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Finlay Carson MSP
Convener of the Rural Affairs, Islands and Natural
Environment Committee
c/o Clerk to the Committee
Room T3.40
The Scottish Parliament
EDINBURGH
EH99 1SP

18 May 2022

Dear Finlay,

**OFFICIAL CONTROLS (EXTENSION OF TRANSITIONAL PERIODS) (AMENDMENT)
REGULATIONS 2022 – OFC/010 EU EXIT LEGISLATION – PROTOCOL WITH
SCOTTISH PARLIAMENT**

I am writing in relation to the protocol on obtaining the approval of the Scottish Parliament to proposals by the Scottish Ministers to consent to the making of UK secondary legislation affecting devolved areas arising from EU Exit.

That protocol, as agreed between the Scottish Government and then Parliament, accompanied the letter from the Cabinet Secretary for Government Business and Constitutional Relations, Michael Russell MSP, to the Conveners of the Finance & Constitution and Delegated Powers and Law Reform Committees on 4 November 2020 and replaced the previous protocol that was put in place in 2018.

I attach a Type 1 notification which sets out the details of the SI which the UK Government propose to make and the reasons why I am content that Scottish devolved matters are to be included in this SI. Please note, we are yet to have sight of the final SI and it is 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 the final SI is in keeping with the terms of this notification.

The UK Government plans to lay the Instrument on 8 June 2022. An initial draft of the SI has only been shared in recent days and it is therefore regrettable that on this occasion it has not been possible to comply with the requirement that members should have a full 28 days to scrutinise before the instrument is laid.

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The principal aim of this Instrument is to protect biosecurity and support trade by ensuring that within Great Britain, and between Great Britain and 'relevant third countries' as defined in Annex 6 to Regulation (EU) 2017/625 ("the Official Controls Regulation"), effective official border controls continue to operate following the end of the Transition Period. The changes made by the Instrument relate to controls on imports to Great Britain for the set of commodities known collectively as Sanitary/Phytosanitary measures ('SPS') goods.

The Instrument replaces the date for the ending of the transitional staging period ('TSP'), as set out in the Official Controls (Extension of Transitional Periods) Regulations 2021 during which the Official Controls Regulation setting controls on SPS imports into Great Britain applies in a modified manner in relation to imports into Great Britain from relevant third countries (in particular EU member States). At the end of the TSP the Official Controls Regulation will apply fully to all SPS goods, including those imported into GB from relevant third countries. The current end date for the TSP is 30 June 2022. The Instrument will change this date to 31 December 2022.

The UK Government has indicated that a "Target Operating Model" is expected in Autumn 2022, which will set out the new regime of border import controls and will target the end of 2023 as the revised introduction date for import controls. The UK Government has advised that the Border Operating Model will also be updated to outline further phasing specific to SPS goods from the EU, indicating that updates are anticipated in Autumn 2022. The UK Government has also indicated that it anticipates that further amending legislation will be needed in Autumn 2022 to reflect the updated Border Operating Model, outlining the phasing of import checks in 2023. The Scottish Government has no information on these updates, and continues to liaise with the UK Government to ascertain details and develop its own position.

The amendments made by the instruments do not confer any powers to make legislation on UK or Scottish Ministers.

This instrument will be laid in the UK Parliament on 8 June and will come into force on 29 June 2022.

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

I look forward to hearing from you by 6 June 2022.

Yours sincerely,



MAIRI GOUGEON

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