries?

We look forward to a reply to this letter in due course.

*27 February 2020*

**Letter to the Chair from Victoria Prentis MP, Parliamentary Under Secretary of State, Department for Environment Food and Rural Affairs**

Thank you for your letter of 27 February 2020 about whether the exemptions from the North Sea and North Western Waters Delegated Acts will apply to the UK following the end of the Transition Period. I am replying as the government Minister now responsible for the policy.

The 2020 version of the North Sea and North Western Waters Delegated Acts will form part of retained EU law and they will continue to be in effect in the UK after the end of the Transition Period.

You rightly note that some of the exemptions are subject to shorter time limits and require additional scientific information for their continued use. In this case, the Regional Groups will submit scientific evidence to the Scientific, Technical and Economic Committee for Fisheries (STECF) by 1 May 2020 for review. STECF will assess this evidence during summer 2020 before providing an opinion on whether it supports the exemption being continued or not. The UK Government will consider STECF's official opinion on whether an exemption should be continued beyond their temporary deadline of 31st December 2020, until 31st December 2021. If the scientific evidence supports an extension, the UK Government will ensure the time-limited exemptions most relevant to the UK industry are extended after the transition period, using powers proposed in the Fisheries Bill if necessary (assuming it gets Royal Assent in time).

There are 21 exemptions across the North Sea and North Western Waters Delegated Acts which require additional data. Of these, there are six which are of particular interest to the UK. These are:

**North Sea**

1) Survivability exemption for *Nephrops* (ICES 2-4), bottom trawls with >80mm mesh or bottom trawls with >70mm mesh with selective gear options.

2) Survivability exemption for skates and rays (ICES 2-4) for all gears. This exemption is valid for two years until 31 December 2021, but has the requirement for more data by 1 May 2020.

3) *De minimis* exemption for whiting and cod (ICES 4a) below the minimum conservation reference size (MCRS) caught in bottom trawls or seines 70-99mm mesh in the mixed demersal fishery.

4) *De minimis* for whiting (ICES 4a-c) below minimum conservation reference size caught in beam trawls 80-119mm mesh in the mixed demersal fishery.

#### **North Western Waters**

1) Survivability exemption for plaice (ICES 7h-k) caught in beam trawls (+ various technical conditions).

2) Survivability exemption for skates and rays (ICES 6-7) for all gears. This exemption is valid for two years until 31 Dec 2021, but has the requirement for more data by 1 May 2020.

During the transition period, the UK will continue to comply with the 2020 Total Allowable Catch (TAC) and Quota Regulation. However, as the UK has now left the EU, we are no longer members of the Regional Groups (which only Government representatives of EU Member States attend). We will consider how best to engage with these groups going forward, to jointly manage shared stocks.

After the transition period, England will have its own process for determining whether exemptions should be introduced, extended, modified, or removed as part of our future discard policy as we move away from the EU landing obligation towards our new discards policy. This process is being developed.

*16 March 2020*

#### **Letter from Lord Teverson, Sub-Committee Chair to Victoria Prentis MP, Parliamentary Under Secretary of State, Department for Environment Food and Rural Affairs**

Thank you for your letter dated 16 March 2020. The Committee considered your response, which was very comprehensive. It is clear from your letter that you and your team have given considerable thought to the future of discard management and we commend you on your commitment to this important conservation measure. We are now content to close correspondence on these EMs.

*25 March 2020*

#### **RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE OPENING OF NEGOTIATIONS ON BEHALF OF THE EUROPEAN UNION FOR THE CONCLUSION OF A SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENT AND A PROTOCOL WITH THE GOVERNMENT OF DENMARK AND THE HOME RULE GOVERNMENT OF GREENLAND (13389/19)**

#### **Letter from the Chair to Victoria Prentis MP, Parliamentary Under Secretary of State, Department for Environment Food and Rural Affairs**

Thank you for your Explanatory Memorandum (EM) on the above Recommendation, which was considered by our Energy and Environment Sub-Committee at its meeting on 4 March 2020.

