

STATES OF JERSEY



UK-EU TRADE AND ECONOMIC COOPERATION AGREEMENT – INCLUSION OF THE BAILIWICK OF JERSEY (P.170/2020): ADDENDUM

Presented to the States on 24th December 2020
by the Council of Ministers

STATES GREFFE

External Relations Minister
Senator Ian Gorst
Chief Minister's Department
4th Floor
19-21 Broad Street
St Helier
Jersey
JE2 3RR

24 December 2020

Dear Ian,

JERSEY'S PARTICIPATION IN THE AGREEMENT BETWEEN THE UK AND THE EU

This letter is sent in connection with Jersey's proposed participation in the negotiated agreement between the United Kingdom of Great Britain and Northern Ireland and the European Union (the "Agreement").

Successive Governments have made clear on a number of occasions since the UK's 2016 Brexit referendum, that the UK's decision to leave the EU, and to enter a new trading relationship with the EU, does not alter or affect the constitutional relationships, through the Crown, between the UK and each of the Crown Dependencies. Neither does it affect Jersey's participation in the Common Travel Area with the UK, Republic of Ireland and the other Crown Dependencies.

I am pleased to reaffirm the UK Government's commitment to the much valued and long-standing constitutional relationship between the UK and Jersey. I look forward to continuing to strengthen that relationship, in line with the Justice Select Committee Reports and Government responses of 2010-14; and the Framework for Developing the International Identity of Jersey, signed in 2007. The UK Government will continue to work closely with Jersey, in positive collaboration and in the context of our existing constitutional relationship, as we implement the Agreement and develop new trading relationships with other countries. The UK Government continues to support Jersey and the other Crown Dependencies seeking Letters of Entrustment in additional policy areas, where appropriate, recognising as it does the value to the Crown Dependencies of representing their own interests on the international stage.

As a Crown Dependency, Jersey is self-governing in respect of its domestic affairs, including in relation to its territorial sea. The UK is responsible for the defence and international relations of Jersey. The UK recognises and respects Jersey's excellent track record of meeting its international obligations through Jersey's own domestic policies and legislation. The UK understands that you now have your own decision-making processes to go through to indicate your consent to inclusion in the Agreement. I note the article in the Agreement that would allow for termination of the arrangements applicable to Jersey within 90 days of the Agreement's entry into force, were you to request this. Further, I note the particular time constraints in relation to consulting Jersey on the full treaty text of the Agreement and would emphasise that this does not set a precedent in relation to consultation processes for other international agreements. Subject to your inclusion, while the UK will retain ultimate responsibility in international law for compliance with obligations created by the Agreement, it is for the Government of Jersey to determine, in consultation with the UK Government as may be appropriate, how the Agreement should be

implemented and administratively enforced in Jersey, and for Jersey's competent authorities to undertake such implementation as necessary. In particular, the UK Government recognises that it will be for Jersey to license and manage fishing by EU vessels in its territorial seas under the Agreement.

Subject to the approval of its legislature, the Government of Jersey has confirmed that it is committed to adopting such domestic policies, laws or practices as it considers necessary or expedient for the purpose of implementing the Agreement. In the unlikely event that there is any dispute with the EU as to Jersey's compliance with the Agreement, the UK Government will work closely with the Government of Jersey to ensure that Jersey's interests are fully represented and that the Government of Jersey is fully engaged in the conduct of any dispute resolution process.

In recognition of Jersey's fiscal autonomy, and in line with constitutional arrangements, I am happy to record that the Bailiwick of Jersey was fully consulted upon, and consented to, the declaration in respect of the Bailiwick of Guernsey and the Bailiwick of Jersey on cooperation with the European Union on the recovery of claims related to VAT, customs duties and excise duties. I anticipate and am supportive of the Bailiwicks of Guernsey and Jersey requesting entrustments to negotiate the arrangements referred to in the declaration directly with the EU in due course.

Some provisions of the Agreement can be used to create new or modify existing obligations. Where any proposal is made to create or amend any obligation which could apply to Jersey, the UK Government will engage fully with Jersey prior to entering any negotiations concerning those obligations. I can confirm that the UK Government will involve Jersey, as appropriate, in discussions about the formulation of the UK's policy position on such relevant matters. The UK Government recognises that the interests of Jersey and the UK may be different in this context and will only extend any new or amended obligations arising under the Agreement to Jersey in accordance with the established constitutional arrangements between the UK and Jersey for consultation and consent.

I am copying this letter to the Paymaster General and Chief Minister John Le Fondré.

Yours ever,

A handwritten signature in black ink that reads "Robert Buckland". The signature is written in a cursive, slightly slanted style.

RT HON ROBERT BUCKLAND QC MP