

STATES OF JERSEY

OFFICIAL REPORT

SUNDAY, 27th DECEMBER 2020

COMMUNICATIONS BY THE PRESIDING OFFICER.....	5
1.1 Welcome to His Excellency the Lieutenant Governor	5
PUBLIC BUSINESS.....	5
2. Reduction of lodging period.....	5
2.1 Senator I.J. Gorst:	5
STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY	6
3. The Minister for External Relations will make a statement regarding Jersey's involvement in the U.K.- E.U. Trade and Economic Co-operation Agreement	6
3.1 Senator I.J. Gorst (The Minister for External Relations).....	6
3.1.1 Senator S.Y. Mézec:	9
3.1.2 Deputy S.M. Ahier of St. Helier:	9
3.1.3 Deputy S.M. Ahier:.....	9
3.1.4 Connétable M.K. Jackson of St. Brelade:.....	9
3.1.5 Deputy K.F. Morel of St. Lawrence:	10
3.1.6 Deputy K.F. Morel:.....	10
3.1.7 Deputy R.J. Ward of St. Helier:	11
3.1.8 Deputy M.R. Higgins of St. Helier:	11
QUESTIONS.....	11
4. Questions to Ministers without notice - Jersey's involvement in the U.K.-E.U. Trade and Economic Cooperation Agreement.....	11
4.1 Deputy K.G. Pamplin of St. Saviour:	12
Senator I.J. Gorst (The Minister for External Relations):	12
4.2 Senator K.L. Moore:	12
Senator I.J. Gorst:.....	12
4.3 Senator S.C. Ferguson:	12
Senator I.J. Gorst:.....	13
Deputy J.H. Young of St. Brelade (The Minister for the Environment):.....	13
4.4 Deputy K.F. Morel:.....	14
Senator I.J. Gorst:.....	14
4.4.1 Deputy K.F. Morel:.....	14
4.5 The Connétable of St. Brelade:.....	14
Deputy J.H. Young:.....	15
4.6 Deputy K.G. Pamplin:	15
Senator I.J. Gorst:.....	15

4.7	Deputy M.R. Higgins:.....	15
	Deputy J.H. Young:.....	16
4.7.1	Deputy M.R. Higgins:.....	16
4.8	Deputy K.G. Pamplin:	16
	Deputy J.H. Young:.....	16
4.9	Deputy M.R. Higgins:.....	17
	Deputy J.H. Young:.....	17
4.10	Deputy R. Labey of St. Helier:	17
	Deputy J.H. Young:.....	18
5.	Questions to Ministers without notice - COVID-related matters	18
5.1	Deputy K.G. Pamplin:	18
	Senator J.A.N. Le Fondré (The Chief Minister):	18
5.1.1	Deputy K.G. Pamplin:	19
5.2	Deputy M.R. Higgins:.....	19
	Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):.....	19
5.2.1	Deputy M.R. Higgins:.....	19
5.3	Connétable A.S. Crowcroft of St. Helier:	19
	The Deputy of St. Ouen:	20
5.4	Deputy R.J. Ward:	20
	The Deputy of St. Ouen:	20
5.4.1	Deputy R.J. Ward:	20
5.5	Deputy L.M.C. Doublet of St. Saviour:	20
	The Deputy of St. Ouen:	20
5.6	Deputy I. Gardiner of St. Helier:	20
	The Deputy of St. Ouen:	21
5.6.1	Deputy I. Gardiner:	21
5.7	Senator S.Y. Mézec:	21
	Senator J.A.N. Le Fondré:.....	21
5.7.1	Senator S.Y. Mézec:	21
5.8	Senator K.L. Moore:	22
	Deputy J.M. Maçon of St. Saviour (Assistant Minister for Education - rapporteur):.....	22
5.8.1	Senator K.L. Moore:	22
5.9	Connétable K. Shenton-Stone of St. Martin:	22
	The Deputy of St. Ouen:	22
5.10	Deputy M. Tadier of St. Brelade:	23
	Senator J.A.N. Le Fondré:.....	23
5.10.1	Deputy M. Tadier:	23
5.11	Deputy K.F. Morel:.....	23
	Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):	24
5.11.1	Deputy K.F. Morel:	24
5.12	Deputy M.R. Higgins:.....	24
	The Deputy of St. Ouen:	24
5.12.1	Deputy M.R. Higgins:	24
5.13	Deputy R.J. Ward:	24
	The Deputy of St. Ouen:	25
5.13.1	Deputy R.J. Ward:.....	25
5.14	Deputy D. Johnson of St. Mary:	25
	The Deputy of St. Ouen:	25
5.14.1	The Deputy of St. Mary:	25
5.15	Deputy R. Labey:	25

The Deputy of St. Ouen:	26
5.16 Deputy I. Gardiner:	26
The Deputy of St. Ouen:	26
5.17 Senator S.W. Pallett:	26
The Deputy of St. Ouen:	26
5.17.1 Senator S.W. Pallett:	26
5.18 Deputy K.G. Pamplin:	26
The Deputy of St. Ouen:	26
5.18.1 Deputy K.G. Pamplin:	27
5.19 Deputy G.J. Truscott of St. Brelade:	27
The Deputy of St. Ouen:	27
5.19.1 Deputy G.J. Truscott:	27
5.20 Deputy L.M.C. Doublet:	27
The Deputy of St. Ouen:	28
5.21 Senator S.C. Ferguson:	28
The Deputy of St. Ouen:	28
5.21.1 Senator S.C. Ferguson:	28
5.22 Senator K.L. Moore:	28
The Deputy of St. Ouen:	28
5.22.1 Senator K.L. Moore:	28
5.23 Deputy K.F. Morel:	29
The Deputy of St. Ouen:	29
5.23.1 Deputy K.F. Morel:	30
5.24 Deputy M.R. Higgins:	30
Senator J.A.N. Le Fondré:	30
5.25 Deputy R.J. Ward:	30
The Deputy of St. Ouen:	30
5.25.1 Deputy R.J. Ward:	30

LUNCHEON ADJOURNMENT PROPOSED 31

LUNCHEON ADJOURNMENT..... 33

PUBLIC BUSINESS..... 33

6. U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020)..... 33

6.1 Senator I.J. Gorst (The Minister for External Relations):..... 33

6.2 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020): amendment (P.170/2020 Amd.)..... 36

6.2.1 Deputy K.F. Morel:..... 37

6.3 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020): amendment (P.170/2020 Amd.) – amendment (P.170/2020 Amd.Amd.) 38

6.3.1 Senator I.J. Gorst: 38 |

6.3.2 The Deputy of St. Mary: 39 |

6.3.3 Deputy R. Labey: 40 |

6.3.4 The Connétable of St. Brelade: 40 |

6.3.5 Senator K.L. Moore: 40 |

6.3.6 Deputy R.J. Ward: 41 |

6.3.7 Deputy M.R. Higgins: 41 |

6.3.8 Senator I.J. Gorst:	42
6.4 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020): amendment (P.170/2020 Amd.) - as amended	44
6.5 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020) as amended.....	45
6.5.1 Deputy S.G. Luce of St. Martin:	46
6.5.2 Senator J.A.N. Le Fondré:	46
6.5.3 The Deputy of St. Mary:	47
6.5.4 Senator S. Y. Mézec:	47
6.5.5 Deputy M.R. Higgins:.....	49
6.5.6 Senator L.J. Farnham:	49
6.5.7 Deputy C.F. Labey of Grouville:	50
6.5.8 Deputy J.H. Young:	51
6.5.9 Connétable R.A. Buchanan of St. Ouen:	53
6.5.10 Deputy K.F. Morel:	55
6.5.11 Senator S.C. Ferguson:.....	56
6.5.12 The Connétable of St. Martin:.....	56
6.5.13 Deputy K.G. Pamplin:.....	57
6.5.14 Deputy L.B.E. Ash of St. Clement:.....	58
6.5.15 Senator I.J. Gorst:.....	58
7. Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 8) (Jersey) Regulations (P.171/2020).....	62
7.1 Deputy J.H. Young (The Minister for the Environment):	62
7.1.1 The Connétable of St. Brelade:.....	63
7.1.2 Deputy J.H. Young:	63
7.2 Deputy J.H. Young:	65
7.2.1 Deputy K.F. Morel:.....	66
7.2.2 The Deputy of St. Martin:.....	66
7.2.3 Deputy J.H. Young:	66
7.3 Deputy J.H. Young:	67
7.3.1 Deputy M.R. Higgins:.....	68
7.3.2 Deputy J.H. Young:	68
ADJOURNMENT.....	69

[10:35]

The Roll was called and the Dean led the Assembly in Prayer.

COMMUNICATIONS BY THE PRESIDING OFFICER

The Bailiff:

1.1 Welcome to His Excellency the Lieutenant Governor

We can start with the business. There are no communications under A, other than I welcome His Excellency who is joining us virtually, I believe.

PUBLIC BUSINESS

The Bailiff:

The next item on the Order Paper is a Statement that will be made by the Minister for External Relations regarding Jersey's involvement in the U.K. (United Kingdom)-E.U. (European Union) Trade and Economic Co-operation Agreement. After that Statement Members will of course have an opportunity to ask questions for 15 minutes and thereafter there will be a question period of 30 minutes on that particular trade Agreement, and then what has become the usual 60 minutes for COVID-related questions before moving on to Public Business.

[10:45]

We start, as I said, with the Minister for External Relations' Statement. I do not know if it has been circulated, Greffier. It is going into the chat now.

Senator I.J. Gorst.

I wonder, do we need to list any Standing Orders to take the business today and I wonder if we should do that first?

2. Reduction of lodging period

The Bailiff:

We can certainly take that in advance. I was going to do that at the beginning of Public Business but if it is helpful that we make the various things, and that gives people a chance to have the written statement in front of them, I suppose, before we move on. There are a number of matters obviously before the Assembly today. All of them will require the States Agreement to foreshorten the lodging period and to debate them today on this requisitioned meeting. The first of course is the Proposition to which I have made reference, the U.K.-E.U. Trade and Economic Co-operation Agreement. Minister do you make that application to the Assembly?

Senator I.J. Gorst:

I am quite happy to make the application for all of the items, the amendment and the amendment and Deputy Young's item as well, if that is acceptable.

The Bailiff:

I am sure that is acceptable because it seems to be it is all part of the same package so if Members are likely to agree one they are likely to agree the rest. But if Members wish of course to take them separately then that can be asked for at the time.

2.1 Senator I.J. Gorst:

Hopefully the items are self-explanatory. I will apologise now for having to call this exceptional meeting and I will do so further in my Statement in a few minutes' time. It is time critical unfortunately because of the length of time it took the U.K. and the E.U. to agree that we signal, as a democratic Parliament, our intention one way or the other to be included in the T.E.C.A. (Trade and

Economic Co-operation Agreement) and therefore it seems to me that it is a matter of national importance for us that we take these items today, and the item of the Minister for the Environment follows on from that because should we, today, say: “Yes, we do wish to be included”, we need to start and make legislative provision for some of the elements of that deal in this instance; the provision of a legislative base for Jersey to be able to issue licences in its territorial waters.

The Bailiff:

May I assume then that you are moving not only the Propositions taken today and your amendment to the amendment but also, as a matter of logic, Deputy Morel’s amendment?

Senator I.J. Gorst:

That is correct, Sir, yes.

The Bailiff:

Is that Proposition seconded? **[Seconded]** Does any Member wish to speak on the proposition? If no one indicates a desire to speak or a desire to vote to the contrary then I will take the acceptance of these matters for debate today as a standing vote. If anyone wishes to vote or indicate a desire to speak could they do so now? The Proposition is adopted on a standing vote.

STATEMENTS ON A MATTER OF OFFICIAL RESPONSIBILITY

3. The Minister for External Relations will make a statement regarding Jersey’s involvement in the U.K.- E.U. Trade and Economic Co-operation Agreement

3.1 Senator I.J. Gorst (The Minister for External Relations)

I want to start by saying that I am enormously grateful to every Member of the Assembly for attending this sitting, on a Sunday, in the middle of the Christmas and New Year period. I am, equally, sincerely thankful to the staff in the States Greffe for their work to facilitate and support this sitting, to the law officers for their sage advice and support, and to officials across Government for their tireless work over the past 4 years, and especially in the last few weeks, which has brought us to this day. Members can be assured that the Council of Ministers would not have sought a requisition for the Assembly to meet on a Sunday, and over the Christmas period, if it were not entirely and absolutely necessary. Indeed, we are meeting today to discuss a matter of the utmost importance to Jersey’s constitutional and economic future. The significance of today’s sitting is further underlined by the fact that the States of Deliberation in Guernsey, the States of Alderney, and Chief Pleas in Sark, are also all convening to discuss their own Bailiwick’s participation in the U.K.-E.U. Trade and Co-operation Agreement. As Members know, the U.K. Prime Minister and the President of the European Union Commission announced on the afternoon of Thursday, 24th December 2020, that a settlement had been reached between the U.K. and the E.U. on a Trade and Co-operation Agreement, to take effect from 1st January 2021. This outcome followed over 4 years of challenging negotiations, especially so in 2020, and an intense final period of talks over the past few weeks. Upon the lodging of P.170/2020, which I, of course, hope the Assembly will consent - and has just consented - to being debated today, the Government of Jersey had not seen the full and final legal text of the Agreement, and Members will have subsequently noted that the text became available late on Christmas Day. That said, as the negotiations reached their conclusion, Ministers and officials were provided, on a strictly confidential basis, with sections of the near-final legal text which were specific to Jersey and are referenced in the report to P.170. The Government has also benefited from seeing and reviewing near-final drafts of legal text over recent weeks, again shared in confidence, which has ensured we have a detailed view of the nature and structure of the Agreement so far as it relates to Jersey. We have conducted a thorough analysis of the text specific to Jersey, seeking clarification from the U.K. Government where appropriate, and have sought to involve Scrutiny in our assessment of the deal - on a strictly confidential basis - as and when new detail has become available. The delay in the availability of the final legal text is, however, the reason for P.170 being

worded in the way that it is; a matter I shall cover in more detail when I introduce the debate. The Government of Jersey, proceeding as we have done throughout these negotiations in good faith, is of the view that it has received sufficient detail, and has given this proper consideration, to be able to recommend to the Assembly that Jersey's interests are best served by participation in the Agreement. This position is similarly reflected and being taken in the Bailiwick of Guernsey and the Isle of Man. Crucially, Members will have seen that the option remains open to our Bailiwick, once the Agreement has been ratified and the full and final legal text has been reviewed - and that includes by Scrutiny and by all States Members - to withdraw any consent we might give within 90 days of the Agreement taking effect. This is what we might call a "cooling off" period contained with the Agreement where, if upon further detailed scrutiny, the implications of the final text substantially change the way we have understood the Agreement to apply in Jersey, there is the option to withdraw. It is important to clarify that this 90-day clause does not mean that Jersey can wait for up to 90 days to provide its consent or otherwise for participation in the Agreement. It is a withdrawal mechanism, and one that can only be effected in the event that a decision has been taken by this Assembly that we should participate in the Agreement. Of course, should this Assembly not adopt P.170, the issue becomes academic. But in any event, a decision is required first, either for participation in the Agreement or not. This Agreement will come into force, initially on the basis of provisional implementation, on 1st January 2021. The full ratification process, including by the European Parliament, will need to be confirmed early in January 2021. Crucially for Jersey, and our fellow Crown Dependencies, the U.K. intends to ratify the Agreement before the new year. This means that we must also provide our Bailiwick's decision to the U.K. before the new year. Indeed, the U.K. Parliament is expected to be recalled on 30th December to ratify the Agreement, and we expect the text of the Agreement to be officially deposited on either 28th or 29th December. It is of fundamental constitutional importance that Jersey's position is made clear before the U.K. Parliament is formally provided with the text of the Agreement and begins its debate. The text that will be considered by the U.K. Parliament so far as it relates to Jersey must reflect the will of this Assembly. I hope that Members will agree that we cannot allow a circumstance to arise where U.K. parliamentarians might debate an issue that impacts upon Jersey's constitutional and economic future without the Government of Jersey confirming its consent or otherwise, in line with the decision taken by the States Assembly today. It is for this reason why this Assembly, and the legislatures across the Channel Islands, are meeting as a matter of urgency today. It is my view, the Chief Minister's view, and the unanimous view of the Council of Ministers, that we have arrived at a deal which meets the objectives we set for the negotiation, and that it is in our best long-term economic and constitutional interests for Jersey to participate. It is not a perfect deal; such Agreements never are. I ask Members to keep in mind that negotiations regarding this Agreement were, ultimately, the result of actions in which the Government, States and people of Jersey took no part. In line with our constitutional position, our involvement in the negotiations was conducted through the U.K., and I wish to put on record that I do believe the U.K. has, to the best of its ability, met its constitutional obligation during this process to represent our interests internationally. The Government's overarching objective in these negotiations was to preserve to the greatest extent possible the trading relationship we currently have with the European Union through what is commonly known as Protocol 3. In summary, the Protocol extends membership of the E.U. Customs territory to Jersey and gives us free and frictionless trade in agricultural or derived goods. This arrangement has served Jersey well and, as Members will be aware, we sought no change from that model. It is therefore welcome that the Agreement provides that Jersey's involvement will extend to relevant parts of the goods and fisheries chapters. This will preserve tariff-free goods trade between Jersey and the E.U. Inevitably, there will be differences from the current arrangements in place through Protocol 3, and these are set out in detail in the report to P.170. The Agreement is broader, requiring a degree of co-operation in relation to the setting and monitoring of regulatory standards for all types of manufactured and agricultural goods. There are also differences in how regulatory standards are enforced, and to the ongoing monitoring of trade policy and practices. We will need to continue working closely with the U.K. in this respect, and particularly so as the U.K.

will act as the state party - representing Jersey's interests - on the trade committees established by the Agreement. The letter received from the Lord Chancellor, attached as an addendum to P.170, gives us further reassurances that Jersey's ongoing interests and constitutional autonomy will continue to be respected under this Agreement in the years ahead. While not directly relevant to the Trade and Co-operation Agreement, I do wish to remind Members that Jersey's Customs Union with the U.K., covering 95 per cent of our total worldwide goods trade, will come into effect from 1st January 2021. The Crown Dependencies will form part of the external customs border of the U.K. with the E.U., which will require ongoing adaptation to changes in customs law and practices. Members will also recall that, from 1st January 2021, Jersey will benefit from the extension to the Island of the U.K.'s membership of the World Trade Organization, which will provide additional stability and protection for our future trading relationships with non-U.K. and non-E.U. jurisdictions. Our participation in the Agreement would effectively supersede the Granville Bay Agreement. This would bring an end to the joint management of Jersey's waters, which is provided for in that Agreement. We will regain unilateral control over the management of our territorial waters.