We note that the EU-Greenland Agreement will cease to have effect in the UK after the transition period. Do you intend to seek an equivalent UK-Greenland Sustainable Fisheries Partnership Agreement? If so, when do you anticipate those negotiations beginning? And if not, what is your assessment of the impact on the UK catching and processing industry of losing access to the Greenlandic quota?

The Committee continues to take an active interest in this matter and we would therefore welcome being kept updated on developments. We look forward to a response within ten working days.

*5 March 2020*

**Letter to the Chair from Victoria Prentis MP, Parliamentary Under Secretary of State,  
Department for Environment Food and Rural Affairs**

Thank you for your letter of 5th March 2020.

The Government engages regularly with the Greenlandic authorities across a variety of policy areas. In relation to fisheries, recent engagement has centred on, for example, the UK's application for membership of the North East Atlantic Fisheries Commission (NEAFC), the Greenlandic position on North-East Atlantic mackerel, as well as our long-term bilateral relationship.

With respect to the current EU-Greenland SFPA, the UK received in 2020 quota for four stocks to the value of c.£1.2m, the most valuable stock being Greenland cod.

*16 March 2020*

**PROPOSAL FOR A COUNCIL REGULATION FIXING FOR 2020 THE FISHING  
OPPORTUNITIES FOR CERTAIN FISH STOCKS AND GROUPS OF FISH STOCKS,  
APPLICABLE IN UNION WATERS AND, FOR UNION FISHING VESSELS, IN CERTAIN  
NON-UNION WATERS (13438/19)**

**Letter from the Chair to Victoria Prentis MP, Parliamentary Under Secretary of State,  
Department of Food, Environment and Rural Affairs**

Thank you for your Explanatory Memorandum (EM) and letter dated 13 January on the above Proposal, which were considered by our Energy and Environment Sub-Committee at its meeting on 4 March 2020.

We note and welcome your focus on sustainability and discard reduction in the negotiations on this Regulation, and also thank you for the level of detail provided in your EM.

While it is a welcome development that the percentage of stocks with a maximum sustainable yield (MSY) assessment in which the UK has an interest with a TAC set at or below their MSY has increased from 59% in 2019 to 69% in 2020, that remains a far cry from the EU's target to fish all stock sustainably as of 2020, as enshrined in the CFPI and the United Nations Sustainable Development Goals.<sup>2</sup> We therefore have serious concerns about the continued levels of unsustainable fishing. Given that the 2020 goal has demonstrably not been met, when do you expect the EU and UK to reach that target? And what plans do you have to drive progress towards that goal, at both a national (i.e. through domestic action) and regional (i.e. in collaboration with Regional Fisheries Management Organisations) level?

In addition, pages 2-3 of the Commission's EM on the proposed Regulation clarify that TACs continue to be set at a level that assumes full implementation of the landing obligation. We have serious concerns about this approach: speaking with us last year, your predecessor Robert Goodwill acknowledged that discards may be continuing alongside the use of the additional quota.<sup>3</sup> Will data about the increase of landings be used to assess whether the quota uplift is justified and in the interests of sustainable fishing? And if so, when will that assessment take place?

Please provide us with your economic assessment of the settlement when it is complete.

We note that the equivalent negotiations regarding the fishing opportunities for 2021 will take place in December 2020, during the transition period. Please confirm what you anticipate the UK's status being at those negotiations, assuming that the transition period is not extended.

We also note your vote in favour of the Regulation at the Agriculture and Fisheries Council in December 2019. We acknowledge that in this instance it was in the UK's interest for you to override the scrutiny reserve.

The Committee continues to take an active interest in this matter and we would therefore welcome being kept updated on developments. We look forward to a response within ten working days.

*5 March 2020*

**Letter to the Chair from Victoria Prentis MP, Parliamentary Under Secretary of State,  
Department of Food, Environment and Rural Affairs**

Thank you for your letter of 5th of March, I will address each of your questions below.

