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Don Staniford by email  
Scottish Salmon Watch

Our ref: Fol/19/02663

14 February 2020

Dear Mr Staniford

Thank you for your request dated 16 December 2019 under the Environmental Information (Scotland) Regulations 2004 (the EIRs).

### Your request

You asked for:

1. Ova import data since the last import detailed in the information disclosed today via FOI/18/01553 (i.e. data since 8 June 2018) including data on Scottish Sea Farms.
2. Ova import data for 2016 (as previously requested and disclosed except for Scottish Sea Farms via FOI/18/02912).
3. Information in relation to discussions re. ova imports since 29 March 2018, to include discussions with the Norwegian Government, egg companies, salmon farming companies and other parties (effectively an update of FOI/08/01043).

This would also include any emails, letters, Cabinet Briefings, press updates and other information on ova imports in relation to Scottish Sea Farms, Marine Harvest/Mowi Ireland, the Scottish Information Commissioner, Hendrix, Landcatch, Scottish Ministers and other parties (including any arguments set out by Scottish Sea Farms, lawyers, government officials or other parties in relation to the non-disclosure of ova import data).

4. Information on any disease risks and biosecurity concerns of ova imports (i.e. an update of FOI/18/03773 filed on 18 December 2018).

You confirmed that your request related to imports of salmon ova.

As the information you have requested is 'environmental information' for the purposes of the Environmental Information (Scotland) Regulations 2004 (EIRs), we are required to deal with your request under those Regulations. We are applying the exemption at section 39(2) of the Freedom of Information (Scotland) Act 2002 (FOISA), so that we do not also have to deal with your request under FOISA.

This exemption is subject to the 'public interest test'. Therefore, taking account of all the circumstances of this case, we have considered if the public interest in disclosing the information outweighs the public interest in applying the exemption. We have found that, on balance, the public interest lies in favour of upholding the exemption, because there is no public interest in dealing with the same request under two different regimes. This is essentially a technical point and has no material effect on the outcome of your request.

## **Response to your request**

In relation to the various aspects of your request please refer to the responses detailed below.

### **1. Ova import data since 8 June 2018 to 16 December 2019; and**

### **2. Ova import data for 2016.**

Please find enclosed relevant information in relation to part 1 and part 2 of your request.

### **3. Information in relation to discussions re. ova imports since 29 March 2018; and**

### **4. Information on any disease risks and biosecurity concerns of ova imports**

Please find enclosed relevant information in relation to part 3 and part 4 of your request. This includes information relating to Ministerial briefings and communications, stakeholder communications, internal discussions as well as communications with other government agencies and departments and the Office of the Scottish Information Commissioner. This information relates to the following subject areas:

- Ministerial meetings and visits
- Import notifications and imports
- Clarification of errors on health certificates accompanying exports into Scotland
- Norwegian declarations relating to the health status of specific areas (in Norway)
- The suspension of ova exports from Norway
- The release and withholding of information relating to 'ova import data'
- The appeal associated with Fol/18/01553

In addition to the information provided and to facilitate your understanding of the same, context to some of the above subject areas is attached in Annex 1 of this reply.

Please be aware that, in addition to all of the information provided through this response, several other requests for information, involving the same or similar subject area 'salmon ova imports [into Scotland]' have been handled. These may include additional information, already released, which is relevant to this request. These requests include, but are not limited to:

Fol/19/00976 - <https://www.gov.scot/publications/foi-19-00976/>

Fol/18/03773 - <https://www.gov.scot/publications/foi-18-03773/>

Fol/18/02912 - <https://www.gov.scot/publications/foi-18-02912/>

Fol/18/01553 - <https://www.gov.scot/publications/foi-18-01553/>

References to published responses are provided above. You can find copies to other requests and their associated responses on the Scottish Government website:  
<https://www.gov.scot/publications/>

Further, with respect to the subject area of disease risks and biosecurity concerns of ova imports, information is provided within the attached and is covered in discussions relating to ova imports more generally. I wish to refer you back to our reply to Fol/18/03773 (referenced above) which sets out some specific information relating to disease control and imports of ova.

Some of the information referred to is publicly available. Where this is the case, this is noted within the information supplied and a web link or suitable reference is provided. In particular, Marine Scotland holds a copy of the final report of the EFTA Surveillance Authority's mission to Norway from 20 to 29 May 2019 in order to evaluate animal health controls in relation to aquaculture, which is available online at <http://www.eftasurv.int/press--publications/press-releases/internal-market/esa-norway-needs-to-improve-official-controls-of-trade-of-live-farmed-fish-shellfish>. We also hold a copy of a presentation relating to this report, also available online at [https://ec.europa.eu/food/sites/food/files/animals/docs/reg-com\\_ahw\\_20191221\\_efta-report.pdf](https://ec.europa.eu/food/sites/food/files/animals/docs/reg-com_ahw_20191221_efta-report.pdf).