[11:00]

We can pursue a focus on sustainability, so long as any measures follow objective, scientific advice and are non-discriminatory in their effect on Jersey and E.U. - effectively in this case French - vessels. As is the case at present, qualifying French vessels, with a history and track record of making their living in these waters, would be able to fish in Jersey's 3 to 12 nautical mile limit. However, any such vessels will be licenced solely by Jersey. Members will be aware that this is not the case under the current Granville Bay arrangements. The qualifying period for historical activity is 1st February 2017 to 31st January 2020, and a qualifying vessel must be able to show more than 10 days of activity in any of the 3 12-month periods ending on 31st January on or between 1st February 2017 and 31st January 2020. The Agreement has new requirements around notification periods for the importation and landing of fisheries products; between one and 3 hours for a catch certificate and 3 and 5 hours before landing. It covers remedial measures, dispute resolution and data sharing. It must of course be noted that, in the event Jersey does not participate in the Agreement, or withdraws within the 90-day period, the Granville Bay Agreement would remain. For Jersey, the Agreement does not extend in any way to services for which we already have established and effective third country relationships with the European Union. At one stage requests were being made for parts of the Agreement to cover tax issues and other matters of interest to our financial services industry. As Members know, Jersey already has separate arrangements and structures for working with E.U. countries and institutions in these areas, and we are pleased that the requests for them to be included in this trade Agreement were ultimately withdrawn. As part of making this Agreement, the Government has made non-legally binding political commitments around reasonable assistance in the collection of taxes and duties, and a declaration on harmful tax regimes. Given Jersey's track record of dialogue and co-operation with multilateral institutions on these issues, including with the E.U. Code Group and the O.E.C.D. (Organisation for Economic Co-operation and Development), these are statements which we make comfortably of our own accord, as a fiscally autonomous jurisdiction, and as an extension of our ongoing international engagement. It has been a long 4 years and a challenging negotiation in 2020. It has resulted in a deal that meets our objectives as far as we could have expected. We have protected our autonomy and constitutional status *vis-à-vis* the U.K. and the E.U. We have defended our economic interests and maintained our trading links for business. We are now in a position to move forward towards the opportunities that exist in this new decade for growing and diversifying our economy with markets across the globe, as part of the British family. Life will be different from 1st January 2021, but we have an Agreement that makes the changes we will incur minimal, manageable, and gives us a basis from which we can build successfully. The Council of Ministers recommends that Jersey participates in this Agreement and I hope we have the support of this Assembly for doing so.

The Bailiff:

Thank you very much, Minister. There is now a period of questions to the Minister, 15 minutes in duration and if people could indicate their desire to ask questions in the chat.

3.1.1 Senator S.Y. Mézec:

Notwithstanding the obvious fact that being part of this Agreement is in Jersey's interests in the way that the Minister has said, would he like to give an indication of whether he considers this new arrangement for the Island to be an improvement or a deterioration of where we were before when the U.K. was an ordinary Member State of the E.U. and our relationship was through Protocol 3?

Senator I.J. Gorst:

The honest answer is time will tell. From 1st January, of course, as I have indicated previously, Islanders will find it more bureaucratic travelling into and from Europe. Businesses will have more bureaucracy to complete trading to and from the European Union. I think we can all admit that that is a detriment to the situation that we enjoyed when the United Kingdom was in the single market. But it was not a democratic choice of the people of this Island to leave the European Union. It was a democratic choice of the residents of the United Kingdom and we, being a sub-sovereign, were not rightly involved in that decision. But I do think that the deal before us, as the Senator has indicated, is the best way forward.

3.1.2 Deputy S.M. Ahier of St. Helier:

The Minister mentioned vessels will be licenced solely by Jersey. So, will this lead to an overall reduction in the number of French vessels with access permits fishing in our waters?

Senator I.J. Gorst:

The reality is, as I have just described in the legal text, that those wishing to maintain a licence to fish in Jersey's territorial waters between the 3 and 12-mile limits will need to meet the criteria in the legal text. So that is being able to show 10 days' effort in any one of the 3 preceding years; the ending date for being able to show that was when the U.K. left the European Union, which was the last day of January 2020. We have argued in Jersey that there is a great deal of latency in the licensing requirements under the Bay of Granville Agreement and we would expect that latency issue, i.e. the ability to have more licences issued than was appropriate, to be dealt with under the terms of this Agreement.

3.1.3 Deputy S.M. Ahier:

Does the Minister envisage a reduction in access permits within the 5½-year transition period on fishing?

Senator I.J. Gorst:

Of course, the 5½ year transition period refers to the United Kingdom and not to Jersey. So, with regard to the reduction of licences, the details of issuing licences are within the legal documentation in the terms that I have just indicated. I think we can expect that that will lead to, over time, a reduction in licence.

3.1.4 Connétable M.K. Jackson of St. Brelade:

I would refer to what I describe as the "fish" paragraph in the Minister's presentation. He suggests that we will be able to control management over our waters and I am very supportive of that. But what concerns me is how we are going to do it and coming down to the interpretation of sustainability. The French body I.F.R.E.M.E.R. (French Research Institute for Exploitation of the Sea) suggests that our fish stocks are okay, however evidence contradicts this. Could the Minister confirm he is confident that this disparity can be overcome?

Senator I.J. Gorst:

I believe, and this of course is a question that the Connétable might wish to put to the Minister for the Environment in the next question session, but I will do my best on his behalf. The Connétable is right that Jersey has been seeking to use the administrative arrangements under the Bay of Granville Agreement to introduce conservation measures. That has not been agreed under the joint management Agreement in those administrative chapters by our French cousins. What this Agreement will allow is for the Minister to bring forward in a non-discriminatory manner, so they would be the same requirements for E.U. vessels, i.e. French vessels and Jersey vessels, based on good scientific evidence and data to make appropriate conservation orders or laws.

The Connétable of St. Brelade:

I will direct further questions to the Minister for the Environment in due course.

3.1.5 Deputy K.F. Morel of St. Lawrence:

I just wanted to ask the Minister, with regard to the fisheries situation where French vessels must show 10 days activity in the previous years, how is that going to work in the long term? Because obviously some boats will stop fishing as new boats come online and start fishing. To me it seems that that would lead to a natural point at some point in the future where no French vessels are any more able to fish in Jersey waters, which may be fine from a Jersey perspective but could obviously cause problems with the relationship with France. Could he explain how that is going to continue into the long term?

Senator I.J. Gorst:

Again, this is not my technical expertise and I am sure that the Minister for the Environment will be far more eloquent than I. But these licences that meet the requirement up until the end of January, as I indicated, when the U.K. left the E.U., are issued on a pooled basis. So you would have a number that would meet the requirement at the end of January this year and, as I say, they are issued on a pooled basis, which means that the issue the Deputy referred to does not occur. That can of course be argued both ways, as the Deputy indicated. It could be considered that an overall decline over time of licences to French vessels was a good thing, but I think a better approach is that we share these waters with our Norman cousins and have done for centuries. The preamble to the Bay of Granville Agreement talks very clearly about economic and community benefit to those communities who, as I say, have fished in these waters for hundreds of years. Therefore, I think again that this Agreement shows that we wish to continue to work co-operatively and productively with our French cousins in the way that we have done for centuries.

3.1.6 Deputy K.F. Morel:

When obviously the Minister speaks about French cousins, for many of us that is quite literally true. I would just ask him to explain where in the text of this Agreement it allows for that ongoing relationship and for those negotiations about future vessels fishing in Jersey waters. Because the Bay of Granville Agreement, reference to that is irrelevant as that will be superseded by this Agreement, so the Bay of Granville Agreement will fall away. It says in there becomes superfluous and irrelevant. Where in this text does it talk about 20, 30 years down the line and managing that relationship with French fishing vessels?

Senator I.J. Gorst:

Because it talks about it being done on a pooled basis and that is a technical term used by those in this particular area, which means that those licences are issued based on the criteria that they are not just one-off licences, they are available. I can go into further detail if the Deputy wishes. Vessels become qualifying vessels by their record, as I have just indicated.

[11:15]

There will be a requirement to licence those vessels but they will be able to continue to work with Jersey to ensure that they are available for the longer term, as I say, on that pooled basis. But again, the Minister for the Environment knows his field far better than I do.

3.1.7 Deputy R.J. Ward of St. Helier:

It is clear that developing trade talks and any changes happen via trade committees, according to this deal. Jersey, as a Crown Dependency, does not have direct access, only sovereign states do on our behalf. Would the U.K. ultimately be responsible for developing our trade policy with the E.U., defending it and enforcing it? Does he believe that we are in a position where our interests will be at the heart of those trade talks and can be protected effectively?

Senator I.J. Gorst:

I do because that is the process that, in effect, has been ongoing while we were in the E.U. under Protocol 3. But just to give myself, the Government and also States Members, the Member will have seen that there is a letter from the Lord Chancellor confirming the constitutional appropriateness of arrangements that will be in place, which mirror the ones that are currently in place. But I would also like to say, as I indicated in my initial statement, there were times during this negotiation that because we were not in the room - it was the State parties that were in the room - that it might have appeared that the U.K. were not representing our interest. But having sat up until the early hours of Christmas Eve morning speaking to negotiators about our interest, together with my officials, I am able to make the statement that I do believe that the U.K. Government has represented our interests in a constitutionally appropriate way, and I have no reasons to doubt that they will not continue to do so.

3.1.8 Deputy M.R. Higgins of St. Helier:

I hope the Minister will be able to answer my question but if not maybe the Minister for the Environment can. Under the licensing of vessels, can he tell us the criteria that is going to be used? Will it be the type of vessel by size? Will it cover replacement vessels, which may be larger? Does it cover scallop dredgers as well as trawlers? Could the Minister give us a bit more detail on that please?

Senator I.J. Gorst:

The Deputy is right, that it is for the Minister for the Environment, and I do not want to steal his thunder, although I recognise that fishing is an important part of the T.E.C.A. and as it applies to Jersey. The licensing regime described in the legal text is around historic effort. The issues that the Deputy is referring to I think comes under appropriate conservation measures and it really refers back to the question that the Connétable of St. Brelade was referring to, and I know that the Minister for the Environment and Assistant Minister feel passionately about. The control of our own waters is twofold. It is the issuing of licences that can prove that criteria but it is, in due course, gathering appropriate scientific evidence and data, applying it in a non-discriminatory way that will allow Jersey to deal with some of the issues that, I sense from the question, the Deputy is concerned about.

The Bailiff:

That in fact draws the 15 minutes allocated to questions for you directly to an end. But, of course, we align now immediately into 30 minutes allocated for questions on the Agreement and related matters. Unless Members wish to withdraw their request I will assume that Members indicating a desire to ask questions of the Minister for External Relations, but we have run out of time, would wish those questions now to appear in the list of questions that we are now about to do for 30 minutes.

QUESTIONS

4. Questions to Ministers without notice - Jersey's involvement in the U.K.-E.U. Trade and Economic Cooperation Agreement

4.1 Deputy K.G. Pamplin of St. Saviour:

I have been going through what has been put in front of us and could the Minister help us for future Governments, bearing that this will be a situation that will continue to evolve in the many years to come, how does that impact future Governments and any decisions they wish to take if they have different views or different approaches?

Senator I.J. Gorst (The Minister for External Relations):

There are 2 elements there. The first of course is that there is the 90-day cooling-off period, but this is an international treaty, and therefore we in Jersey have always acted responsibly and fulfilled and complied with all of our relevant international obligations. I cannot for a minute believe that any Jersey Government would do anything other than comply with their international obligations, as they might be outlined in an international treaty like this and, in effect, given effect to through domestic legislation, but there is a termination clause for the Crown Dependencies. That is a 3-year termination clause, so any incoming Government that felt that this was not in Jersey's best interest, then they would be able to trigger that termination clause.

4.2 Senator K.L. Moore:

Jersey has a very long and proud connection to the Crown and the United Kingdom. If the Assembly were to decide today that the terms of the T.E.C.A. were not for Jersey now, what would be the process following that and how would that change potentially the relationship with the United Kingdom, if at all? Would it be that the termination clause the Minister just referred to would be triggered?

Senator I.J. Gorst:

The Senator is absolutely right. While we have 1,000 years of history with our French neighbours, we also have 1,000 years of history with our U.K. neighbours and loyalty to what is now referred to as the British Crown. I, for one, believe that juxtaposition betwixt and between has served Islanders well constitutionally, democratically and economically for hundreds of years. If we decided today not to be in the T.E.C.A. in the terms that the E.U. is offering, we would communicate that to the U.K. Government and decisions in the U.K. Parliament later this week or next week - whichever way you like to look at it - would not include the Bailiwick of Jersey. What that would mean in the short term is that any trade we wished to do into or from the E.U. would be subject to tariffs. We would fall back to the Bay of Granville fisheries arrangements and of course also it would become more complex in complicated supply lines that people might supply to into the U.K. with Jersey products because they would technically be liable to tariffs in that supply chain, but the other U.K. sourced goods would not be. The U.K. Government have been clear with me, and I have been clear with them, that the customs arrangements that we signed in 2018 would remain in place and therefore we would continue to have the benefit of those arrangements, as would the Common Travel Area, but there is no doubt that there would potentially, under the surface, be an element of friction that was not there before, which I do not think would be to our benefit because we would, in the first instance, need them to issue us with various entrustments, one of which would be to think about what our future relationship with the E.U. might be. That cannot be taken for granted. It would not be straightforward if we look at how those micro-states negotiations have gone, and also to deal with fishing matters with our French neighbours.

Senator K.L. Moore:

I thank the Senator for his full answer.

4.3 Senator S.C. Ferguson:

We will have a number of arrangements based on the Agreement reached, such as how many boats where and whatever. How are we going to enforce them?

The Bailiff:

Is this a question for the Minister for External Relations, Senator, or for a different Minister?

Senator S.C. Ferguson:

I am not sure. I think there is a bit of both, because obviously the enforcement must be floating around in the background of the debate, but if he prefers to just pass it on to the Minister for Home Affairs, then I will accept the passing the buck.

Senator I.J. Gorst:

We could all 3 have a go, Sir, if you would grant that, but that will use our time up. We currently have enforcement mechanisms that work reasonably well, but there is a very detailed approach around enforcement. That is basically the use of the Specialised Committee on Fisheries, if we are talking about that particular issue, and then there is a tiered approach to what actions either side would take if they felt the terms of this Agreement were not being met. That is around introduction of tariffs, removal of other bits of the Agreement and things like that. If any other Minister wishes to add to that, I am happy for them to do it.

Senator S.C. Ferguson:

I am sorry, I should perhaps have been a little more specific and said it is the history, the fishing industry, that I think we do not have ... well, we have a fisheries boat, but it does not work on Saturdays and Sundays.

Senator I.J. Gorst:

In that regard, Ministers agreed earlier this week that the Minister for the Environment would have extra resource to be able to provide sufficient support to give effect to this new Agreement. Perhaps I should spare his blushes, but I will not. He did, even in that conversation, indicate that they would review whether it was necessary to purchase a second boat, so that work is being undertaken, but I leave it to him to answer.

The Bailiff:

Thank you very much, Minister. Deputy Young, you are indicating a desire to speak. Obviously, this is questions. I appreciate what you are looking to do is to supplement the answer that has been given already, so I will allow you to add an answer, because I think perhaps the question was as well directed to you as to the Minister for External Relations. Could I ask Members to indicate which Minister they are asking their questions of moving on from now, so that we have some focus?

Deputy J.H. Young of St. Brelade (The Minister for the Environment):

I was hesitant to come in, but obviously the Minister did suggest that I add. Yesterday, like any of us, I got the first chance to read the full text. If Members do have a chance to read it on fishing, it is very worth it. Pages 261 to 274 set it out, and of course what we see in there is a great deal of detail about the scientific and conservation objectives and principles of management of the fisheries, which is a very considerable improvement. In response to, if you like, the question of how we are going to do this, the truth is that there is a lot of work for our marine resources to do.

[11:30]

Under this new arrangement, Jersey is clearly the authority for the issuing of licensing, for the setting of conditions, but of course it does so under the context of this framework or this Agreement which, as the Minister for External Relations said, is under the jurisdiction of the Specialised Committee on Fisheries. That means scientific work and additional resource. It is not just about going out in patrol boats, it is about monitoring of stocks, getting information on what vessels are at work, what they are doing, that scientific base of measuring stock levels. None of those things we have been able to do

before, regrettably, under the Bay of Granville Agreement. We have got now a framework to take that forward, but personally I do not think Members should think we are going to be able to do that magically tomorrow, as it were, from 1st January. That is going to take time to build up and we will certainly, with the resources, make sure we can fulfil our part of that Agreement to conserve stocks.

