

STATES OF JERSEY



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

**Lodged au Greffe on 27th December 2020
by the Minister for External Relations**

STATES GREFFE

UK-EU TRADE AND ECONOMIC COOPERATION AGREEMENT – INCLUSION
OF THE BAILLIWICK OF JERSEY (P.170/2020): AMENDMENT
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1 PAGE 2, PART 1 –

In the proposed new paragraph (c) –

after the words “full consideration of the final legal text” insert the words “and having taken advice from the Law Officers’ Department,”; and

after the words “summary agreement and includes” delete the words “the legal text of the agreement and”.

2 PAGE 2, PART 2 –

After the words “UK-EU Trade and Economic Cooperation Agreement” insert the words “to take place if, having regard to the legal text and the scrutiny report referenced in (c), the Council of Ministers conclude that the 90-day termination clause should be effected.”

MINISTER FOR EXTERNAL RELATIONS

Note: After this amendment, the proposition (as amended by Deputy Morel’s amendment, as amended) would read as follows –

THE STATES are asked to decide whether they are of opinion –

- (a) to endorse the decision of the Council of Ministers that, based on the summary terms of the UK-EU Trade and Economic Cooperation Agreement as set out in the report, and subject to giving further consideration to the full and final text within the 90-day confirmatory period, the Bailiwick of Jersey should consent to its inclusion in the Agreement;
- (b) to agree that, in accordance with their concurrent responsibility for the conduct of Jersey’s external relations, the Chief Minister and the Minister for External Relations should formally communicate the decision of the States Assembly in respect of part (a) to the Government of the United Kingdom; and
- (c) to request the Brexit Review Panel and the Environment, Housing and Infrastructure Scrutiny Panel, following full consideration of the final legal text, **and having taken advice from the Law Officers’ Department**, to present a report to the States Assembly, before the completion of the 90-day ‘cooling off period’, which gives the Panels’ views on whether the final legal text reflects the terms of the summary agreement and includes any other information that, in the opinion of the Panels, should be brought to the attention of the Assembly, including their opinion as to whether or not

the Panels believe it is in the best interests of the Island to subscribe to the relevant Terms of the UK-EU Trade and Economic Cooperation Agreement;

- (d) to request the Council of Ministers, following full consideration of the final legal text, to present a report to the States which gives the Council's view on whether the final legal text reflects the terms of the summary agreement and includes the legal text of the agreement and any other information that, in the opinion of the Council, should be brought to the attention of the Assembly for a final debate on Jersey's agreement to be included in the UK-EU Trade and Economic Cooperation Agreement to take place if, having regard to the legal text and the scrutiny report referenced in (c), the Council of Ministers conclude that the 90-day termination clause should be effected.

REPORT

Introduction

I appreciate that all Members are working under significantly challenging conditions in being asked to adopt P.170/2020 at short notice and with little opportunity for immediate formal or informal scrutiny. This is due to circumstances outside of Jersey's control and in order that we can uphold due constitutional process and our constitutional autonomy. It is crucial that Jersey signifies its intent to participate in this Agreement or not before the legal text is deposited in the UK Parliament prior to its debate on (we anticipate) 29th or 30th December.

As the immediate past Chair of the Brexit Review Panel, I also recognise that Deputy Morel has a particular interest in this proposition and ensuring that Jersey's participation in the UK-EU Trade and Cooperation Agreement is subject to full and rigorous Scrutiny. I have had regular dialogue with Deputy Morel on Brexit since 2018, including since his appointment as an Assistant Minister. I have received this amendment in the constructive manner in which I know it is intended, and have sought to respond in that same spirit.

New Paragraph (c)

In response to Deputy Morel's proposed new paragraph (c), which I am broadly content to accept, I simply propose that, in undertaking their detailed scrutiny and assessment of the legal text, the Panels are expressly requested to seek the advice and opinion of the Law Officers. Whilst I am sure this would be their intention in any event, the amendment is included for the sake of good order.

I have also removed the requirement for Scrutiny to re-produce the legal text of the agreement in their report. The text will be produced for Members in the report presented by the Council of Ministers, and it is perhaps not necessary for Members to receive it twice. The removal of this particular part of Deputy Morel's amendment does not, of course, prevent Scrutiny from presenting the legal text in their report should they wish, but I didn't want the Panel to be in a position where they felt they had no option, even if this is seen to be unnecessary.

New Paragraph (d)

With regard to the proposed amendment of what would become new paragraph (d), I propose that, as Members will have the opportunity to consider the Report by the Brexit Review and Environment Panels, and one from the Council of Ministers provided for by (d), a further debate on the substance of the UK-EU Trade and Cooperation Agreement will only become necessary in the event that the Council of Ministers changes its opinion on the contents of the Agreement.

If the analysis of the legal text, in the course of the 90-day period we have been allotted, suggests that the implications for Jersey are different than anticipated in our initial assessment of draft text and are no longer in Jersey's interests then that would be a substantial change worthy of debate. Such a change would mean that the Government of Jersey would request the UK Government to withdraw extension of the Trade and Cooperation Agreement to Jersey. This would naturally be a decision that the States Assembly should opine on, given that it would be different to the decision which, by

implication, would have been taken on P.170/2020, and so the changes to the amendment reflect that.

I do not believe that a final debate is required in the event that the report and considered analysis of the legal text, by Scrutiny and the Council of Ministers, do not change the substance of our position.

Financial and manpower implications

There are no additional financial and manpower implications arising from adoption of the amendment.