ANNEX A.

"Q: There have been reports of Scottish Government paving the way for imidacloprid use in the marine environment – is this true?

- 'Cleantreat' is a water purification technology for removing medicine from treatment water prior to discharge – it is not to be confused with a new imidacloprid based sea lice medicine which has been developed by the same company.
- CleanTreat technology is an important advance in reducing the environmental footprint of aquaculture and could allow for a different approach to chemical use.
- The Sustainable Aquaculture Innovation Centre has supported trials to determine the efficacy of CleanTreat technology in conjunction with a veterinary product, Salmosan, which is already authorised for use by the Veterinary Medicine Directorate and SEPA. No imidacloprid based treatment were used in the trials.
- All veterinary medicines require market authorisation in the UK from the Veterinary Medicines Directorate following robust and rigorous assessment.
- In addition, the discharge of imidacloprid into the marine environment would require authorisation from SEPA as an independent regulator, which would only be granted if SEPA were satisfied that environmental standards would not be breached. There are no exceptions.
- At this time, we are not aware of any application for authorisation by VMD for use of imidacloprid sea lice treatment in aquaculture in the UK, or that SEPA has received an application to use it."

Annex B

Has SEPA or Marine Scotland received an application for the use or trial of Benchmark's new Ectosan fish farm product containing imidacloprid, a neonicotinoid?

"In May 2020 Mark Ruskell MSP raised concerns that Mowi were set to trial Ectosan at their Arnish fish farm by letter to the Cabinet Secretary for Environment, Climate Change and Land Reform. SEPA had received a letter in March from MOWI requesting a discussion to explore the possibilities for a trial involving Ectosan. However, due to the Covid-19 outbreak the discussion has not yet taken place.

Following an editorial from Professor David Goulson in the August 2020 edition of Wildlife magazine stating that SEPA and the Veterinary Medicines Directorate had received applications to use Benchmark's product Ectosan we have also received letters of concern from two members of the public over its proposed use.

Ectosan does not currently have a marketing authorisation for use as a veterinary medicine in the UK. Any use of Ectosan as a medicine for farmed fish would require an appropriate authorisation from the Veterinary Medicines Directorate (a reserved matter) before it could be used.

If the Veterinary Medicines Directorate authorised the use of Ectosan in the UK, any trial/ use in which residues of the medicine would be discharged into the water environment would require a discharge authorisation.

SEPA and Marine Scotland are not in receipt of any application to discharge Ectosan into the environment.

Any new medicine must go through a rigorous assessment process before authorisation to discharge can be granted. An appropriate environmental standard (i.e. an environmentally safe level) would have to be identified and the operator would have to demonstrate that this standard would be met.

Any application to authorise Ectosan for use in Scotland would also be subject to a public consultation and the responses received would be taken into account in determining the application."

Annex C

"Imidacloprid belongs to the family of neonicotinoids. It is approved as an active ingredient in biocidal

products and has been registered under REACH. Biocidal products containing imidacloprid are intended for professional use in bait formulations for the control of insects. Imidacloprid is no longer approved for use as
an active substance in plant protection products in the EU and is not included on the GB pesticides active substance list."

Annex D

Regulation 10(4)(e) – internal communications in relation to general policy and decision-making

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is internal communication between officials about licensing processes.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is some public interest in release as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in high quality policy and decision-making, and in the properly considered implementation and development of policies and decisions. This means that Ministers and officials need to be able to consider all available options and to debate those rigorously, to fully understand their possible implications. Their candour in doing so will be affected by their assessment of whether the discussions licensing will be disclosed in the near future, when it may undermine or constrain the Government's view on that issue while it is still under discussion and development.

Regulation 10(4)(e) – internal communications in relation to communications between Ministers

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is internal communication between individual Scottish Ministers about aquaculture innovation and the Benchmark Animal Health Ltd. (BAHL) CleanTreat technology.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is some public interest in release as part of open, transparent and accountable government, and to inform public debate. However, there is a greater public interest in allowing Ministers a private space within which issues can be explored and refined, until the Government as a whole can reach a decision that is sound and likely to be effective. This private thinking space also allows for all options to be properly considered, so that good marine planning decisions can be taken. Disclosure is likely to undermine the full and frank discussion of issues between Ministers, which in turn will undermine the quality of the decision making process.

Regulation 10(4)(e) – internal communications in relation to lines to take, etc.

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is internal communication on lines to take.

This exception 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 exception. We have found that, on balance, the public interest lies in

favour of upholding the exception. 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 officials can provide free and frank advice and views to Ministers in lines to take. It is clearly in the public interest that Ministers can properly provide sound information to Parliament (to which they are accountable), and robustly defend the Government's policies and decisions. They need full and candid advice from officials to enable them to do so. Premature disclosure of this type of information could lead to a reduction in the comprehensiveness and frankness of such advice and views in the future, which would not be in the public interest.

Regulation 10(4)(e) – internal communications in relation to internal legal advice – note regulation 10(5)(b) can also be used for legal advice

An exception under regulation 10(4)(e) of the EIRs (internal communications) applies to some of the information you have requested because it is internal legal advice and disclosure would breach legal professional privilege.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. 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, this is outweighed by the strong public interest in maintaining the right to confidentiality of communications between legal advisers and clients, to ensure that Ministers and officials are able to receive legal advice in confidence, like any other public or private organisation.

Regulation 10(5)(e) – substantial prejudice to confidentiality of commercial or industrial information

An exception under regulation 10(5)(e) of the EIRs (substantial prejudice to confidentiality of commercial information) applies to some of the information you have requested. This exception applies because disclosure of this particular information would, or would be likely to, prejudice substantially the confidentiality of commercial information provided by BAHL, and thus cause substantial harm to their commercial interests. Disclosing this information would be likely to give any competitor to BAHL a head start in their product development, which could significantly harm their commercial business.

This exception 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 exception. We have found that, on balance, the public interest lies in favour of upholding the exception. We recognise that there is a public interest in disclosing information as part of open and transparent government, and to help account for the expenditure of public money. However, there is a greater public interest in protecting the commercial interests of companies which form an important part if the stakeholder groups in Scotland.

Regulation 11(2) – applicant has asked for personal data of a third party

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.