4.4 Deputy K.F. Morel:

One of the clear outcomes of the Brexit deal - not just this deal, but any deal that could be - is that Jersey is pulled more firmly into the sphere of influence of the U.K. and away from the sphere of influence of Europe. This, in my opinion, is an unwelcome fact. Would the Minister please explain what practical steps he will take immediately to start rebuilding Jersey's relations with France and with the wider E.U.?

Senator I.J. Gorst:

I do not accept the Deputy's premise. It is not this deal that draws us into the sphere more of the United Kingdom. We could argue about the United Kingdom's decision to leave the European Union and whether that is positive or negative for us, as Senator Mézec did in his first question. The reality is that we already spend more time or a great portion of our time working with our colleagues in the E.U. in Brussels and also with our colleagues in France. The Deputy knows that I have already made a case for extra money and extra personnel to create the E.U. division in my ministry. They have a remit to extend their influence among the capitals of Europe, but particularly Paris and Berlin, and they are doing that. I, after this debate, will be speaking to my colleagues in Normandy and Brittany. I think that in this Agreement it shows that we wish to continue to work co-operatively with our colleagues in Europe and our colleagues in France and not the other way around, and simply because the United Kingdom is no longer a member of the European Union, that relationship will need to be grown and will need to strengthen. Had it not been for COVID-19, I already had extra visits to Brussels in my diary and to Paris through the course of 2020. They have not unfortunately been able to take place, but I have had virtual meetings and in the draft diary for 2021 there will be, and are, several draft meetings already pencilled in to increase and build on that relationship.

4.4.1 Deputy K.F. Morel:

Outside of the sphere of political interaction alone, what measures will the Minister for External Relations or the Chief Minister or any other Ministers be taking to encourage Islanders to take part in building stronger relations, particularly with Brittany and Normandy?

Senator I.J. Gorst:

My experience has been I have lived in 2 Parishes in the Island and they both have extremely strong links with their twinning associations, one in Normandy, and the other one, quite uniquely, in Brittany, and they go from strength to strength. We know the work that the Minister for International Development has done with her Island identity work, looks to build stronger person to person cultural and educational links right across Normandy and Brittany. We will, in External Relations, support her in any way that we can. We have already started to discuss about areas where we can support her in that work.

4.5 The Connétable of St. Brelade:

I am questioning the Minister for the Environment. On the interpretation of sustainability, it is clear and anecdotal evidence suggests that the French fishing boats - and there are some 40 scallopers in the Bay of St. Malo - will exploit our fishing grounds to the extent they will clean out an area for scallops, for instance, and move on to the next patch, which may be in another Channel Island, away from Jersey waters. We have but 5 scallopers and the devastation of those particular areas will have a consequence for us. Can I ask the Minister what his interpretation of the scientific evidence *vis-à-vis* the French interpretation will be, because it really is of fundamental importance to our fishermen?

Deputy J.H. Young:

The Chairman of the Panel is absolutely right, that this has been a problem area. What we have been, up to now, seeking to do is to have those areas defined and ban those particular *métiers* in areas where that level of damage has been done, but that has not been possible. Under the new arrangement, the Connétable is asking for a definition of sustainability. I will not take up the time in reading all the full page of detail, which all sets that down in detail in the fishing Agreement, because although it is an Agreement between the E.U. and U.K., apart from a few sections to do with various special U.K. things we are a party to that, so one would rely on that, the mechanisms. So, in order to be able to deal with those, we are having to rely on licensing. Licensing in the Agreement is quite specific. We can put conditions on, but those conditions cannot be discriminatory, they have to apply equally to our fishermen and to E.U. fishermen. Obviously that is the first task; we will do that on licensing. In those areas, I anticipate we will be using that power of conditions, but those conditions can only be justified, I think - as long as they can be justified - on the evidence, the scientific evidence, to do so. Now, it is true that there is potential for issues to arise and, if you like, potential disagreements. This is where I think we would rely on the arrangements set up for the new Specialised Committee on Fisheries, which is empowered under the Agreement to deal with the Crown Dependencies, not just us but all of them, and that will be a forum for where those issues will have to go. So that is what I meant by saying we will deal with those issues, we will tackle those on. There will be challenges. The marine resources, that is work to do now. I will need to know how far we can go on our day one licences and what is going to take a bit more time to be able to see it through, but for the first time we have got the way of being able to deal with those issues. That is as far as I can go for now, but there is work to be done and I give an undertaking, if the Agreement is signed up to, I will do my best to deliver it.

The Bailiff:

Deputy Pamplin, who is your question for?

4.6 Deputy K.G. Pamplin:

I believe the Minister for External Relations, but if he wants to refer to the Chief Minister or whoever he thinks relevant. Talking to my neighbours the last couple of days over the news that brings us here today, I cannot get away from the fact that there is a lot of unease and uncertainty around some of my neighbours who come from different parts of the world. What message are we sending out today, before we get into the main debate, to those who are generally worried about the impacts of where the Island is heading with its immigration policies yet to come?

Senator I.J. Gorst:

Of course, the immigration issues are and were dealt with by 2 elements. One is the U.K. becoming a third country to the E.U. and the other is through the Withdrawal Agreement. I have been quite clear, as has the Chief Minister, from day one of the Brexit vote that the E.U. citizens that are an important part of our Island in every way that we might wish to describe that, we want them to stay. We apologise that because of this process they have to go through a bureaucratic process to reach a settled status, but we really do value them and I cannot say that enough. Please do not be concerned about their place here in our community. They are valued; we want them to stay. We are stronger together and by staying and working together as a community, we can continue to have a strong future.

4.7 Deputy M.R. Higgins:

I would like to follow up on what I was asking the Minister for External Relations regarding the types of vessels. Although we are licensing vessels, are there any criteria regarding the size or, for example, if a vessel is replaced, whether it can be larger or whether it can be of a different type? For example, we have mentioned scallop dredgers. Again, if we look at the size of our vessels, I think most Jersey

boats are small; some of the French ones are very large. What provisions are there in that regard with regard to licensing, please?

Deputy J.H. Young:

I will do my best to give an answer. I may have to come back with more detail to the Deputy on this, but of course at the current time, it is true we have some larger vessels which access our waters, which at the moment my understanding is they are oversized. That is, under current international Agreements, in a process of being phased out, but currently they are grandfathered, as it were, in the fishing world. Those vessels generally have things called V.M.S. (Vessel Monitoring Systems) so we know where they are and what they are up to, but it is equally true that the majority of fisheries are smaller boats where that does not apply. The general trend we have been trying to establish up until now is to encourage the smaller boats, because that is in line with our fleet, whereas what potential there is - which I think is what the Deputy's question is - to ban or prevent some of those practices on those larger boats, we are going to have to look at that to see to what extent we can justify those measures under these new rules. If this Agreement goes ahead and if the legislation is in place, for the first time we will have the power to issue licences, we can set conditions, but as I said earlier, I need to have advice from the marine team. We have got an expert team who will make sure we will try and do our best, but as I say, I do not think it is realistic to think that on day one of a new Agreement we can suddenly achieve a full implementation of these conservation objectives. That is the task that we are going to set out to do, but it is the first time we have had a decent opportunity to do so under the framework of this Agreement.

4.7.1 Deputy M.R. Higgins:

Can the Minister say if there is any provision at the present time regarding, as I say, new boats replacing old ones and size? Is there any provision there that we have to watch out for? Will he take - I do not know - a special interest in making sure that the vessels do not increase in size and so on?

Deputy J.H. Young:

Yes, I can say I certainly take a special interest, but I think my understanding of the word "grandfathering" is that when those vessels retire, as it were, then that is it, they fall out where they are oversized and they do not meet the rules at the time for the species they are catching and the *métiers* they are using. I am afraid that there is such a complicated issue. If the Deputy would be accepting, I will have to come back to him on that particular question about oversized vessels and how that will work under the licensing regime if this is approved, if the Deputy would be prepared to allow me to do that.

4.8 Deputy K.G. Pamplin:

Speaking to friends in France, a startling comment came from one of the mayors of the French fishing ports, who said, and I am quoting Frédéric Cuvillier: "Who, for example, will be handling the controls and over what time in the transition period?"

[11:45]

This is in reference to the transition of the fishing waters: "The only certainty is that we need to find, during the transition period, more deals within the deal." What is the Minister for the Environment's view on this, that the next few years there will have to be controls found and deals within deals? What is his view on that?

Deputy J.H. Young:

I am not sure about this transition period. As the Minister for External Relations said, if I have understood it correctly - because like everybody else, I have only had a day to look at the text of this Agreement - in the U.K. their sharing of waters, as it were, lasts for 5½ years. As I see it, I cannot see that applies to ours, so ours is enduring, but as I said, we have got this 90-day period, but I have

said I do not believe anybody should think that we can achieve this change towards a better sustainable management of fish stocks in the 90 days. I think we are going to have to work within the processes of the Agreement. Fortunately, the Agreement has this Specialised Committee on Fisheries, which sits under the Partnership Council, as it were. They are authorised. That is the body, the forum for working out all these huge issues of detail, but they are about conservation. I do not think they are about ... so I suppose at the moment under the Bay of Granville Agreement, we deal with local and regional French officials. The licences, my expectation would be is that the users that have traditionally fished in that area, who would therefore meet the track record for licensing, would be local French vessels, so therefore how that forum works in practice, it has to be worked out in detail. Certainly it would be something I would be certainly leaning on the advice of the Minister for External Relations to help us come up with how we do that in practice. But as he said, we have had discussions. Both he and I and Deputy Guida have personally spoken to the French Ministre de la Mer and made it quite plain what our conservation issues are. We have unsustainable fish stocks and unless we do these things there will not be a fishery for either of us to enjoy. I believe that commitment is understood. That is Jersey's position, which perhaps is a tad different to the U.K.'s issue with this 5½ year transition period.

4.9 Deputy M.R. Higgins:

Just to follow up on my earlier ones: can the Minister tell us whether there are any provisions in the Agreement for change of use, say, for example, from a line trawler to a scallop dredger or something else like that? Do they have the right to change or is it just the boat that is registered?

Deputy J.H. Young:

I admire the Deputy, he has tested me to the nth degree on my knowledge of fishing licences. I am afraid I am going to have to give him the same answer. Licences are not just a question where you can do what you like. Licences are very specific and very clear and very full of conditions and so on, and the enforcement processes check that out. I will need to come back to him and say how somebody would go from one type of métier to another. What I do not think they could do is adopt a métier which goes against all the existing international Agreements on fisheries because this Agreement of course sits in the context of lots of different international Agreements about the conservation of species and so on. They have not gone away. They are going to have to be met by this. What we will need to do is to plug in our stocks, if you like, to make sure we can get to that point where we have got a measure of control we can be happy with. I will come back on the detail about that change, if I may, please.

The Bailiff:

Thank you very much. A supplementary, Deputy?

Deputy M.R. Higgins:

I do have another question, but it is not a supplementary, so I will ...

The Bailiff:

In which case, I am conscious others wish to ask a question as well, Deputy. I do not think there will be time, but I will add you to the list.

4.10 Deputy R. Labey of St. Helier:

I am sure the Minister is not trying to gloss over the facts here, but the Jersey Fishermen's Association are on record as saying that the offer before us represents a catastrophic failure. They are asking that Jersey's acceptance of the arrangement is transmitted to the U.K. with an absolute insistence that foreign access to our 3 nautical mile limit is established, with full recognition of the sovereignty of our offshore reefs, the Minquiers, the Écréhous, the Paternosters and so on, and our right to include

the reefs as the baseline for measurement of our 3 nautical mile fisheries limits. Does the Government undertake to do this?

Deputy J.H. Young:

I have notification of the Jersey fishermen's concern. It is an open secret that the fishermen had a much higher expectation of any Agreement, obviously because the evidence is - I can understand that - that the past practice in recent years under the Bay of Granville Agreement has become very unbalanced and very much in favour of our French neighbours and therefore we have a declining fishery, so I can understand that. They had obviously wished to have exclusive control of our nought to 6 miles, but of course, as the Minister for External Relations has said, that was clearly not acceptable to the E.U. because nobody should gain from the decision of Brexit. But nonetheless they have come back and the email says that they ask that arrangements be established to recognise what they call the sovereignty of our offshore reefs. By doing so - this is rather complicated - this is where we take the law, because I suppose it is a matter of law, where those boundary points for our 3 miles or so are taken. I will be giving a detailed answer in the fullness of time. I need to provide to the Deputy what is ... we are going to have to establish clarity during the 90-day period about those baseline measurements. There is a lot of technical detail there, which I will not bog down for, but I think we will have to try and do that, but I cannot give any undertakings about where that work would end up because it is a matter of international law of the sea. It is not an easy matter to resolve, but they have made their wish. I personally could not accept that any acceptance of this should be conditional in any way, but I accept the point they make and it is something that needs to be looked at and see how far we can go towards that within the 90-day period. I think that would be the ideal. We may not be able to do it in the 90 days, but I think that is the best I can say at the moment.

The Bailiff:

That brings the question period on this topic to a close. There is now a one-hour question period to any Ministers on COVID-related matters. However, inevitably that will take us past the time when I would normally move and ask Members whether they wish to adjourn, so it might be helpful to indicate now whether Members wish to work through so that just before 1.00 p.m. we finish the questions and we move straight on to Public Business or whether Members wish to take a break over the lunch in the normal way. Chair of P.P.C. (Privileges and Procedures Committee).

Deputy R. Labey:

It is difficult, because it depends how it goes, but I cannot see us completing this in a morning, so it seems to me that we should work until 1.00 p.m. and take an hour's lunch break and then continue. **[Seconded]**

The Bailiff:

What I suggest we do is not at this point then put it for a vote. We will work on until the question period is over. That will take us to just a little bit before 1.00 p.m. and then at that point we can ask whether there is an adjournment to take place or not.

5. Questions to Ministers without notice - COVID-related matters

The Bailiff:

Very well, we now have an hour's questions to any Minister on matters relating to COVID and the first question is Deputy Pamplin. Who is your question to; to the Chief Minister?

5.1 Deputy K.G. Pamplin:

Will the Chief Minister put together one of his policy boards that he has used in his term of office in the response to COVID-19 for the time period ahead before the next election?

Senator J.A.N. Le Fondré (The Chief Minister):

I am slightly puzzled as to what the Deputy is trying to achieve because obviously the whole point of the policy boards was about development of policy for a longer-term side. The principle, I would hope where we are in terms of COVID falls into 2 categories. One is the health side, which frankly I truly hope and believe that we are now entering that final last journey, shall we say, in other words, vaccinations starting. We will know and be in a lot better place, I think, in the next few weeks and then essentially by the time we get to Easter, I am really hopeful at this stage that a lot of the people who need to be vaccinated will have been vaccinated by that time. If we are talking about economic recovery, then obviously that is where we have had the Economic Council and the Economic Policy Oversight Group, which essentially the Economic Council is in the process - and in fact, I think it has published just before Christmas - of publishing its outcomes and obviously that will be putting that piece of work together as well. I am not quite too sure how a board would fit in. I am very open to it, but I am not quite too sure what the Deputy is trying to achieve.

5.1.1 Deputy K.G. Pamplin:

What I am trying to achieve is some of the success of the policy boards shown previously is using the wide experience of the States Assembly membership as a whole for developing policy that will help the Island steer through what will be a couple of years of change in terms of policy due to the pandemic. Would the Chief Minister consider that range of topics, being communication and public health as just 2 for starters?

Senator J.A.N. Le Fondré:

I am always very happy to look at it. I am happy to sit down with the Deputy and understand more. I am glad he appreciates the motive behind the previous policy boards and considers that they have been successful, which is highly appreciated. I am just slightly cautious. If it is about getting more States Members to understand and contribute into longer-term issues, then I am sure we could look at it. What I am not going to do is obviously introduce, for the sake of argument, a parallel S.T.A.C. (Scientific and Technical Advisory Cell).

5.2 Deputy M.R. Higgins:

With the new strain of the virus that is in the south of England, I believe blood samples were sent across to the U.K. for gene sequencing. Can the Minister tell us the results of that and do we have the new strain in the Island?

Deputy R.J. Renouf of St. Ouen (The Minister for Health and Social Services):

The results are not yet known. It takes, at a minimum, some days, but we have already said - on advice from S.T.A.C. - that it is very likely that this strain will be in the Island.

5.2.1 Deputy M.R. Higgins:

With regard to the amount of time it is taking to sequence, I believe the Guernsey Medical Officer of Health said they were testing within the Island. Do we not have the ability to gene sequence or do they?

The Deputy of St. Ouen:

I cannot speak for Guernsey. I know to establish whether this strain was among our samples, it was thought better to send our samples to the U.K. for analysis.

5.3 Connétable A.S. Crowcroft of St. Helier:

I ask this question as a person who has a relative in a care home. Could the Minister please outline the steps that are necessary to trigger the ability of relatives to visit people in care homes? Currently, as the Minister will be aware, no visits are being permitted, which is clearly a matter of considerable hardship both for the relatives and for the people in the care homes.

[12:00]

The Deputy of St. Ouen:

I thank the Connétable for his question and I acknowledge the hardship that this does cause and the concern to families. I receive that loud and clear from emails that I receive, but in reality it has allowed vaccination to take place in the care homes without the added risk of possible further sources of COVID infection. The second vaccination should be given to care home residents in the week beginning 4th January, I believe. We know that the vaccine is at full effect a week after the second vaccination and therefore I would hope that at that time we might be in a position to consider opening the care homes to visitors on the basis that the residents would have a significant degree of protection and staff would have been vaccinated also. I know this will be carefully considered. H.C.S. (Health and Community Services) has very regular meetings with care home managers. Of course, we cannot direct care homes - who operate independently - on what they must do, but we would try and work together and co-ordinate for the sake of Islanders and residents of care homes.