MSY and the 2020 Target

Analysing the UK's progress towards delivering sustainable fisheries management including fishing at Maximum Sustainable Yield (MSY) is complex. This is because few TAC spatial management areas directly overlap with their corresponding ICES biological stock advice areas; with examples of both pooled TACs comprising elements of multiple biological stocks, and other biological stocks being split across TAC areas.

Noting these complexities, and in partnership with our scientific advisers at the Centre for Environment, Fisheries and Aquaculture Science (Cefas), we have now reviewed the outputs from the fisheries negotiations for 2020. In doing so we have identified some corrections that need to be made to the number of TACs at MSY that the UK has a fishing interest in for 2020. With these adjustments – a change related to 1 stock - accounted for, the UK had 36 (67%) TACS set at MSY out of total of 54 TACs derived from stocks with MSY assessments in 2020. These figures are different from the figures previously communicated for 2020 i.e. 37 (69%) TACs set at MSY out of a total of 54. The figures for 2019 are unchanged: 30 (59%) TACs set at MSY out of a total of 51 TACs derived from stocks with MSY assessments in 2019.

As we leave the EU and the Common Fisheries Policy, the UK Government will undertake a further forward-looking review of the methodology applied to assess the sustainability of fishing opportunities going forward. In doing so we will seek the views of stakeholders. The new methodology will underpin our negotiations for fishing opportunities in 2021 and will represent a fresh and transparent new approach to assessing outcomes on TAC setting including in relation to MSY that will reflect our objectives for delivering sustainable fisheries as an independent coastal state.

I cannot answer on behalf of the EU on their next steps in meeting the CFP 2020 MSY target, but I can offer information on the UK's progress towards MSY. The UK Government remains committed to continuing to work under the principle of MSY and to restore stocks to healthy conditions as quickly as possible, including taking a precautionary approach where necessary. We made this clear in our Fisheries White Paper and the 25 Year Environment Plan. The Fisheries Bill restates this commitment by introducing a set of sustainability objectives including on achieving MSY and requires us to produce fisheries management plans setting out the steps that we will take to make progress towards our stocks achieving sustainable levels, including to MSY where sufficient data are available.

However, due to the international nature of fishing and fish stocks which span national boundaries, MSY can only be achieved through international negotiation, and is reliant on the good will and shared ambition of other parties. In part, this is why the EU as a whole has not met the 2020 target. It is also why achieving MSY by 2020 was a target for the EU as a whole and not for individual member states acting alone, precisely because many stocks cover broad geographic areas.

The UK is applying to join five priority Regional Fisheries Management Organisations (RFMOs) during 2020 in order to engage in RFMO-led fisheries management decisions for 2021 and beyond as an independent coastal State. These RFMOs are the North East Atlantic Fisheries Commission (NEAFC), Northwest Atlantic Fisheries Organisation (NAFO), International Convention for the Conservation of Atlantic Tunas (ICCAT), Indian Ocean Tuna Commission (IOTC), and North Atlantic Salmon Conservation Organisation. Our position in these RFMOs will be driven by our sustainable fisheries management objectives.

RFMOs principally exist to manage fisheries in high seas areas: coastal States have sovereignty over fisheries resources within their Exclusive Economic Zones (EEZs) and RFMO measures can usually only apply there with express permission. In order to manage stocks distributed across our EEZ and those of one or more other coastal States the UK will, firstly, participate independently in multilateral negotiations (between ourselves, the EU, Norway and others) on the hugely important northeast Atlantic stocks such of mackerel, blue whiting, Atlanto-Scandian herring and redfish. Secondly, we will develop fisheries agreements with coastal States like Norway as frameworks for bilateral collaboration in managing shared stocks such as North Sea cod and haddock. Being able to participate in extant international fisheries fora as an independent coastal State, and able to develop new fisheries

agreements with key partners, will give the UK a renewed and refreshed opportunity to drive progress towards its fisheries management objectives.

