



T: 0300 244 4000
E: scottish.ministers@gov.scot

Rt Hon Kwasi Kwarteng MP
Minister of State for Business, Energy and Clean Growth
Department of Business, Energy and Industrial Strategy
1 Victoria Street
London
SW1H 0ET

Kemi Badenoch MP
Exchequer Secretary to the Treasury
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

10 November 2020

Dear Kwasi,

THE UK EMISSIONS TRADING SCHEME AND CARBON EMISSION TAX

I am writing to express my increasing alarm that the progress to establish the UK ETS on 1 January 2021 is being jeopardised, and could be undermined, by the UK Government's continued unwillingness to rule out a Carbon Emission Tax (CET). My position is that a standalone UK ETS is operable in the event that the EU-UK negotiations do not produce an agreement to link to the EU ETS. The Scottish Parliament, and all other legislatures have now agreed the Order in Council establishing the UK ETS, and it will become law at the November Privy Council. Therefore it is unnecessary, and detrimental, to contemplate a CET as a fallback instead of a standalone UK ETS. It demonstrates complete disregard for the will of the Scottish Parliament.

I have worked with you both in good faith on developing a UK ETS under the Common Frameworks programme, according to the principles agreed by all four administrations at JMC(EN) in October 2017. I would remind you that these principles include an undertaking to respect the devolution settlements and the democratic accountability of the devolved legislatures. Common Frameworks, by their very nature, require all parties to be fully committed to the process and to cooperate as equal parties. The UK Government is already threatening to undermine Common Frameworks with its unnecessary and damaging Internal Market Bill. Any move to unilaterally impose a reserved CET in place of the UK ETS framework would further call into doubt the UK Government's commitment to the Common Frameworks process.

I have agreed to use my devolved powers under the Climate Change Act 2008 collectively with the UK Government to establish a joint UK ETS. Despite the fact that a shared approach inevitably means compromises that will constrain Scottish Ministers, I recognise that establishing a UK ETS is the best policy approach, both for businesses and for climate. A UK



ETS is the most effective tool currently available to reach our common goal of decarbonising the traded sector and achieving our respective statutory net zero targets. And not least as the tool to demonstrate our commitment to international climate action in the year when COP 26 will be held in Glasgow, and where negotiations will focus on rules for global carbon markets under the Paris Agreement.

We collectively agreed to the design of a UK ETS and announced this in the joint Government response in June. Subsequently, according to the accelerated timetable necessitated by the UK Government's unwillingness to extend the EU Transition Period, I laid the first Order in Council for a UK ETS in the Scottish Parliament in July to ensure that it would be in place for January 2021. The Scottish Parliament approved the Order on 9 September, and I understand that the three other legislatures have also approved the Order, and it will become law at the November Privy Council.

I also understand that were the UK Government to unilaterally decide in favour of a reserved CET, this would put me in the invidious position of having to recommend that the Scottish Parliament revokes the UK ETS Order shortly after it was made. It would be necessary to take this step, despite the Scottish Government not supporting a reserved CET, to avoid it resulting in unwelcome (and inoperable) double regulation were the UK ETS retained. I am writing to alert the Scottish Parliament of this risk. This outcome would be a completely unacceptable end to the Common Framework negotiations, disrespecting the devolution settlement, frustrating the will of the Scottish Parliament, and disregarding the Common Frameworks principles. It is lamentable that the UK Government would remove the main mechanism for decarbonising 28% of Scotland's emission from oversight by either the Scottish Ministers or the Scottish Parliament, in the year when we are hosting COP 26.

The continued delay by the UK Government in taking a decision between UK ETS and CET also jeopardises the forthcoming advice from the Committee on Climate Change on CB6, needed to ensure a net zero pathway for emissions from the traded sector. The CCC has previously provided advice recommending a UK ETS linked to the EU ETS. A last minute decision to replace the UK ETS with a CET, would require further advice from the CCC on CET and its role in addressing emissions from the power and industrial sectors upon which our imminent update to the Scottish Climate Change Plan relies.

I note that Committees in both the House of Lords and the House of Commons have written to you repeatedly regarding the issue of UK ETS and CET: when you will decide between the options, why you have consulted on CET, have devolved administrations been involved in CET, how would CET revenues be distributed to the devolved administrations and so on. These are all questions I would also like to know the UK Government's answer to – but I note that Minister Kwarteng's reply to the House of Commons Committee on 29 October does not provide any further clarify. I intend to write to the Houses myself, to confirm that the Scottish Government and Parliament both strongly oppose the CET, that we are deeply concerned that the UK Government is even countenancing contravening a Common Framework, and that the continued delay by the UK Government in confirming the UK ETS is not acceptable.

I am disappointed that you have not shown the same commitment to joint decision making on the UK ETS Common Framework, which is so fundamental to a collective approach such as the UK ETS. I request that the UK Government takes the decision to proceed with a UK ETS, and definitively rules out a CET, before the end of November to allow all stakeholders to prepare for 1 January 2021.

I am copying this letter to the Welsh Minister and the Northern Irish Ministers, and the Secretary of State for Scotland.

Yours Sincerely,

A handwritten signature in black ink, appearing to read 'Roseanna', enclosed within a light grey rectangular border.

ROSEANNA CUNNINGHAM