5.4 Deputy R.J. Ward:

Has the Minister for Health and Social Services been tracking the number of people, be it children or adults, who have had to isolate over the Christmas period due to final week of term contact tracing or exposure to the virus? If so, what is the number?

The Deputy of St. Ouen:

I believe the Education Department would have been tracking that detail. I do not have those numbers reported to me.

5.4.1 Deputy R.J. Ward:

Given that there are no plans - and it seems to be coming from S.T.A.C. and it is up to the Minister for Health and Social Services to make this decision, we were told - to close schools in January, even with the new variant, what plans are there to vaccinate teachers, who will be on the front line? Why was that not undertaken in the last week of term so that there was some protection before they go back to work?

The Deputy of St. Ouen:

The groups of people and the order in which they will receive vaccination was determined nationally by the Joint Committee on Vaccination and Immunisation, to which Dr. Muscat has contributed. That was a risk-based assessment, because it is clear that the vulnerabilities relate to age rather than the profession of any particular person and therefore primarily those who are most elderly will be among the first to be vaccinated, with people at high risk coming in the list also. But the priorities for vaccination are not set by profession, apart from front line health workers, because it is a matter of scientific data that they have an increased vulnerability due to their exposure to COVID patients.

5.5 Deputy L.M.C. Doublet of St. Saviour:

I would like to hear from the Minister on the issue of pregnant women not being allowed to have support partners with them for scans, just an update on considerations around that issue, please. Specifically, the Minister committed to looking into allowing people to be tested and isolate in advance of planned scans so that the support partner could go along, please.

The Deputy of St. Ouen:

Yes, following the last Question Time, I asked for that to be considered. It is under consideration. I have not had the report of the officers concerned yet, but as soon as it does, I will seek to update the Deputy and Members.

5.6 Deputy I. Gardiner of St. Helier:

Is the Minister aware the incubation period of COVID-19, which is the time between exposure to the virus and symptoms onset, can be as long as 14 days? With new strains and a high level of infection in the U.K., will the Minister consider to introduce a quarantine for 14 days for all arrivals?

The Deputy of St. Ouen:

Such things are always under consideration and under review. While what the Deputy says does occur occasionally, I think it is understood to be rare that symptoms would appear as long as 14 days afterwards. I think the more usual time for symptoms to appear is within 5 days but should this new variant prove to be different in its behaviour then, of course, we would receive advice accordingly and be able to revise procedures if necessary.

5.6.1 Deputy I. Gardiner:

Most of the countries around the world do introduce quarantine for 14 days because of the reason that it is rare but it does exist. Would it be better for us to have a more robust entry point for all arrivals to ensure that as few as possible infections come into the Island?

The Deputy of St. Ouen:

I have not compared every other jurisdiction in the world. Every jurisdiction adopts a variation of rules, but we will follow science, we will take advice from those who are appointed and have the skills to advise us and should that be deemed appropriate then it will be considered by Ministers accordingly.

5.7 Senator S.Y. Mézec:

What lessons, if any, has the Chief Minister learned over the handling of the Christmas Eve gatherings issues and what action will he be taking to ensure that the perspective of people from different cultural backgrounds is included from the outset when issues like these arise so that they are not disregarded in future?

Senator J.A.N. Le Fondré:

We truly recognise that the decisions we had to make over the Christmas period were difficult and we did take certain soundings in relation to the diverse community that we have. I think we as politicians I hope, certainly we as Ministers - and in fact the Minister for External Relations has previously alluded to it and cited me in his answer - absolutely welcome and celebrate the diverse community that we have. Everyone contributes to us as an Island community, but equally we had to take the decisions we did and they had to be kept simple, which was for the benefit of the whole community. But we did take soundings and we can ensure that they are taken in a more formalised approach, I am sure, but at times we have to move quickly and those are the soundings we took and the advice we received and the advice that we received from S.T.A.C. I have communicated that advice directly to all Members and certain members of the public and it was very clear, and it remains clear, by the way, that for the coming period we are trying to limit household gatherings that, unfortunately, remains to be the case. I will also take the opportunity, if I can, to very much reiterate that the message for the coming New Year period to the members of the public is, please, keep your gatherings limited. If we can keep gatherings limited then the trend we seem to be seeing at the moment will hopefully continue.

5.7.1 Senator S.Y. Mézec:

To be perfectly honest, it is difficult to match the words that the Chief Minister has given with the actions that were undertaken. Does the Chief Minister acknowledge that it is the case that a large part of our community feel like they were disregarded and what will he do to ensure that those communities do not feel that way in future?

Senator J.A.N. Le Fondré:

I am sorry if that is the message that the Senator wishes to put out, but they were not disregarded. As I said, they are very, very much welcome and I can tell you that we take all the decisions we have taken for the benefit of the community as a whole. I will be very clear, we have had a mixture of messages that have come through, some who recognise the difficult situation we had, some who talked about other dates that are important to them and also recognise the decisions we are making, and some that the Senator is alluding to who were not happy but equally do seem to understand and recognise that we are in completely different circumstances to normal. I think that demonstrates the difficulties we have in dealing with this pandemic across the board, but we continue to value everybody who forms part of our community and we will continue to do so.

5.8 Senator K.L. Moore:

Given the early indications in relation to the new variant are that it does pass and transmit differently among younger people, is the Minister considering a staggered start to the school term or a vaccination programme for teachers and at least secondary school students?

Deputy J.M. Maçon of St. Saviour (Assistant Minister for Education - rapporteur):

I believe the Minister might be having technical issues, so I am happy to stand in if necessary.

The Bailiff:

In which case, shall we direct that to the Assistant Minister for Education, Senator?

Senator K.L. Moore:

I would be happy with that, Sir, thank you.

Deputy J.M. Maçon:

I thank the Senator for her question. We are due to have an update in the week coming. We are awaiting advice back from S.T.A.C. The only other thing to add is, of course, as Members will be aware, the legislation that we have to operate under COVID, which is measures must be necessary and proportionate, and if we want to extend the closure of schools that has to also receive the endorsement of the Minister for Health and Social Services, but of course the policy is under constant review.

5.8.1 Senator K.L. Moore:

The Assistant Minister will recall that in the last week of term absence rates in secondary schools were in the 20 per cent, which indicates the level of concern among families about the transmission of the virus. Would the Assistant Minister commit to giving serious consideration to implementing a testing programme to give families, children and teachers the reassurance that they need in order for the school term to recommence in January?

Deputy J.M. Maçon:

I can give the commitment that we will absolutely consider it and take it forward to S.T.A.C. for advice and inform Members as we go forward.

5.9 Connétable K. Shenton-Stone of St. Martin:

I would like to ask the Minister for Health and Social Services what updates can be provided on the vaccination programme and will the vaccination programme be delivered within its expected timeframe?

The Deputy of St. Ouen:

This week we will continue vaccinating front line health workers, which includes domiciliary care workers. The next group will be, I believe, the care home residents who will receive their second vaccination soon, but we will also begin in the new year vaccinating Islanders over 80 and there will

be a campaign and information given as to how they can book times to attend at Fort Regent to receive their vaccination and for those who are housebound, details on how to arrange for a home visit. As to the precise timetable, the Connétable may be aware that there is no timetable set in terms of precise dates because this is going to depend on when the vaccine arrives in the Island, which depends on when it arrives in the U.K., which depends on the speed of manufacture. It is all being done as quickly as possible but it is a rolling programme that is live. It is really about how quickly all of this can be rolled out.

[12:15]

5.10 Deputy M. Tadier of St. Brelade:

I should probably declare an interest for transparency sake in that my partner and I have been isolating and now we are currently at day 10 and had our third test, but I think it is an issue faced by many Islanders. Many Islanders, perhaps thousands, have been effectively imprisoned in their own homes and while we understand and accept that for the last 10 days, we now come out of isolation to find out that while it is possible to meet with other people to the number of 10 in a public place, we cannot have people coming to our homes even if we can safely distance them in the garden or even through a glass partition where there is no risk. Does the Chief Minister believe that the right balance has been struck here between the health and safety needs of all Islanders and the civil liberties of all Islanders in being able to interact safely with their loved ones, even at a distance, even through glass, during this period?

Senator J.A.N. Le Fondré:

I do sympathise with the Deputy completely and it is always this balance of risk. I think we have been reviewing the contact tracing or, if you like, the regime that goes around it, just to see if it can be made a bit more focused, essentially. Again, we have just got to remember the message, the element relevant to this question, of the strategy is all about minimising spread and, therefore, that is why, if we can identify through contact tracing at early stages the direct contacts of somebody who has tested positive, we put these measures in place. But I do sympathise with the Deputy's comments.

5.10.1 Deputy M. Tadier:

Obviously, having been through it, the mind has been focused and I think we have got away quite lightly but I can imagine the experience would have been quite difficult for some Islanders. Would he consider reviewing certain conditions in terms of the efficacy so that, for example, maybe when people have been in receipt of 2 negative tests that they should perhaps be allowed to leave the confines of their own homes, albeit that they are required to do so safely and to not come into contact with people? It seems silly that people cannot walk up and down a deserted road or a deserted beach to get exercise when they have had 2 negative tests already.

Senator J.A.N. Le Fondré:

I do sympathise and I also make the point that we do review these requirements. It is also this balance. The Deputy and his partner are very sensible people in dealing with the issue, but also unfortunately one will come across others who are less sensible. There needs to be some very clear rules out there that cannot be misinterpreted because that then does not limit the risk of the spread. But I am very happy if the Deputy wants to email me his thoughts through we can feed that back into the team to see if there are any further improvements that can be made. That is never a problem and I hope the Deputy receives his third test in a negative way as well.

5.11 Deputy K.F. Morel:

I was wondering if the Minister would be able to give the Assembly an update as to the situation with regard to public finances as we are coming towards the end of the year and how COVID has affected those finances. Does she have a sense of income forecasts for the full year yet?

Deputy S.J. Pinel of St. Clement (The Minister for Treasury and Resources):

The income forecast, of course, was all dealt with in the Budget presentation 2 sittings ago, whenever it was, and the agreement of the Government Plan going forward. The COVID directly related, which the Deputy asked, is expected to be around £400 million cost by the end of 2021, but of course that is a forecast. The Fiscal Policy Panel has already said, as I said in my speech, I think, that we would not be using reserves in order to deal with that. We would be using the borrowing but it is a good opportunity to make it very clear that we only borrow what we need. We are not borrowing £500 million, which is what the revolving credit facility allows us to do, and I think that has been a bit of a misconception. I hope that answers the Deputy's question but obviously we will come back with new forecasts in the new year. That is what we have at the moment.

5.11.1 Deputy K.F. Morel:

I suppose using the word "forecast" was the wrong word. I should have used the word "actual". Does the Minister have a sense of the actual income derived so far, let us say even if it is up to the end of Q3? Where are we with regard to where she expected us to be in terms of income?

Deputy S.J. Pinel:

The revenue income comes from the tax take, obviously. We have got, as the Deputy will know, the Fiscal Stimulus Plan in place and that is for 2 tranches of £25 million each, so that is expenditure. There has already been requests for £41 million, I think off the top of my head, for the first tranche, so it is obviously going to be very popular in hopefully stimulating the economy. But the tax returns we will not know until such time. We can only forecast those, but hopefully because of the more clear way of getting tax returns in we will have about £7.3 million over the Government Plan as an increase in tax revenue, but again it is a forecast because we do not know what the COVID demands are going to be.

5.12 Deputy M.R. Higgins:

In terms of vaccination, can the Minister for Health and Social Services give us some rough idea of how many people are in each group? For example, you have mentioned there are care home workers, care home residents, 80-plus? For example, how many 80-plus people will have to be vaccinated, how many 70-plus and so on? Do you have any idea of the numbers in each group, please?

The Deputy of St. Ouen:

Yes, those numbers are known. I have different numbers in front of me but I do not have that one. I could let the Deputy know. It is the Island's population that is eligible and then, of course, it will depend on the take-up of the vaccination because, quite rightly, it is not a compulsory vaccination. But I really do hope that people will attend to be vaccinated in vast numbers because this is a safe and effective vaccine. I will get those numbers for the Deputy - I am sorry I do not have them at the moment - for the 80s and 70s.

5.12.1 Deputy M.R. Higgins:

In terms of take-up, can the Minister tell us about the take-up in the nursing homes? If greater visiting is going to be allowed to the nursing homes, surely it would have to cover all residents otherwise there will be a greater risk because they have not been vaccinated, the ones who refuse to do so.

The Deputy of St. Ouen:

The take-up in the nursing and residential homes was in excess of 90 per cent, so a good take-up. I know the vaccination team were very happy with that. Yes, there would remain a risk to those who choose not to be vaccinated but it has to be their choice. I would not support a compulsory vaccination. I think that is all I can say.

5.13 Deputy R.J. Ward:

Can I ask the Minister for Health and Social Services at what point a programme of dates for vaccination will be rolled out to the population? I note that in the U.K., for example, people are being given dates for their vaccination, some as late as September. When will Island residents know when they can expect a vaccination?

The Deputy of St. Ouen:

I will examine what is happening in the U.K., but my understanding was that we could not be precise as to dates, merely give broad parameters because this vaccine is being manufactured at scale. It does depend on the speed of that manufacture and the distribution around the world, what quantities arrive in the U.K. and we receive an amount proportionate to our population. What I have understood is that we are asking people to hold themselves ready. Obviously, the older age groups come first and then as the vaccine is known to be available we would then be more precise in terms of asking people to book themselves in. But I will investigate dates in the U.K.

5.13.1 Deputy R.J. Ward:

Does the Minister have any idea of the possible final date that the vaccine could come in? A lot of play has been put on the vaccine by the Government and if the final date is something like September then it does change the nature of where we are. Therefore, are there any plans to vaccinate, for example, senior civil servants first or have they been vaccinated already?

The Deputy of St. Ouen:

No, as I said before, the priorities are assessed in order of age. As to final dates, the planning so far has been taken as far as persons in the population aged over 50. As time goes on in the New Year, plans will be drawn up and decisions made as to whether that needs to be extended to over-40s, over-30s, et cetera, all the way through the population. Only once it is determined that there need be no further vaccination could we say it comes to an end.

5.14 Deputy D. Johnson of St. Mary:

To follow up a question I raised in a briefing, I have concerns about identifying those in the over-80 category for vaccination. Few of them have access to internet procedures. If arrangements are not being made through the practices of G.P.s (general practitioners) who do have that information, what guarantee can he give that all such people will be so identified for vaccination?

The Deputy of St. Ouen:

There will be a very large publicity campaign given to this, not just through websites but through adverts in papers, through postal drops, and G.P.s can choose to be involved, indeed many G.P.s are involved and they are free, of course, to call their patients and speak about this. This is the same way it is being conducted in many other jurisdictions. As a public health exercise, a great deal of publicity will be given as and when the vaccine is available to a certain age group.

5.14.1 The Deputy of St. Mary:

To pick up that point on G.P. practices, they will, therefore, be involved if only as a final trawl to make sure no one is missed; is that right?

The Deputy of St. Ouen:

Well, G.P.s are able to trawl through their lists. We are not going to ask them to check with every patient as to whether or not they have chosen to receive the vaccine, but they are free to do so.

5.15 Deputy R. Labey:

Apologies if I have missed this already but where does the current plan to vaccinate everybody over the age of 50 take us in terms of time?

[12:30]

When is it estimated that that will be completed, at what sort of time?

The Deputy of St. Ouen:

I have heard estimates of April or May, but again this depends on the manufacturer and rollout of stocks of the vaccine.

5.16 Deputy I. Gardiner:

I will follow the vaccination one just to reconfirm: would the vaccine be offered to most of the Island population? I realise that we have priorities that 50 and above should be offered first and essential workers but would it be offered to 40 to 20 years old? If yes, approximately when?

The Deputy of St. Ouen:

I think the current thinking and the scientific view is that it would need to be extended to younger age groups, younger than 50, but whether it needs to be children, this sort of thing has yet to be determined. That is the reason why with the speed of all of this they have so far taken it down to age 50, knowing that further work needs to be done and it is being given consideration, and no doubt we will hear at some stage soon what would happen once the 50 year-olds have been vaccinated. I think this just demonstrates what an unusual but very responsive method this has been to deliver public health initiatives to keep the whole world safe at a rapid pace. There is still work being done at the margins where we need to work through the less vulnerable groups and to what extent they need this measure of protection.

5.17 Senator S.W. Pallett:

As I am sure the Minister is aware, adult mental health services were reshaped in April 2020 in response to the initial COVID-19 outbreak. Can the Minister provide details of which services have currently been altered or enhanced to ensure Islanders with mental health needs can receive the necessary support?

The Deputy of St. Ouen:

I believe that the mental health services are operating in a COVID-safe way in just the same way they were reorganised in the spring with a greater emphasis on community provision to avoid people requiring acute mental health care. Those teams are still in place and still operating.

5.17.1 Senator S.W. Pallett:

In terms of face-to-face appointments with clients and people who have mental health needs, could the Minister assure us that those meetings are still taking place or what has been put in place to ensure those that did have face-to-face meetings are getting the necessary support they need?

The Deputy of St. Ouen:

We are still carrying out urgent referrals and doing our best to ensure that all those other priorities are being attended to. The health service is not shut down. We are still providing services and I pay tribute to the staff in this busy time for doing so.