We do recognise though that more needs done, and the Bill now requires us and the devolved administrations, to draft fisheries management plans to deliver the fisheries objectives. These plans will set out the actions we will take to achieve sustainable levels of fishing for our stocks, whilst recognising the impact of fishing on the wider environment. We recognise that the MSY 2020 target, with its one size fits all approach, is not the best way to achieve sustainable fisheries. Instead, we will have a collection of specific targets and actions set out through the plans. This allows actions to be tailored to the specific challenges facing our stocks or areas of sea, taking account of the mixed fisheries in our waters. Fisheries Management Plans will set out policies for restoring and then maintaining stocks at sustainable levels. If a stock or area will not be covered by a Plan, the Joint Fisheries Statement must explain why.

#### Landing Obligation and quota uplift

Currently there are no specific plans in the UK to assess the increase of landings to determine whether the quota uplift is justified although, the UK will in future be able to set its own rules for fisheries management and conservation measures. Whilst we will remain fully committed to ending the wasteful discarding of fish, we will have the flexibility to introduce measures not contained within the CFP toolkit to reduce discarding whilst preventing choke. These flexibilities include evaluating further evidence-based exemptions, alternative rules for dealing with undersized catch and viable alternatives to catch limits.

#### Annual Negotiations 2021

In relation to the annual negotiations in 2020 relating to fishing opportunities applying in 2021, the UK will be negotiating as an independent coastal State. The timing and format of these negotiations, both with EU and with other coastal states, are also matters which themselves will be subject to negotiation.

*1 April 2020*

### **Letter the Chair from Victoria Prentis MP Parliamentary Under Secretary of State Department for Environment, Food and Rural Affairs**

2020 fishing opportunities for the UK were set at the EU Agriculture and Fisheries Council on 16–18 December 2019. This followed negotiations within the EU and between the EU and third countries in the run up to and at the Council. Following our explanatory memorandum relating to the setting of fishing opportunities for 2020 (13438/19), I attach an assessment and evaluation of the final agreement as it relates to the UK.<sup>1</sup>

Analysing the UK's progress towards delivering sustainable fisheries management including fishing at Maximum Sustainable Yield (MSY) is complex. This is because few TAC spatial management areas directly overlap with their corresponding ICES biological stock advice areas; with examples of both pooled TACs comprising elements of multiple biological stocks, and other biological stocks being split across TAC areas.

Noting these complexities, and in partnership with our scientific advisers at the Centre for Environment, Fisheries and Aquaculture Science (Cefas), we have now reviewed the outputs from the fisheries negotiations for 2020. In doing so we have identified that some corrections need to be made to the number of TACs at MSY that the UK has a fishing interest in for 2020. With these adjustments – a change related to 1 stock - accounted for, the UK had 36 (67%) TACS set at MSY out of total of 54 TACs derived from stocks with MSY assessments in 2020. These figures are different from the figures previously communicated for 2020 i.e. 37 (69%) TACs set at MSY out of a total of 54. The figures for 2019 are unchanged: 30 (59%) TACs set at MSY out of a total of 51 TACs derived from stocks with MSY assessments in 2019.

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<sup>1</sup> Not published here.

As we leave the EU and the Common Fisheries Policy, the UK Government will undertake a further forward-looking review of the methodology applied to assess the sustainability of fishing opportunities going forward. In doing so we will seek the views of stakeholders. The new methodology will underpin our negotiations for fishing opportunities in 2021 and will represent a fresh and transparent new approach to assessing outcomes on TAC setting including in relation to MSY that will reflect our objectives for delivering sustainable fisheries as an independent coastal state.

This report presents the position for the last year that the UK negotiated fishing opportunities as a Member State at the EU December Agriculture and Fisheries Council. In 2020 we will be negotiating access and fishing opportunities for 2021 as an independent coastal state.

*1 April 2020*

## GENERAL CORRESPONDENCE

### ACCESS TO UK FISHERIES POST-BREXIT

#### **Letter from the Chair to Fergus Ewing Cabinet Secretary for the Rural Economy, The Scottish Government**

I am writing to invite you to join my Committee for an evidence session discussing access to UK fisheries post-Brexit. Topics we are likely to cover include negotiation priorities, intentions and conditions on granting access to UK waters, the allocation of quota between the UK and the EU, and the inter-government process during and after the negotiations.