Under regulation 6(1)(b) of the EIRs, we do not have to give you information which is already publicly available and easily accessible to you in another form or format.

You will note that some information has been redacted from that supplied. This is because exceptions at 11(2) (personal data) and at 10(4)(e) (internal communications) of the EIRs apply to some of the information relevant to your request. The reasons why these exceptions apply are set out in the Annex 2 of this letter.

### **Your right to request a review**

If you are unhappy with this response to your EIRs request, you may ask us to carry out an internal review of the response, by writing to:

Graham Black  
Director Marine Scotland  
Scottish Government  
Area 1B South  
Victoria Quay  
Edinburgh  
EH6 6QQ

Email: [directormarinescotland@gov.scot](mailto:directormarinescotland@gov.scot)

Your review request should explain why you are dissatisfied with this response, and should be made within 40 working days from the date when you received this letter. We will complete the review and tell you the result, within 20 working days from the date when we receive your review request.

If you are not satisfied with the result of the review, you then have the right to appeal to the Scottish Information Commissioner. More detailed information on your appeal rights is available on the Commissioner's website at:

<http://www.itspublicknowledge.info/YourRights/Unhappywiththeresponse/AppealingtoCommissioner.aspx>.

Yours sincerely,

Neil Purvis



## CONTEXT TO INFORMATION PROVIDED

### Norwegian Declarations

In accordance with Council Directive 2006/88/EC, EU and EFTA<sup>1</sup> member states can submit declarations of disease status based upon specific criteria and relevant supporting evidence. Declarations are presented at the Standing Committee on Plants, Animals, Food and Feed (SCoPAFF) and followed up with a period of consultation with other EU Member States, where questions, queries and opinion can be expressed about each specific declaration. Declarations can be made at the farm, compartment/area or country level. Queries raised are part of the SCoPAFF process for considering declarations where clarification is required to support the proposed health status of the application.

Within the information released in response to FoI/19/02663 you will find comments from Marine Scotland concerning a number of declarations concerning specific areas in Norway. These feed in to the overall response issued by Cefas/Defra, responsible for representing the UK member state at the international level.

### Suspension of ova imports from Norway

Following an EFTA surveillance authority inspection in May 2019, a temporary suspension of exports of salmon and rainbow trout ova from Norway was established. The restrictions imposed relate to the certification of aquatic animals from ISA free compartments and do not relate to all exports. The report concerning the same is publicly available and referred to in the letter above. The EFTA Surveillance Authority, responsible for assessing control systems related to food and feed safety, raised a number of concerns relating to the trade in live aquatic animals (including ova). Norway is unable to ensure that farmed fish/shellfish sent for export to other EEA<sup>2</sup>-states will not affect the health of farmed fish/shellfish in those receiving countries. As of the date of this communication, the suspension remains in place as corrective measures are taken and implemented.

Within the information released in response to FoI/19/02663 you will find various communications relating to this subject area.

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<sup>1</sup> European Free Trade Association

<sup>2</sup> European Economic Area

## REASONS FOR NOT SUPPLYING INFORMATION

### Exceptions apply

An exception under regulation 11(2) of the EIRs (personal information) applies to some of the information requested because it is personal data of a third party and disclosing it would contravene the data protection principles in Article 5(1) of the General Data Protection Regulation and in section 34(1) of the Data Protection Act 2018. This exception is not subject to the 'public interest test', so we are not required to consider if the public interest in disclosing the information outweighs the public interest in applying the exception.

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information requested because these communications relate to legal advice, the disclosure of which would breach legal professional privilege. This exception is subject to the 'public interest test'. Whilst we recognise that there may be some public interest in releasing information concerning legal advice, there is greater public interest in protecting this space to allow free and frank discussions to take place over the interpretation and implementation of legislation. Exception 10(4)(e) also applies to a very small amount of information that has been redacted and that is not legal advice. Again, this is subject to the 'public interest test'. We recognise that there is a public interest in disclosing information as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing a private space within which Ministers and officials can exchange free and frank advice and views. It is clearly in the public interest that Ministers can properly defend the Government's policies and decisions, and full and candid exchanges enable them to do so. Disclosure of this type of information could lead to Ministers being less able to defend Government policies and decisions, which is not in the public interest.