5.18 Deputy K.G. Pamplin:

Picking up on the Minister for Health and Social Services' points there, it is clear that the Health Department across the Island have had their most strenuous time even compared to March and April. What is going to be done about supporting staff who have been isolated or affected by the vaccine or working long hours going above and beyond, like we always know they do but even further, to know that their well-being, mental health and their actual lives are looked after and cared for after this period?

The Deputy of St. Ouen:

A very full well-being programme is in place and was put in place with many options to be taken up by those members of staff. There is personal help available to them, there is online help, there are all sorts of measures of which staff are well aware of the ways they can access help. That continues with further enhancements in the new year in terms of a website that is being made available for staff members to access if they wish.

5.18.1 Deputy K.G. Pamplin:

Specifically, on the issue of staffing, we know areas of healthcare providers across the Island have been really hit hard by the lack of resources. What is the Minister considering in terms of dealing with this going forward? It has put Jersey under the eye of the reality of where we are and our limited resources when it comes to people on the ground and people having to go and do long hours. What is the Minister's thinking on how we can change this going forward so we are not back in this scenario in the future?

The Deputy of St. Ouen:

The Deputy said in his question that staffing has been hit hard and I would ask him to reconsider that because what we do not want is people not attending for urgent health needs because they think they do not want to be a burden on the service. It is important they do attend if they have confirmed. Staffing is green insofar as hospital systems have a traffic light system; we are not at red, we are not at amber, we are at green with staffing. In fact, there are more people who are on annual leave at this time of year than there are away because of COVID-related issues. If the hospital or healthcare services were in an urgent and constrained task we would not have permitted that type of annual leave but people have been able to spend time with their families, staffing is safe and appropriate and I am proud of our staff and the way they are managing at the moment. I would urge the Deputy to pass on that message in all his messaging that he does. We are regularly, in fact daily, monitoring staff requirements and numbers and bed occupancy in the hospital also remains low.

5.19 Deputy G.J. Truscott of St. Brelade:

Could the Minister provide the Assembly with an update as to the COVID stats at the General Hospital?

The Deputy of St. Ouen:

Yes, the figure I had as of Christmas Eve was that 25 patients were in hospital with COVID, of which 4 were in the I.C.U. (intensive care unit), but of those 25, 11 of them were in hospital with clinical COVID, that is to say the remaining 14 were in hospital having been admitted for reasons other than COVID.

5.19.1 Deputy G.J. Truscott:

It is to do with the hospital but the Nightingale hospital. It is reported that although the heating system has gone in, apparently it is not working. Could the Minister confirm if that is the case?

The Deputy of St. Ouen:

I have been informed that the Nightingale hospital is operational, it is ready to receive patients. It would not be if the heating was not working, so perhaps the Deputy could let me know offline where he has heard that and I will take steps to correct it. It is regularly tested. Nightingale is not left to be opened one day. There are staff there testing facilities every day.

5.20 Deputy L.M.C. Doublet:

I wanted to ask the Minister for Health and Social Services whether he was aware of the recent controversy around whether the vaccine will be offered to pregnant and breastfeeding women. In many jurisdictions around the world this is being offered on a case-by-case basis for any risk assessment with the woman's doctor but the N.H.S. (National Health Service) is not offering it at all.

Could I just ask that the Minister takes this under full consideration and does not simply follow the N.H.S. approach, please, but that we have Jersey-specific rules around this?

The Deputy of St. Ouen:

I believe there is already guidance in relation to pregnancy. I am not aware of any guidance in relation to breastfeeding mothers, although I stand to be corrected. It is a matter which I will take up with the Deputy. I believe rather than N.H.S., this comes from Public Health England, I think, that would determine the guidance around safe vaccination. If the Deputy could refer me to any specific learnings she has got on this, I will pass it on.

Deputy L.M.C. Doublet:

Just to confirm, I will pass that information on to the Minister.

5.21 Senator S.C. Ferguson:

Has the Minister for Health and Social Services gone and had a look at the Nightingale just to survey its readiness for receipt of patients? Has he walked the ground?

The Deputy of St. Ouen:

I have done some months ago now. I do not feel the need to do so again for various reasons. I have confidence in the staff employed in the maintenance work that is there and also, I do not want to be a risk to anyone who is already at work there, so I try to limit where I am visiting. For example, this Christmas I have not done normal Christmas visiting as a Minister for Health and Social Services might do. I have not visited our test and tracing and the like and I would only do so if it was necessary to do so.

5.21.1 Senator S.C. Ferguson:

When was “some months ago”? When did you actually go and look round?

The Deputy of St. Ouen:

Senator, it probably was August, September.

Senator S.C. Ferguson:

Can I just finish that off, please?

The Bailiff:

No, I am sorry, Senator, that was your supplementary question and it has been answered.

5.22 Senator K.L. Moore:

My question is following Deputy Maçon’s commitment that advice will be sought from S.T.A.C. in relation to the return to school and the potential for a programme of testing. Will the Minister for Health and Social Services commit to sharing the advice of S.T.A.C. given that the publication of minutes is still way behind, as per the advice that the Scrutiny Liaison Committee gave to the Chief Minister in its letter of last week, please?

The Deputy of St. Ouen:

The advice of S.T.A.C. will always be shared in accordance with the protocols that have been agreed.

5.22.1 Senator K.L. Moore:

No, that was not my question. Will the advice be shared with Scrutiny and also with the Teaching Unions as the S.T.A.C. minutes are not being properly published in a timely fashion as requested by Deputy Pamplin in P.88/2020?

The Deputy of St. Ouen:

There is a whole tranche of S.T.A.C. minutes that have recently been released. Whether they have further to come of course ...

Senator K.L. Moore:

I am sorry, the Minister is not answering the question.

The Deputy of St. Ouen:

I am coming to it.

Senator K.L. Moore:

The question was will he give the specific advice in relation to schools to Scrutiny and the teaching unions?

The Deputy of St. Ouen:

The Senator will know that Scrutiny have regularly been briefed on a confidential basis.

Senator S.C. Ferguson:

It is not the same thing.

The Bailiff:

I am sorry, Senator Ferguson, you really cannot interject into the question-and-answer session dealt with by somebody else.

Senator S.C. Ferguson:

My apologies, Sir. It was unintentional.

The Bailiff:

Thank you. Yes, Minister, if you would like to continue with your answer.

The Deputy of St. Ouen:

The Senator will know that Scrutiny have regularly been briefed very extensively throughout this COVID period, sometimes on a confidential basis.

[12:45]

Further, that S.T.A.C. advice needs to remain on occasions advice under development, policy under development, pending its finalisation. It is, of course, for the members of S.T.A.C. as well to determine. They need to have their free space to make their considerations but, of course, we will operate within the agreed protocols as set out in Deputy Pamplin's Proposition and as soon as it can be that advice will be released.

5.23 Deputy K.F. Morel:

The Minister for Health and Social Services will know, because he engaged with me last week in an issue a parishioner had with a shortage of care staff in private companies who go into people's homes on an individual basis. The problem was caused by staff having to be contact traced and suffering themselves from COVID-19. Is the Minister happy or satisfied that there are sufficient numbers of care staff in these private companies who operate in this way to continually care for Islanders in their homes? What measures is he taking to ensure that that continued ability is sustained over the coming months?

The Deputy of St. Ouen:

We have very good procedures in place, which mean that at the beginning of every day there is a teleconference in which H.C.S. is represented by the chief nurse or her associates with all care

providers and any difficulties or concerns of the day are fed into that meeting and addressed appropriately. We have been able to ensure that care remains and is delivered to people in their homes. In the example that came before us last week where a particular care agency had staff who were not able to provide that care for COVID-related reasons we were able to deploy other staff to provide that care so that that person was not moved into an institution, and this has happened in several such cases. We have been able to look at precise individual circumstances and address the care needs on a daily basis, so I have every confidence in that good system that has been put in place.

5.23.1 Deputy K.F. Morel:

I am grateful to the Minister and his staff for helping this particular Islander who was in need at the time, but I just wondered, out of interest, is it the case that public sector care workers are at times having to be placed or seconded to private care agencies? Has that happened or is that a potential route in the future if necessary?

The Deputy of St. Ouen:

Yes, that has happened. It just shows the flexibility of the system and it shows how we need to regard our care system as an Island-wide system, not just isolated silos but something that needs to work together in the fashion of the vision of the Jersey Care Model, that we take the care needs of the Island as a whole and deploy all the resources, not just Government or private separately, but all the resources, in the Island to meet the care needs.

5.24 Deputy M.R. Higgins:

Can I ask the Chief Minister whether there are any provisions currently in place to stop Islanders being evicted during the COVID period? I am aware of a young mother of 3 who works in the care sector who is going to be evicted on 6th January. Is there anything to prevent that?

Senator J.A.N. Le Fondré:

Sorry, I was prepping for a different question, which was in anticipation of vaccine numbers. I am not aware of any changes in the legislation, so the measures that were put in place previously did expire. However, I do know that the courts have always indicated that they look very sympathetically on difficult circumstances, particularly where families are involved, and there is usually a stay of execution. I also know that the courts indicated that sympathy before the measures were originally put in place and I have no reason to believe that that has changed.

5.24.1 Deputy M.R. Higgins:

I would like to thank the Minister. I will send him details offline because it does seem that Scrooge ...

5.25 Deputy R.J. Ward:

The Minister for Health and Social Services was clear in a previous debate that the decision on schools opening or not eventually comes to him for ratification of the decision. Can I ask the Minister what communication he has had with the Education Department and the Minister for Education over the last few days and into the coming days before the start of next term?

The Deputy of St. Ouen:

I was in communication indirectly with the Education Department through officers up to the time the decision was made on the last day of term to return, that is staff to school, on 4th January and pupils on 6th January. Since that time I have had no direct communication from the Education Department but I know that work is going on at officer level. Most of the communication would in any event come through S.T.A.C. recommendations and that is we are seeking to follow the advice of S.T.A.C.

5.25.1 Deputy R.J. Ward:

Given that there was a 55 per cent absence rate, when you tally up for primary and secondary schools, in the last week of term, and the Minister has talked before about a balance of risk, does he believe that this approach led to the worst of both worlds with the risk at schools and the risk out of school in an uncontrolled way? What would he do to prevent that happening again at the start of the new term and in the coming weeks and months?

The Deputy of St. Ouen:

I do not believe that. I believe that it is better, where it is possible to do so, that children are in school being educated. But in all these things I will look to S.T.A.C. for advice and I will look to views coming out of the Education Department and the Minister also, and all of that has to be taken into account.

Deputy R.J. Ward:

With respect, I do not think that answered the question in regard to the absence rate and whether the Minister considered the worst of both worlds. Could the Minister comment on that? We are asking questions here but ...

The Deputy of St. Ouen:

Well, I was asked whether I considered it. I did not agree with the premise of the question. It is my view that as far as possible absences should be avoided and children should be educated. That is not just my view. That is the policy and strategy that this Government are following and that we realised soon after the lockdown in the spring that from henceforth we should try and keep children in their schools.

The Bailiff:

That brings the time available for questions now to an end. It is time now for the adjournment to be considered. I know that before questions started there was some suggestion to take a shorter lunch period.

LUNCHEON ADJOURNMENT PROPOSED

Deputy R. Labey:

Can I make a proposition that we adjourn now and reconvene at 2.00 p.m.? [**Seconded**]

The Bailiff:

Does anyone wish to speak on that, otherwise I will put that up to a standing vote? If nobody indicates the fact that they would ...

Deputy M.R. Le Hegarat of St. Helier:

It was mooted earlier on that we took half an hour as opposed to an hour so that we can maybe finish a little more expediently.

The Bailiff:

It was indeed, Deputy, but the Proposition that has been duly seconded before the Assembly is an adjournment now until 2.00 p.m. and that has to be taken first. If that is defeated then one can consider a different adjournment, but I think we have to take that particular Proposition first. I think we have to put a voting link in. Does any other Member wish to speak on the question of the adjournment until 2.00 p.m.? Very well, if no Member wishes to speak, you are technically allowed to respond to Deputy Le Hegarat's comments, Deputy Labey, if you wish to do so.

Deputy R. Labey:

No, thank you, Sir.

The Bailiff:

I am afraid, Senator Farnham, it is too late because I called on Deputy Labey to respond. The debate must by then have been over, so I will ask the Greffier to post a voting link into the chat. There it is. I open the voting and ask Members to vote in the normal way. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The Proposition has been adopted.

POUR: 44	CONTRE: 0	ABSTAIN: 0
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator S.C. Ferguson		
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of Trinity		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Martin		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy of St. Mary		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		
Deputy of St. John		
Deputy M.R. Le Hegarat (H)		
Deputy S.M. Ahier (H)		
Deputy J.H. Perchard (S)		
Deputy R.J. Ward (H)		
Deputy C.S. Alves (H)		
Deputy K.G. Pamplin (S)		
Deputy I. Gardiner (H)		

The Assembly stands adjourned until 2.00 p.m.

[12:57]

LUNCHEON ADJOURNMENT

[14:01]

PUBLIC BUSINESS

6. U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020)

The Bailiff:

We now turn to Public Business and the U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey, P.170, lodged by the Council of Ministers. There is an amendment lodged by Deputy Morel and an amendment to that amendment lodged by the Minister for External Relations, so to see if we can take this as read, could I ask firstly, Deputy Morel, do you accept the amendment lodged by the Minister for External Relations to your amendment?

Deputy K.F. Morel:

I would like to, but I am unable to, I am afraid, Sir.

The Bailiff:

Very well, then. Then I assume you do not?

Deputy K.F. Morel:

I do not.

The Bailiff:

You do not, then I think probably, Minister, you do not accept Deputy Morel's amendment, in that case?

Senator I.J. Gorst:

That is correct, Sir, yes, thank you.

The Bailiff:

We will take all of the amendments in the normal way and, Minister, it is for you to make a proposition, so I will ask the Greffier to read the Proposition.

The Deputy Greffier of the States:

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 U.K.-E.U. Trade and Economic Co-operation 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 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.

6.1 Senator I.J. Gorst (The Minister for External Relations):

Whatever one may think about the United Kingdom's decision in the referendum, the result of which was that the United Kingdom has left the E.U. the Agreement of a deal announced on Christmas Eve now finally after many years provides some certainty. It provides certainty for the U.K., for the E.U. and of course for Jersey and its fellow Crown Dependencies. Let us be clear, that certainty in regard of a deal looked to be in doubt only a few weeks ago and, on some issues, a few days ago. It has been a tumultuous and intense process of negotiation where again the offer and the package for Jersey has been subject to regular change. The E.U. made several last-minute demands and requests on the terms of Jersey's participation, and this has required significant work on behalf of officials right across Government to ensure that Ministers' wishes and Jersey's interests were represented. This has been a negotiation and inevitably all sides and parties have made compromises, but I believe the fundamental priorities for Jersey have been achieved. It is reflected in the decision and in this Proposition. On balance it is in Jersey's interest to participate in the deal on the table. Similar decisions have been recommended by the Isle of Man Government and, as I said, communicated. This morning across the water our sister isle, Guernsey, made a decision in very similar terms to the one presented to Members after their debate. I think it is important to remind ourselves of the nature of our constitutional relationship with the U.K., which has determined our trading relationship with both the U.K. and the E.U. to date, and that meant, of course, that we did not have a say in the U.K.'s decision to leave, and that was the appropriate constitutional approach to take. When we went into this negotiation we were very clear with the United Kingdom Government, who have a constitutional obligation to represent our interests internationally and therefore in this negotiation, around the principles that the Jersey Government have set, and they were set out in the Brexit report laid before the Assembly in June and they were re-emphasised in the report to this Proposition and they are these: (1) to promote Jersey's existing constitutional autonomy, unique economic interests and cultural heritage; (2) maintain and strengthen Jersey's reputation as a well-administered jurisdiction that is responsible for its own prosperity; (3) uphold the long-established rights and privileges of Jersey residents and businesses that enable them to trade and remain agile, innovative and competitive as Jersey seeks to grow and diversify its economy; and (4) maintain or increase the ability of the States Assembly and Government of Jersey to make decisions expeditiously in areas of domestic policy, including where close collaboration with the U.K. Government and E.U. is required. These principles have directed our involvement and negotiating mandates that have been communicated to the U.K. Government to represent to the U.K. on our behalf, as I have said, is their constitutional obligation. In protecting our constitutional and domestic autonomy we have been firm on rebutting the requests from the E.U. to be drawn within the limit of the V.A.T. (value added tax) protocol and made clear that Jersey should enter into direct negotiations with the E.U. under entrustment from the U.K. on matters of assistance in tax collection. This is set out and further confirmed in the Lord Chancellor's letter that Members have seen attached to this report and similar letters of course were sent to our fellow Crown Dependencies. A further 90-day additional period for consideration represents a specific acknowledgement by the U.K. and the E.U. that the timing has gone down to the wire, such that there was not sufficient time for our democratic processes to be followed in the manner we might have wished for. It is welcome, then, that if the Assembly approves this proposition the importance of giving Jersey appropriate time to consider the full implication has been recognised. We have also been keen to maintain flexibility and stability, and the Customs Union with the U.K. preserves our priority trading relationship and becoming part of the U.K.'s W.T.O. (World Trade Organization) membership gives us opportunities across the globe. We have also taken care to maintain alignment with Guernsey and with the Isle of Man as far as possible, and while within our interests. I will talk a little bit about the U.K.'s element of the deal. The U.K. maintains that this deal is a standard trading arrangement based on others the E.U. have agreed with third country partners such as Canada. It is important to note that this Agreement only covers aspects of that relationship in trade. As I have said this morning, areas including citizens' rights, immigration and travel were agreed as part of the Withdrawal Agreement or were simply put into place because the U.K. became a Third Country to the E.U. or will be on 1st January 2021. It is also important to note in this debate today and to

recognise that all aspects will come into force on 1st January 2021, regardless of whether the Agreement can be ratified or not through the full E.U. process. The U.K. and the E.U. have agreed that on fishing the U.K. have cut E.U. quotas by 25 per cent, which will be phased in over 5½ years, with continued access to the 6 to 12 mile in this time. Tariff free trade in all goods trading between the U.K. and the E.U. is also part of this deal, however there will of course be those non-tariff measures meaning that businesses face a greater administrative burden when exporting to the E.U. On level playing fields there is a commitment to common standards on a variety of matters, including labour and environment, and common principles have been agreed on state aid. Importantly for the U.K. of course there is no longer an overarching direct role for the European Court of Justice, excepting matters relating to Northern Ireland, which have a special status. It is also worthy of note for us here that there is very little in the Agreement on services and the U.K. are still waiting for various E.U. equivalent decisions. Of course, what is of interest to us in our Parliament here is what is in the deal for Jersey. We are in for goods, including fish, and then there is an associated Declaration, which I will come on to. This means, for us, there is full chapter coverage for goods, which includes rules of origin, technical barriers to trade and S.P.S. (sanitary and phytosanitary) elements. All Jersey goods will be treated equally with U.K. goods with no export tariffs into the E.U. There is a commitment on assistance in collection. This is a Jersey E.U. commitment that is being proposed on assistance in the collection of unpaid V.A.T., customs duties and excise duties, known as an A.I.C. (Assistance in Collection) commitment, and that is mirrored by a commitment with Guernsey to the E.U. as well. It is contained in the U.K.-E.U. declaration that will be issued alongside the Agreement if we choose to participate.