The session will take place on either 26 February or 4 March, for an hour between 11am and 1pm: if you have a preference for either date, do let me know, and if you are unavailable I would be grateful if you would consider sending a senior official in your place.

*5 February 2020*

### UK MEMBERSHIP OF NORTH SEAS ENERGY COOPERATION

#### **Letter from Lord Teverson, Sub-Committee Chair to Kwasi Kwarteng MP, Minister of State for Business Energy and Clean Growth, Department for Business Energy and Industrial Strategy**

The Committee has become aware that the European Commission has sought to exclude the UK from North Seas Energy Cooperation after 31 January 2020 and wants to understand what the Government's position is on this and what Government is doing to ensure cooperation in this policy area can continue.

Does Government consider this initiative to be covered by the Withdrawal Agreement provision that limits UK participation in EU decision-making forums in the transition period, and what actions are you taking to ensure that the UK can continue to cooperate with relevant countries on energy in the North Seas during the transition period?

We note that in the Government's paper on *The Future Relationship with the EU: The UK's Approach to Negotiations*, renewable deployment and decarbonisation in the North Seas is one of three areas that an energy (electricity and gas trading) agreement with the EU might cover. How does Government plan to pursue cooperation with neighbouring countries should an agreement not be reached?

We look forward to a reply to this letter in due course.

*4 March 2020*

**Letter to the Chair from Kwasi Kwarteng MP, Minister of State for Business Energy and Clean Growth, Department for Business Energy and Industrial Strategy**

Thank you for your letter of 4 March. As you say, the European Commission has largely excluded the UK from the North Seas Energy Cooperation (NSEC) on the grounds that, in its view, the NSEC is an EU body and therefore covered by the Withdrawal Agreement. The Commission has said that the UK will only be invited to meetings in exceptional cases as laid down in Article 128(5) of that Agreement. By contrast, the Government considers the NSEC to be a regional cooperation initiative and not an EU body, so does not accept that it is covered by the Withdrawal Agreement. Since the UK left the EU on 31 January 2020 UK officials have not been invited to any NSEC meetings.

You mention the Government's paper on the UK's approach to negotiations. The Government sees development of renewables in the North Seas as crucial to meeting our net zero commitment so it is certainly one of the areas that an energy agreement with the EU might cover. However, regardless of the outcome of the negotiations, countries which have existing or planned interconnectors with the UK and ambitions to develop offshore generation are keen to continue cooperating with us on a bi- or multilateral basis. It is clear that the UK and neighbouring countries have a common interest in maximising the resources in the North Seas to support decarbonisation and the only way to do this efficiently and at least cost is by working together during the transition period and in the future. I am confident that we will find a way to do this which is acceptable to us all.

*17 March 2020*

**Letter from the Chair to Kwasi Kwarteng MP, Minister of State for Business Energy and Clean Growth, Department for Business Energy and Industrial Strategy**

Thank you for your letter dated 17 March 2020, which was considered by the Committee on 25 March 2020.

Your letter highlights that the Government sees the development of renewables in the North Seas as being crucial to achieving net zero and places importance on continued cooperation in this area, and we welcome this.

We note, and also welcome, that you have said relevant countries are keen to continue cooperating on a bi- or multilateral basis regardless of the outcome of negotiations. Nonetheless, to the extent that cooperation in the North Seas under the auspices of an energy agreement could bring benefits that cannot be achieved on a bi- or multilateral basis – and we take its inclusion in the Government's Command Paper as an indication of this – we urge that the Government takes those benefits into account as the negotiations progress.

We are closing this correspondence and do not require a response to this letter, but please keep us informed if there are any key developments. The EU Committees may later take an interest in related issues as part of their work on the UK-EU future relationship.

*25 March 2020*