[14:15]

The Lord Chancellor has confirmed to the Jersey Government via a letter that is already received and attached to this Proposition that Jersey was consulted and has consented to that commitment. That letter also clarifies the domestic constitutional arrangements for the Agreement and reiterates the role of Jersey's Competent Authorities in implementing it if Jersey chooses to participate. There is no change to our involvement for services. We remind ourselves that we are already third countries in regard to services under E.U. terms and we will remain so. For fisheries there is the end of the joint management arrangements. Jersey will decide on measures applicable to its waters. Measures must be based on the best scientific advice and be non-discriminatory in nature, meaning that measures applied to French vessels must also be applied to Jersey vessels. Only French vessels fishing in the most recent 3 years under the track record regime that the deal makes clear will be issued a licence. This is for a continuation of access that we currently provide and it will allow for the removal of those latent licences and it will prevent increased efforts. Jersey will be covered within the fish section of the deal but under a specific heading with the other Crown Dependencies and special arrangements clarified here, including that Jersey would not be subject to the same sanctions as the E.U. in relation to restrictions on fisheries access. There is a dispute resolution mechanism and measures must be taken in steps as was indicated in answer to questions earlier, firstly partial or full suspension of access to waters, secondly suspension on tariff concessions on fisheries products and then, thirdly, if necessary suspension of tariff concessions on wider goods. Crucially, though, disputes are subject to the fair and equal arbitration process and any measures must be proportionate to the economic and societal impact of the alleged failure. Although the Agreement does not explicitly state the end of the Granville Bay Agreement there is specific wording in the text saying that the Agreement shall entirely supersede and replace any existing Agreements or arrangements with respect to fishing by Union fishing vessels in the territorial seas adjacent to the Bailiwick of Jersey. The Agreement also contradicts the management arrangements set out in the G.B.A. (Granville Bay Agreement) by stating that Jersey would have control of the management of its own waters and therefore it is clear from those texts that the G.B.A. under this Agreement cannot remain in place. As mentioned, also there is in the Agreement a clause allowing that from 1st January during the first 90-day period of the Agreement Jersey can decide to be removed from the Agreement by the

Partnership Council. This is to allow time for Jersey to analyse in greater detail the final legal text. The practical reality, of course though, is that if we are in future, having done those reviews and the reviews that Deputy Morel will ask Scrutiny to do, which the Government are supporting, we will need to give sufficient time for that to be communicated to the Partnership Council and for us to be removed, so we should not work on the premise that we would have a full 90 days to midnight on the 90th day. The Partnership Council is the main governing body for the Agreement as a whole and is made up of the State party, therefore either party could effectively remove Jersey or another C.D. (Crown Dependency) from the Agreement during this time, and that is why the wording of the Proposition is worded in the way that it is to ensure that we have appropriate time, having made our decision today if we go ahead with inclusion, and we can follow the processes that the Proposition envisages. As I have said, there is alongside the T.E.C.A., which is not connected with the T.E.C.A. and is not part of the international treaty, a separate harmful tax Declaration which will be made between the U.K. and the E.U. and it is a political declaration on harmful tax regimes and it potentially covers Jersey. The U.K. has made clear that this is a non-binding, non-legal text and, as I have said, it is separate entirely to the Co-operation Agreement, but does of course use words that correlate and are the same as our ongoing international engagement and commitment on tax matters. Why is this good for Jersey? It is the view of the Council of Ministers, and one that I entirely share, that this Agreement is in Jersey's best interests. We will of course, as I have said, want to make good use of the 90 days for the detailed consideration of the legal text and to ensure that it continues to reflect our interests and to allow Scrutiny to do their work. However, I am confident that our overarching objectives are met. There will be stability and continuity in our trading relationships. We will benefit from zero tariffs on our goods, our constitutional position is protected, and we are regaining control of our waters. This will also further strengthen our relationship with our critical partners. In terms of our relationship with the E.U. participating conserves, recognisable and stable trade in relationships with them that has been proven to lay the groundwork for our good neighbour policy. It will continue to strengthen our relationship with the U.K. stabilising that relationship that has been strained over the Brexit years and it will also help us to participate in future U.K. trade initiatives. It importantly, for my part, maintains alignment with our sister Channel Island. That has been a very strong message from across industry and it is one that I strongly support. We, as the 2 Bailiwicks, are stronger together. This morning the Bailiwick in Guernsey agreed to take part in the T.E.C.A. along the same terms that Government Ministers are presenting to the Assembly this afternoon. I commend this Agreement to Members and I make the Proposition.

The Bailiff:

Thank you very much, Minister. Is the Proposition seconded? **[Seconded]**

6.2 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020): amendment (P.170/2020 Amd.)

The Bailiff:

Now, there is an amendment to the Proposition brought by Deputy Morel and I ask the Greffier to read the amendment.

The Deputy Greffier of the States:

Paragraph (b) - After paragraph (b), insert the following new paragraph and re-designate the subsequent paragraphs accordingly - “(c) to request the Brexit Review Panel and the Environment, Housing and Infrastructure Scrutiny Panel, following full consideration of the final legal text, 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 the legal text of the Agreement and 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 U.K.-E.U. Trade and Economic Co-operation Agreement;”. In paragraph (c), after the words “brought to the attention of the Assembly” insert the words “for a final debate on Jersey’s Agreement to be included in the U.K.-E.U. Trade and Economic Co-operation Agreement”.

6.2.1 Deputy K.F. Morel:

It is always a surprise when you see yourself on camera. Before I get going I would just like first of all to thank the Minister, all of his officers and those law officers who have worked on this Agreement and who have put Jersey’s case to the U.K. in order that the U.K. can relay that through its negotiations. They have worked incredibly hard with very antisocial hours, it is clear, and they have maintained as best they can a situation that does, as the Minister just said, meet the objectives that were laid out at the beginning of this period. With regard to my amendment, I just want to say a few words. The amendment is not about trying to negotiate something better. That is not an option. This amendment is solely about trying to ensure that the States Assembly is better sighted than it currently is. Our accession to the U.K.-E.U. T.E.C.A. is quite simply an in-out binary decision. It is that simple; there is no room for further negotiation and this amendment has nothing to do with that and is not aimed at that. As however I have said, what is important is that the Assembly is as well-sighted as it can be. We need to be entirely aware of the terms of the Agreement so that we as an Assembly can make our decisions with our eyes open. Earlier today the Minister clearly told us that the Government of Jersey only received the final legal text late on Christmas Eve, or even Christmas Day, I may have that wrong. That in itself shows that to date we are voting with only partial sight of this Agreement. My concern is that should we leave it to Government alone then it is only those same officers and law officers who worked on the negotiation side of this Agreement who will also be involved in the scrutiny of that Agreement and the Assembly will only have that one view. We have, as we said, 90 days in which to ensure full scrutiny on behalf of the Assembly takes place and so this amendment is aimed entirely at ensuring that scrutiny takes place so that the Assembly can be fully informed. With regard to the Minister’s amendments to my amendment, I have not accepted them and I will just explain why, because I will be voting for them and I want to make that very clear. I am basically satisfied that those amendments work with my amendment and do not negate it, although I do have a slight concern about the part (d) with regard to the Assembly, but I am willing to let that go. The reason I did not accept it is solely because I am aware that there are some in Scrutiny who have an issue with the part of that amendment that refers to consultation with law officers. As a result of that I am aware that my amendment forces Scrutiny to do some work. That in itself places an obligation on them and if they are unhappy with that aspect of the Minister’s amendment with regard to the law officers in part (c) then I feel that they should be able to make that case, however I am satisfied that that part of the Minister’s amendment is not exclusive and so while it asks that they consult with law officers it does not say exclusively with law officers and so Scrutiny will be able to go out and seek legal advice elsewhere. I do hope that this amendment will be taken in the spirit that it is intended and that is to protect and give comfort to the States Assembly as to the final decision within the next 90 days that is being taken. If we leave the Minister’s Proposition unamended then we, as an Assembly, give up any chance of a say on that final decision within 90 days, leaving it solely down to the judgment of the Government. As I say, the very same people who negotiated this will also be deciding whether it is the right thing to do to go ahead. I just do not feel that is correct. We are taking an almost blind decision today and we would then just be saying: “Okay, over to you.”

[14:30]

I feel it is really important that the Minister’s Proposition, his amendment, is amended just so the Assembly can have that comfort and can be protected. As I said, I will be personally voting for the Minister’s amendment to my amendment. I do urge other States Members to do so, but I felt given that there were a few objections about that part of the Minister’s amendment the best thing and the right thing to do, as this is about the States Assembly and about the power of the States Assembly,

that it should be left to the States Assembly to decide whether to accept the Minister's amendment to my amendment as well as my amendment itself. I do hope that the Assembly will support me with my amendment. I hope that they will support the Minister with his amendment to my amendment and as such that we can move through this fairly swiftly as well. Thank you.

The Bailiff:

Thank you very much. Is Deputy Morel's amendment seconded? **[Seconded]**

6.3 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020): amendment (P.170/2020 Amd.) – amendment (P.170/2020 Amd.Amd.)

The Bailiff:

Then there is an amendment to that amendment proposed by the Minister for External Relations and I ask the Greffier to read the amendment to the amendment.

The Deputy Greffier of the States:

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". Reorder paragraph (c) - After the words "U.K.-E.U. Trade and Economic Co-operation 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."

6.3.1 Senator I.J. Gorst:

Firstly, I want to put the Deputy's mind at rest. I entirely accept that his intention in bringing forth this amendment is to respond to what is a most unsatisfactory position that we find ourselves in, simply because of the length of time that it has taken the United Kingdom and the European Union to reach an Agreement. I committed to the Brexit Scrutiny Panel that whatever the outcome, unless there was no deal whatsoever, of the negotiations I would bring that to the Assembly for approval or rejection. I have got to say back in January of this year, or even before that when I made those commitments to the Brexit Scrutiny Panel, I never imagined that we would be sitting here on the third day of Christmas having to opine on the Co-operation Agreement in front of us. I did half-jokingly say that really the only 2 days that I thought were off the agenda were Christmas Day and Boxing Day. I must admit in the early hours of Christmas Eve morning I thought I might even have to resile from that commitment and have a debate on Boxing Day, but thankfully we have not had to do that. I recognise that Deputy Morel has been on a journey with the Government as previous chair of the Brexit Review Panel and his amendments are in regard to Scrutiny wholly helpful and add to the overall proposition. The reason I have brought a Scrutiny Review amendment is because, as I indicated this morning in answer to questions, a lot of advice and thinking has been undertaken in the Law Officers' Department, and it has not been straightforward. They have helped deal with constitutional issues as they have arisen; they have helped formulate and refine our arguments as well. It would seem to me wholly a misuse of resource. Of course, Scrutiny are entirely entitled to instruct any advice that they wish, but it would seem to me a misuse of resource if having taken their own independent legal advice, as I imagine they would do, that they did not also seek to draw on the advice and the opinion of the law officers who themselves have sought very wide-ranging top advice as you would expect of our very valued law officers. I did it with trepidation because I do not want to tell Scrutiny how to perform their functions, but I wanted to do it expressly because I think there is a great resource there that will help Scrutiny in their work. It does not preclude them from having any other advice, but what it does mean is that they are able to get good value out of that stored knowledge that the law officers have gained over probably the last 3 to 4 years. It is a simple administrative amendment and at the end I was simply thinking of the environment. There is no need

for both Ministers and Scrutiny to republish the legal text, which is several hundred pages, if not a couple of thousand pages long. That is the first element. The second element is that I had worked on the assumption, and it is not clear that if Ministers having engaged with Scrutiny as we would have done and will now do if Members accept this amendment, and I hope they do, and having fulsome advice from the Law Officers' Department, believe that the effect of the legal text is not as we have explained to Members today or as is in the terms of the Proposition that to change from a yes to a no would have required another States debate. What Deputy Morel's amendment does, if Members accept my amendment, is ensure that if there is a change of decision that decision is endorsed by the States Assembly. As it was written in Deputy Morel's amendment asking for a second decision of endorsement I, for all sorts of reasons, do not think that is acceptable. Ministers need to be able to go back strongly with a view of the Assembly today one way or the other and to be able to stand on that while the other work is undertaken and to simply use the termination clause if other issues come to light in due course. I think that is the appropriate responsible way to deal with these matters of international law and treaties so that we continue to show that we operate responsibly and we take our decisions with great seriousness, and we would only revisit them if there has been a change that we believe that text on detailed and further analysis does not give effect in the way that we currently today believe it does. I am very grateful for the Deputy indicating that he supports this amendment and I ask that other Members do so, but of course I am happy to take any questions that may arise.

The Bailiff:

Is the amendment to the amendment seconded? **[Seconded]** I now open the debate.

6.3.2 The Deputy of St. Mary:

I wished to speak earlier as the present Chair of the Brexit Review Panel and before I say anything else could I echo the comments made by Deputy Morel as the previous Chair as to the assistance and guidance and information given to the Panel over the last 4 years or so by both the Chief Minister and the Minister for External Relations, his own officers and indeed officers from other departments? That advice has been given over a protracted period, rising to a crescendo only in the last week when we had 2 such briefings and we were most appreciative of the update as late as Christmas Eve. Turning to the amendments and trying to link everything together, it is the case that the Panel had always taken that they would carry out scrutiny and, in view of what the Minister has just said, we had no difficulty in believing that the Minister would expect us to do just that. In one sense we were always going to scrutinise it, but having said that perhaps if time had permitted the Panel itself might have put in an amendment but Deputy Morel beat us to it and we have no problem with the requirement that the Panel does what it was always going to do. I will allow the Chair of the Environment, Housing and Infrastructure Scrutiny Panel to make a comment in a similar vein or not, in relation to fisheries. Back to Deputy Morel's point about his concern that the Panel might have been concerned about the reference to the law officers' involvement; certainly, for my own part that was not a concern of mine. In any scrutiny we did, we are mindful of the input of the law officers over the period. We have had many briefings and meetings with them and in effect the panel's first port of call would have in any event been to those same law officers. To a certain extent, while I appreciate what the Minister is saying it perhaps was not strictly necessary as it was something we would have done. Equally we do reserve the right to take our own advice, which again the Minister has confirmed. On that basis speaking, for myself, and other panel members will make their own decision, I too will be supporting the amendment to the amendment for those reasons.

The Bailiff:

Thank you very much, Deputy of St. Mary. Deputy Labey, you made an interjection, which suggests you wish to speak on this amendment. I noted you down as wishing to speak on Deputy Morel's

amendment, not the amendment to the amendment as that is when you indicated a desire to speak. Do you want to speak on this amendment?

Deputy R. Labey:

Yes, Sir.

The Bailiff:

In which case I will call on you now, because you should have come on first.

6.3.3 Deputy R. Labey:

Thank you very much. I need some clarity on something. I am pleased to follow the Deputy of St. Mary but he has not helped me. My default position is to support Deputy Morel on issues of Scrutiny, because he is a brilliant scrutineer, but presumably the Government will have the law officers poring over this entire document. Is Deputy Morel suggesting that Scrutiny should engage separate lawyers, constitutional lawyers, to go through the document in addition to that? Being realistic about the limits of our choice here I am worried about that. It is not something that a lawyer can just dip into. If you are going to ask a lawyer to take a look at the document they are going to have to take a look at the whole document. It is a considerable piece of work. My worry is (a) how much that will cost, and (b) whether that cost can be justified as important as the Scrutiny function is, and I am not denigrating it. I just wonder whether this is wise and I am hoping that either the Minister or Deputy Morel might clarify the position for me to help me with the voting on this amendment to the amendment on the amendment.

6.3.4 The Connétable of St. Brelade:

I would echo the words of the Chair of the Brexit Review Panel and agree with his sentiments as he expressed earlier. With the hat of the Environment, Housing and Infrastructure Scrutiny Panel I would also indicate that, although I have not discussed it with my panel due to the time constraints, I suspect we would be very content to scrutinise the areas that are under our remit.

[14:45]

I think I would emphasise the point here that there are areas of fishing that do need further investigation. As with all these things, the devil is in the detail and it is all very well suggesting generically that these things can be sorted out at a higher level, whether it is at termination level or at the appropriate council within the Agreements that are supposed to be doing these things, but in reality to get to things that are the detail that are important to us to be considered by those panels is very long-winded and difficult. In the fishing industry we have to be reactive, particularly in our situation here when things can change very rapidly in this bureaucratic process that I suspect we will be subjected to and will not be helping us. So I just would conclude by saying that yes, we do look forward to scrutinising the detail of it so that Members are better informed later in the day. In saying that, I agree that there is probably little point in getting further into further legal advice. I have to say that the legal advice that we have had shared with us by the Law Officers' Department has been exemplary and I suspect that they are the better-informed lawyers with regards to these processes, as we will find. We will look forward to discussing further with them should we find the need.

6.3.5 Senator K.L. Moore:

I did want to respond also if it was of assistance to Deputy Labey on the point of seeking legal assistance. I will though first talk about part (d) of the amendment and the amendment to the amendment. I will support Senator Gorst's amendment to the amendment in this respect. I hope that they might take the 2 parts separately but it seems wholly sensible that we should only debate this matter again if there is some consideration that we might seek a termination clause. What does puzzle me about these amendments is part (c) and, as my good colleagues in Scrutiny, the Constable of St. Brelade and the Constable of St. Mary have both said, it is absolutely the intention of the Brexit

Review Panel to conduct some further review work of this very important matter. To go back to Deputy Labey's point, he sought I think assurance that money would not be wasted seeking further legal advice. He is absolutely right; we have of course had the great benefit of some excellent legal brains throughout this process and I have seen them on many occasions going, when we were able to, to London for meetings throughout the 4-year period that these negotiations have been going on. I have absolutely full confidence in the law officers and the advice that they have given to Government. Of course this part of the amendment refers to Scrutiny and our work and of course we will listen to the advice of law officers and of course we will seek to question them on the advice that has been given, because that is right and proper and that is what we do. However, it is the role of Scrutiny to look from a different perspective and to seek a second opinion. I do feel that may be an important part of our work and I would not wish it to be any other way. I probably will not speak again in these debates simply because I am rather conscious that we are all taking up time on what should be an important family day, but I do find it slightly concerning that the Assembly should feel it needs to dictate to Scrutiny how it should conduct its work and in what areas it should conduct its work. I had rather hoped that Members would have full confidence that we were up to the job and most certainly prepared to do this work within the 90-day period. In summary I shall be voting for both amendments to the amendment because they are quite obvious and in part helpful, but part (c) I do feel is really rather unnecessary.

6.3.6 Deputy R.J. Ward:

I think there are a few points to be made regarding the amendment to the amendment. I would like to echo the concern, and perhaps I have a slightly different concern that it is not just the Assembly that is dictating to some extent what Scrutiny does. It is Members of the Government that are doing that by (1) putting parameters on the advice that will be taken and, (2), this is the second part, part (d) of the amendment to the amendment, that the Council of Ministers will conclude that the 90-day termination clause should be effected. So therefore, Scrutiny would produce a report and then it would be for the Council of Ministers to determine anyway. That is not as inclusive as the Assembly in a decision on that 90-day termination as it at first seems. Therefore, I think what we have got is an initial and perhaps unnecessary drive to drive Scrutiny, which would have happened anyway, but then a second layer on top of that of determination of what we are meant to be doing. There are a couple of things that need to be remembered. First, this will need to be resourced and to be voted for. I think we need perhaps from the Minister for External Relations or the Chief Minister himself a commitment to resourcing this extra piece of work when Scrutiny is very full in terms of its work for next year already. That would need to be done because officers have been working an incredible amount. Also it must be remembered that this piece of legislation, or whatever it is that has come to us, is the culmination of 4 years of work and repeated work from a rather large department that has to be involved and have worked often through the night, and we recognise that level of work to pass through Scrutiny. Perhaps we will talk on the main amendment to this. I think we need to be realistic about what can be achieved here. In the nicest possible way, I am not entirely sure why we need to go through this process.

6.3.7 Deputy M.R. Higgins:

I am not sure if this is really the appropriate time to be speaking but I will raise the issue and perhaps the Minister for External Relations can respond to it. Looking at P.170 there is a reference made to financial services and it mentions it should be unchanged, yet the U.K.-E.U. Agreement does not cover financial services. It is being left for further discussions and at the present time we can have financial services in the E.U. through London largely, but if London is going to have trouble with the E.U. itself in negotiations, and we know that the E.U. covets the work of the City of London and wants many of the trading activities that are taking place in the City of London to be within Europe. I see already 7,500 jobs have gone from the U.K. City and 44 firms have set up in Europe. We know that the different bourses and exchanges want to get that business. Now, it is almost like the elephant

in the room. We know that financial services is the biggest part of our economy, and yet we have no say on it, but we should be aware of all the implications and I believe Scrutiny should be looking at that aspect. Trade in the U.K. is I think 8 per cent of our total international exchanges in the United Kingdom. It constitutes a great deal of ours and I would like the Minister for External Relations to explain what he thinks the implications would be. It is not, as I said at the start, and in their report “unchanged”. There are going to be changes and should we not be discussing those as well, considering the impact on the Jersey economy?

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the amendment to the amendment? If no other Member wishes to speak I close the debate and call upon the Minister for External Relations to respond.

6.3.8 Senator I.J. Gorst:

I just want to start by reiterating, and I am sorry if it was felt to be other than this, in regard to working, consulting with the Law Officers’ Department, and I am grateful to the 2 Chairs who have confirmed this, they are aware of the vast repository of knowledge in regard to Brexit matters that they have gained over the last 4 years and I did not want us as an Assembly by oversight to do anything other than just remind ourselves that that advice is available and that it would be appropriate for them to take independent advice but also to draw on that advice as well. I think there probably are Jersey lawyers who would enjoy giving Scrutiny advice on the legal text who are outside of the law officers and this does not tie the hands of either of those 2 Chairs, as they have indicated. To put the president’s mind at rest, there was no aim or implication at all. Scrutiny are absolutely and completely masters of their own destiny and will behave and review as they see fit, as is their legal duty under the States of Jersey Law. When it comes to cost, that of course is something that Deputy Labey raised, seeking independent legal advice is a costly business but that is something that Scrutiny are well used to handling and they do not need me to comment further on that. Deputy Ward indicated that he thought the Greffe might suggest that there was need for extra resources. If the Greffe, following their normal process, decide that they are not sufficiently resourced to undertake whatever the scope of advice required that the Scrutiny Chairs wish to contract then they would go through the normal resource allocation process to Treasury to seek that extra resource. That would certainly have my support and I am sure it would have the support of the Minister for Treasury and Resources and the Chief Minister. Let us be clear, the termination clause is a 90-day clause, but as I said in my opening remarks, if we are in a position where we feel it is necessary to trigger that clause it will need to be triggered in advance, so that the processes that govern this new Agreement are able to act appropriately. We will not have the luxury of 90 days, simply being able to do our work over 90 days, and that might mean, as Deputy Ward has indicated, that extra resource is required. I will wait to have that come through the official Greffe channels, if that is appropriate. I am not quite sure what to do with Deputy Higgins’ question in that it is not directly related to either the amendment or the amendment to the amendment and nor is it directly related to the entire participation by Jersey in the T.E.C.A. because we are Third Countries for financial services now, and we will remain third countries for financial services whether the States Assembly agrees to be involved in this T.E.C.A. or not. The points that Deputy Higgins however is making are much more fundamental questions that arise out of the Brexit decision full stop, and that is the contingency plans that financial services businesses have put in place with the creation of E.U. subsidiaries and over time some business might be written in the E.U. that has previously been written in the City of London, but we here in Jersey do have access to European markets under various equivalents or private placement regimes.

[15:00]

They are constantly of course under review, constantly being challenged, and we have to engage with Brussels on those matters, and so we do, and make our case. Strictly speaking Third Country

remaining, but there are other secondary indirect challenges that we will need to meet. One of those is the encouragement and increasing of our global markets work in conjunction with Jersey Finance Limited work that they are doing but also the other stream of work that is becoming more and more important, and I think is going to be a strong part of our future, and that is all around responsible investing, green investing, impact investing, social investing and all of those issues, where again some of the E.U. laws will be important for us, but are very much important in driving our global markets in that regard. Hopefully that has dealt with that issue now rather than when we get back to the main debate. Deputy Higgins is right to raise it because it is an indirect consequence of the U.K.'s decision. Just as I believe Deputy Morel's amendments were put forward in good faith to strengthen the overall position so I hope Members see the amendments that I have put forward in the same light because that is what they were intended to achieve. On that note I will maintain the amendment and call for the *appel*, please.

The Bailiff:

Thank you very much, Minister. The *appel* is called for and I ask the Greffier to place a link into the chat. The link is there. I open the voting and ask Members to cast their votes. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The amendment as amended has been adopted.

POUR: 41		CONTRE: 4		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator L.J. Farnham		Deputy M. Tadier (B)		
Senator S.C. Ferguson		Deputy R.J. Ward (H)		
Senator J.A.N. Le Fondré		Deputy C.S. Alves (H)		
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				

Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

The Deputy Greffier of the States:

Those voting *contre*: Deputy Alves, Deputy Ward, Senator Mézec and Deputy Tadier.

6.4 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020): amendment (P.170/2020 Amd.) - as amended

The Bailiff:

We now return to the debate on the amendment as amended, and does any Member wish to speak on Deputy Morel’s amendment as amended? If no Member wishes to speak, then I close the debate and I ask the Greffier to place a link into the chat. The link has been posted, I open the voting and ask Members to vote. The vote is on Deputy Morel’s amendment to the main Proposition. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The amendment as amended has been adopted.

POUR: 40		CONTRE: 4		ABSTAIN: 0
Senator I.J. Gorst		Senator S.Y. Mézec		
Senator L.J. Farnham		Connétable of St. Mary		
Senator S.C. Ferguson		Deputy R.J. Ward (H)		
Senator J.A.N. Le Fondré		Deputy C.S. Alves (H)		
Senator T.A. Vallois				
Senator K.L. Moore				

Senator S.W. Pallett				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

6.5 U.K.-E.U. Trade and Economic Co-operation Agreement – inclusion of the Bailiwick of Jersey (P.170/2020) as amended

The Bailiff:

We now resume debate on the main Proposition as amended. Does any Member wish to speak on the Proposition?

6.5.1 Deputy S.G. Luce of St. Martin:

I will kick off, I will not take much time. I am sure other Members will want to say a few words. But I think there are moments in one's life that one remembers, it might be planes and 9/11, it might be assassinations, other things that you think back into your life and you remember where you were. I do remember the Brexit result coming through and it did occur to me at that time that things would never be the same again. Protocol 3 has been very good for us, despite a few lumps and bumps. But really it was clear to me back then that we were never going to be quite enjoying the same thing again in the future. Here we are, we do not have much of a choice today but at least we do have something to debate. Where we are today is in a much better place than we would be, I believe, if the U.K. and the E.U. had not been able to come to an Agreement. I know that our fishermen will feel disappointed; fishing is the most complicated thing that I have ever tried to get to grips with. We had hopes, the Minister for External Relations has told us that, we fought hard and as it comes to fishing we have ended up in a place we might not have chosen to be but it is not for want of trying. I can assure the fishermen that we have been trying. It could have been a lot worse. I know they will say we are hugely disappointed and I can understand that but we could be in a worse place when it comes to fishing. I look forward to doing whatever I can to help various Ministers to achieve better things for our fishing fleet into the future. It is not going to be straightforward. It is not going to be quick. But I do believe that we can make a much better fist of sustainability and viability for our fishermen into the future. I thank you for the time. I will be voting in favour of this.

6.5.2 Senator J.A.N. Le Fondré:

Firstly, can I just start off by expressing my thanks to yourself, to the Greffe staff and the States Members obviously for facilitating what is an extraordinary sitting in the Assembly today. I do not know when the last time it was that the Assembly met the day after Boxing Day, and particularly on a Sunday, but there we go. But I hope you and everybody else has had a peaceful and happy Christmas and we are very grateful to Members for participating in this debate. I think the fact that we are convening today reflects obviously the importance of the decision that, hopefully, we are about to make for the future of our Island and it is a historic day. In advance, obviously we have had some contributions from Members for which I am already grateful. Obviously we know that the U.K. Government is intending to ratify the Agreement before New Year, which is why we again are sitting today. It is a shortish speech but obviously again to say thank you particularly to Senator Gorst and his predecessor and, most particularly, to all of the officers for their work throughout the whole Brexit process. They have worked diligently, professionally over the last 4 years to ensure our Island has been prepared, regardless of the outcome of the U.K.-E.U. negotiations, and they have worked tirelessly, particularly in the last days and weeks to get us to today. I know the Deputy of St. Martin has already said, we remember certain times. I can remember, as a Member, coming into one of the rooms the day after the vote for Brexit and having the briefings at that time and how well prepared that team were, and then attending the British-Irish Parliamentary Assembly a very few days later and being able to give the Jersey position to the Clerk for one of the House of Lords' committees, who were just starting to set things up. The fact that we were so well prepared is a great tribute to all of those people who have been involved and, as I said, who got us to today. This Agreement is hugely significant for our Island, both economically and constitutionally. As we have heard, it will facilitate continued trade with our European neighbours, free from the obstacle of tariffs, and it will allow us to assert greater control over our maritime resources and obviously including fishing. We, as has already been said, had no part in the 2016 Brexit referendum and we have not been an official party in the negotiations but we have, nonetheless, worked to have our interests represented and our position respected. Senator Gorst alluded to that at the very beginning, about

how he felt our interests had been taken into account in the negotiations. As has been said, this deal is not perfect but I believe it does protect our interests and the Council of Ministers are confident that it is in our Island's best interest to participate. Our important and longstanding constitutional autonomy will be respected by this deal and our economic interests will be well served. It will ensure local businesses face minimal barriers to trade and opportunities for exports continue to be available. Participating in this arrangement will supersede the Granville Bay Agreement, effectively ending the joint management of our territorial waters and enhancing our maritime sovereignty. French vessels, which can prove a track record of making their living in Jersey waters, will be able to continue to do so within our Island's 3 to 12 nautical mile limit; these vessels will be licensed by Jersey. While this Agreement does not extend to our Island services industry, which is so important for our local economy, our existing Third Country relationship with the European Union will continue. Furthermore, initial requests to incorporate tax issues within the Agreement have been withdrawn. Above all, this Agreement will reduce the impact felt by local businesses on 1st January 2021 and will safeguard the co-operation and trading arrangements in place with our neighbours in Europe. A brief aside, just to absolutely endorse previous comments in the previous debates on the amendments, if Scrutiny does need resource, whether it is on this issue or on other issues which are urgent, then please do come and speak to us. We are absolutely there. It is in all our mutual interests to work together on these type of issues when time is of the essence. All I am doing is repeating assurances and undertakings that have been given in the past. In summary, I therefore absolutely commend this Agreement to the Assembly. I do urge Members to vote *pour* to ensure our close and historic links to the U.K. are further strengthened, to secure our relationship with our friends and closest neighbours and to provide opportunities for local businesses, fishermen and entrepreneurs. Once again, I urge everybody to be voting for this Proposition.

6.5.3 The Deputy of St. Mary:

I did not intend to speak again but I thought it appropriate to do so. We have today spent much of our time considering the problem of our fishing industry, and rightly so. But we should bear in mind that that is not our main industry. It is the case, as Deputy Higgins pointed out, we are not here to discuss financial services and tourism, which will remain unchanged by this particular trade Agreement. But should we have decided to reject this deal, we would be outside protection of the U.K. in the sense that they can act for us or we can act through them in maintaining our relationship in the international financial world. I fear that if we were to reject it we would have no voice at the high table and that would surely have led to increasing pressure on us with potential for being blacklisted and all that follows. In that sense I really think we had little option other than to come to this Agreement, and I am very pleased that we are about to do so.

6.5.4 Senator S.Y. Mézec:

I will not repeat everything that has been said about the efforts that have been made by our civil servants getting us to this point.

[15:15]

I will just endorse everything that has been said so far. It is very, very clear that we have been served extremely well by them and also credit where it is due, Senator Gorst's leadership on this has been particularly impressive and being able to respond as quickly and as thoroughly as he has, he has to be commended for that. This Proposition presents us with a dichotomy between choosing between being a part of this deal alongside the U.K. - and we now know the other Crown Dependencies too, as Guernsey's States approved their equivalent proposition earlier today, and Senator Gorst told us that the Isle of Man had been through their process as well - or us not being a part of it and being the only one without this framework and everything that goes with it. When that is the dichotomy that is before us it is absolutely clear that it is in our interest to be a part of that deal and that is why I hope every Member of this Assembly will vote in favour of all parts of this Proposition and send that

message out very loudly and clearly. But because this is, in a way, a historic moment, I do not think it would be right to let a few points not go on the record, even though it is clearly no real credible option for us to not approve this Proposition, this moment still should not be a rubber-stamping moment; we should take the opportunity to make the points that need to be made. In question time earlier on I asked Senator Gorst whether being a part of this deal represented an improvement for Jersey's situation or a deterioration compared to where we were with the U.K. as a full E.U. member state and our relationship going through Protocol 3 of the Accession Treaty. He did not use the same terms that I did in his answer but he did list some things where we may well be worse off in terms of the extra bureaucracy, in terms of the access of Jersey residents to things in Europe that we might have otherwise enjoyed. I do think we need to make the point that in actual fact this deal is worse for Jersey than what the other options were earlier on in this journey, what would have been best for Jersey and also I believe what would have been best for the United Kingdom, which is the country which provides our legal citizenship so I think we are entitled to a view on it, would have been to remain in the European Union as a full member state. There are all sorts of other things that our future now, as part of that British family, will suffer from because of that bad mistake. That will involve things that people may not necessarily have thought of closer to the time, things like now the largest trading bloc in the world will not have British people as members of those institutions at their heart making decisions in all of our interests but instead will be a competitor - perhaps a friendly competitor at times but a competitor - rather than working co-operatively on the inside and being marginalised in world affairs because of that, and that is not a good thing. The economic uncertainty that does arise out of it is something that should not have been welcomed. I think that those that allowed this situation to arise in the first place have something to answer for must be called out for it, not to fight the battles of the past because the U.K. has left the European Union, the deal is likely to be accepted and that will be the basis of our future and we have to do what we can to make that as bright a future as possible. But we do have to learn the lessons of how we got here to make sure we do not repeat them in the future. The reason we have ended up in this situation is because in the U.K., and it is the same in many other jurisdictions and exists culturally and politically to a degree here, but for decades and decades many people have, frankly, been failed by their political class and have left them feeling disenfranchised, disillusioned and without confidence that the institutions that play a part in governing their lives actually have their interests at heart. While many of us may have thought it was a rational decision to have not wanted to support changing that relationship and all of the money, resources and energy that has had to go towards creating a new relationship, rather than putting that energy and resource towards concrete things that would have made life better for people, we have spent all of that time doing that, as a result of some of the fanaticism that has existed in the political class on both sides. But the awful people who led some of the worst elements of the referendum campaign that influenced how people felt and vote, I think of things like the lies about money that would go towards the health service, the, frankly, Goebbelsian propaganda about refugees and asylum seekers that should not be a part of any sort of dignified democratic campaign and yet, with all of that, people still felt disenfranchised enough to go ahead with it and support going through this, frankly, nightmare over the last few years. I hope that people in Jersey will at least recognise that the things that make people feel that way, the things that make people feel like their institutions do not have their interests at heart, that those in the political class who have allowed this to happen are not on their side, will use that experience to reinvigorate our efforts here to ensure that our political culture can never be infected in the same way that it was across the Channel to enable a decision which, ultimately, will be worse off for those who it affects, including us here in Jersey. We must learn those lessons to ensure we do not have equivalent things happen. It was a similar thing in America that led many people to vote for Trump, even though that has left another country worse off as a result of it, and make sure that our political discourse is conducted in a way in the future that is overwhelmingly positive, that we do not face the sort of politics that sees people vote to make themselves worse off ultimately because of the lack of faith they have in those institutions. We have to do that in a framework that is provided in this deal, being positive about it insofar as we can,

feeling, I hope, a degree of confidence in the people who have led that, because, as I said, Senator Gorst has led this very well and the civil servants working to this point have done an extremely good job as well. We can at least have confidence that, given this situation was not of our making, we have probably got the best out of it that we can and will remain vigilant to ensure that we do not go off the rails in the future when this is looked at again with the legal text. I will vote in favour of this Proposition, feeling very sad that, frankly, it has had to come to this point because of the failures of those in positions of political leadership elsewhere and the culture that, frankly, the people deserve better than so that we do not make these sorts of irrational decisions in future, and that is all I have got to say.

6.5.5 Deputy M.R. Higgins:

While I will be voting for this Proposition as well, I think Members have got to be very, very clear that although we may have got protections for our fishermen and local trade, our biggest industry, financial services, is at the start rather than the end of Brexit negotiations. Because the Agreement that was reached was to do with trade, essentially trading goods. Trade in services is going to be negotiated further with the E.U. in 2021 and perhaps longer. At the present time professional service firms, city banks, insurance companies and accountancy firms are among thousands of businesses that will face restrictions on E.U. trade from 1st January until agreement has been made in those areas. In other words, financial services were left out of the Brexit deal and are going to be negotiated now. The implications of that could be far-reaching on Jersey. I know the Minister for External Relations said we have a third-party status in Europe for some of the financial services that we are putting into Europe. But, again, we have always had the protection of the British Government, which was part of the E.U. and they could in some cases veto or, to use an American football term, provide defence to our players; that will not be there anymore, they are going to be negotiating for themselves. Again, some of the decisions that are made, which we not a party to, could have implications on our own financial services industry. I do not want to sound like a voice of gloom or anything like that, I am just saying we still are in uncertain times, even after we have passed this particular Proposition and the U.K. signs up to the Agreement. Remember our biggest industry in terms of contribution to G.V.A. (gross value added) and to employment could still be under threat and we have to be vigilant going forward, and that goes for Scrutiny and Government. The Government have got to come back to the Assembly and tell us on a regular basis what is happening and we need to scrutinise this as well because we may have to make changes to our own economy to protect our own interests.

6.5.6 Senator L.J. Farnham:

I will be supporting this and, as doing so, I am reminded of the words of the leader of the Opposition, not our opposition but the Opposition in the U.K., who said a deal is better than no deal. I am not denigrating in any way the work that has gone on in relation to this and will join others in thanking and congratulating our team led by Senator Gorst for the job they have done. But a deal is better than no deal when we are looking at the economy and the double whammy we are facing when rebuilding the economy on the back of COVID. Of course, any challenge to the free movement of goods would, potentially, have had a large inflationary impact on Jersey. Because, as Members will know, we import the vast majority of what we consume through the U.K. and we know that U.K. companies import a lot of the goods for manufacture and the development of products from the E.U. I welcome the trading arrangements, they are perhaps a lot more important than many of us might have thought initially. But that will certainly help us and certainly help the Island as we move to rebuild our economy in the wake of 2020. I just wanted to remind Members that that will be very helpful and will, hopefully, put less inflationary pressure on us. Members will also know, and touched upon by Deputy Higgins, the overall Agreement is rather light on financial services and trading services. That will, I am sure, be touched upon by Senator Gorst when he sums up but I like to see opportunity in everything and we are not sure what the U.K. has in mind for how they want to develop their financial services. But I look forward to working in the future to continue to develop our financial services

sector and would look to the future with optimism, although Brexit or not we know that we have always had to fight for our industries over here for centuries and for decades. I think we are going to have to continue to do so and we have always prevailed and I have no reason to fear that we will not prevail into the future, so I just wanted to say that. Finally, in relation to tourism, I want to reassure Members that officers in Visit Jersey are working hard to ensure we can maintain our important European tourism and will be putting a lot of effort into that post-Brexit.

6.5.7 Deputy C.F. Labey of Grouville:

I am very grateful to the Minister for External Relations for giving the States Assembly the opportunity to endorse what has been put in front of us in very short order and I am grateful to the officers for all their time that they have put in leading up to this and indeed today in the States Assembly.

[15:30]

Like many Members have said, this is a watershed moment almost and it is good that we are being given the opportunity, albeit having had the documents for less than 3 days, to have a say, initial say, on what is before us. I do not know whether the Minister for External Relations at this stage after this vote will have the opportunity of going back to the U.K. to relay and communicate and articulate some of the sentiments that is picked up in this debate today. I hope so, if not immediately, then I really hope that we are given the opportunity after the 90 days to really articulate and possibly look to amending some of the things that are before us today. This really is a rough and ready take on what we are being asked to endorse or not today. The way I see it, we have got 3 main issues here to consider, which are tariffs, services and fisheries. I recognise that a no deal of our trade goods would be subject to tariffs, which would be absolutely catastrophic. We are already going to have to learn to cope with more paperwork, passports, searches at the borders post-Brexit. But tariffs for importation and exportation would be difficult, even more cumbersome, more expensive and hugely increase our cost of living, so that part is goodish. Services, and especially our financial services, as the Minister says, time will tell. But we will undoubtedly be put in a position of being in competition with the City of London, even more reason why there can be no better time to enhance and sell our own identity. How long have I been saying we need to consider positioning ourselves as a centre of philanthropy or offer something special? Finally, fisheries, I realise that some would say that this Brexit deal, which will bring an end to the Bay of Granville Treaty, will be a good thing. I know the president of the Jersey Fishermen's Association has long since been calling for its termination. However, I am not so sure it will be such a good thing. Perhaps in its current form it is good but it at least gave us some protection over our waters. But post this Brexit Agreement where Jersey has played no part, I would like to see much stronger links made with France in the future. We can start with a blank piece of paper and, hopefully, come to the table on an equal basis with Normandy and Brittany. France must consider allocating the fish quota that they have built up over the years from Jersey waters if Jersey's fishing fleet stands any chance of thriving in the future. But the Bay of Granville is a subject for another day, other than we must recognise it terminates with this U.K.-E.U. deal. So what comfort and protection are the E.U. and U.K. giving us for our fisheries industry? From where I am sitting and at first glance of the documents, I would say nothing. In fact, it seems we are being discriminated against, as we seem to be the only jurisdiction in Britain to have a 3-mile fishing limit and not a 6. With the Bay of Granville Agreement gone, which was the excuse that they were using for not giving us the 3 to 6 limit, why would we not have the 6-mile limit? It is here I will be looking at Guernsey and the Isle of Man, who has, we learned today, endorsed the Agreement but I will be looking to those 2 Crown Dependencies for their support with their sister isle. We have learned that they have both endorsed the terms but our terms on the 3 to 6 mile are different. They are unfair, it is wrong and it discriminates against us above everyone else. When Scrutiny looks at it I really hope that they will be focusing on this particular area and I really hope that the Minister for External Relations can give us some comfort today in what he can do in order to have this issue

recognised. While on the subject of fisheries, I would like to add that the U.K. are making £100 million available to modernise the U.K. fishing fleet and the E.U. fishermen are having monies allocated for those affected by Brexit. Our fishermen, in doing one of the hardest jobs that keep our Island with a fishing fleet, get nothing. I will leave it there.

6.5.8 Deputy J.H. Young:

If I may I would like to speak on 2 different subjects. Firstly, I would like to speak as a citizen of Jersey, as a Member of the States, and then, secondly, in my role as Minister for the Environment to address the issue through the lens of fishing, which is my responsibility. I would like to start with the first, please, if I may. I think I would like to subscribe very much to the views of Senator Mézec, that this is an historic occasion and I think it is time that in this momentous day where we are presented with an Agreement where, as I see it, we, effectively, have very little choice. It is a binary decision, we can either be with it or not part of it, that we at least reflect briefly on what that means for us all, both in this community and as a member of the British Isles and other jurisdictions. I have been in Jersey 40 years because I was London-born after the Second World War and I very much value the British way of life and the patriotism and value British sovereignty. But what I have seen since being a young man, I can remember the referendums with the E.E.C. (European Economic Community), the days of Harold Wilson and so on, which eventually led to a 68 per cent decision by referendum of the British people to remain within the Economic Community. I have seen how things have changed and how things have gone. But I have also seen just how astonishing Britain over the last 40 years has become integrated in just about every area of life with the United Kingdom. Unfortunately, there are lessons learned that we saw in the way in which the very divisive and awfully damaging political crisis came in the U.K., divisions in families between leavers and remainers and so on, that split just the whole community; terrible. The lessons there of course are: what were the drivers of that? Inequality and division in society. I think that is certainly material inequality and all those other ways that were present led to the situation where that majority was lost and reversed. I am sad about that because I think it is a young people's future. The world is a very, very different place to what it was and to try and revert back, I do find that sad. But moving now to the implications for Jersey, there is no question that the Island was well served by Protocol 3. When one reads back in the history books and see how, I think it was, Senator Ralph Vibert had worked on Protocol 3 and with the United Kingdom Government at the time, huge efforts to put in place a protocol which gave Jersey the best possible situation. But it is obvious, I think we all knew this from the start, that there was zero possibility of being able to try and replicate that in its entirety in the Agreement. I have been privileged to be a member of the Brexit Ministerial Group, and I cannot praise enough the work and absolutely the leadership of Senator Gorst and it has been exemplary in this matter. The team, I have been a civil servant for many years and I have seen project teams, I think the team that have been deployed on the civil service that have served the Island to work on this is, I would think, the finest team I have seen in action. They have worked to try and get the best outcome for the Island. I know the ebbs and flows of how it has gone, that at times that always the result was elusive but at times it even seemed impossible. Of course, with the political games that has gone on in the U.K., what we get then is an outcome on Boxing Day or a text and so on and only an arrangement where we have hours, if not a day or so, and the choice is yes or no. For us it is limitation, it is damage limitation. Of course, there is no question this deal, in my view, has to be approved. There is absolutely no question that no deal would be catastrophic; I think it would be catastrophic for everybody. It would put us out on a limb totally. What now? I have to judge, of course, the details of what we end up with through the lens of fishing. I have had the role, since I took on the ministerial job, of trying to achieve the conservation of our fisheries and the conservation of the special environment that we have in our marine ecosystems and sustainable fishing to ensure that the economic needs of that part of our community can be preserved. Sadly, I have seen that has been incredibly difficult under the existing Bay of Granville Agreement and I am going to address now Deputy Labey's comments about that. It is a shame that that Agreement in the last few years has not

enabled us to achieve the sustainability changes that we desperately need. We have had to see declining stocks and it is not for the want of trying. I know my predecessor, Deputy Luce, also had the same experiences. Of course, had things not been so stressed or strained, the relationships between the E.U. and Britain during the last few years, then that situation may not have been and we could have had some progress but we did not. I have talked to the fishermen throughout and I know they are passionately ... they are not just disappointed, they are upset. They are upset that they believe because they had ... all of us have wanted and we have strove to achieve that we would be able to recover our access-exclusive fishing in our nought to 6-miles waters and that has not happened. We end up with a situation where we have a new arrangement, which we have seen, and I think there are a number of ... I think one searches for gains but they are there. The absolute number one gain is that we end the Bay of Granville Agreement. Yes, that has created divided responsibility with the French but it has not worked and the evidence is overwhelming.

[15:45]

That Agreement of course, astonishing we all found, had no termination clause. Many of us thought all along that if there was no deal the Bay of Granville Agreement would fall away, well there is no termination arrangement in the Bay of Granville Agreement. Where we would end up if there was no deal would be a horrendous situation and all sorts of complications and extended processes to try and bring about that. Now, of course, we have and later on briefly, hopefully, I have been able to bring forward legislation to enable Jersey to control its own waters through fisheries legislation, which we have not been able to do since 2000 when that treaty was signed by the U.K. for us. That gives the full gambit of powers, we can licence vessels, other than British vessels, that access our waters under this arrangement. Yes, the principles are absolutely about sustainability and there is a structure within the Agreement that enables us, I believe, to take it forward. I think Deputy Higgins used a phrase just now about it is a starting point. I think it is in many ways for fishing, we have got a new start; there is a new journey. There is a huge amount of work now to work within the framework of this Agreement and seek to achieve the measures that need to be, so that we have sustainable fisheries and that there is a long-term future for that industry, and we will work within those structures. There are a number of implications for that. Firstly, absolutely, as other Members have said, we have got the issue of support for the industry. For many years that industry has had nowt, nowt. It has survived on its own strength. This now has to end and I made it plain to my colleagues on the Council of Ministers we are going to have to provide some financial support, firstly, in the initial period because a number of those parts of those products are going to face frictions, frictions in the procedures, in the processes they have to go through in order to be able to land and import their products to France. Yes, they will be saved by tariffs but they are going to face those. Some parts of their market are going to have to be done differently. For example, I believe that scallops and whelks and so on where the rules will change as far as direct importation in and they will have to be imported through the U.K. and through that route. All of that I think about, new markets will need to be done. The infrastructure that also is needed, that will need to be there. I am certainly looking to my colleagues and I have asked the officers to prepare that. I am delighted to hear what Senator Gorst said as well as that. Then there is the issue about the resources for marine sites, the whole basis of going forward, it has been said in the Agreement, those principles of sustainability in there, which cover the whole of the fishing Agreement, apply to us equally and more than just equally, wholly and that will mean we need to respond. We need to respond, we are gearing up our marine resources. I want to pay tribute, we have got a fantastic Marine Resources team. I can tell you the team have worked solidly with Senator Gorst's team for the last few years, have given up phenomenal amounts of time on this project. They need to now implement it and to implement it in converting those new principles into action; scientific work, research work, possibly even more investment in fishing patrol work and so on in the fishing, maybe even a new vessel, who knows? That I promise, while I am Minister, I will drive for that so that, hopefully, we can achieve those changes for our fishing industry. I can really understand the way they feel now. We have got a

choice of take it or leave it and so absolutely there is no real choice. It is a pretty unsatisfactory situation that the British Government allowed it to run that long but we are where we are. That is all I wanted to say on the record and obviously support the proposition.

6.5.9 Connétable R.A. Buchanan of St. Ouen:

I agree with the sentiments of a number of speakers earlier. Today for me is a day of relief, it was a day of relief on Christmas Eve when we finally learnt that we had an Agreement. There is also one for me that is tinged with sadness. I remember when we first went into what was then the Common Market with Ted Heath and I have seen Britain prosper within the Common Market. We have had a substantial number of opportunities come our way, the British industry has expanded. Not only that, we have also seen a number of colleagues from Europe coming to work in Great Britain and the country, in my view, has been better for that. Yes, there have been a lot of problems but on balance, in my view, it would have been better if we had decided to remain in the E.U. and what faces us now, in my view, is a very uncertain future. I think we will be more vulnerable and I think Jersey will be particularly vulnerable because up until now for financial services we have relied on having big brother, i.e. the U.K., sat in all the important meetings defending us; that will cease. We have a very able External Relations team who, I am sure, will be fighting our corner extremely ably and I am sure we will do extremely well with it. Nevertheless, in my view, we do face a very uncertain future, as does Britain, outside the United Kingdom. But I think had we not had at least this Agreement, in my mind it would be very much like trying to cross the Sahara Desert with only half a bottle of water; the future, in my mind, would have looked quite bleak. I certainly would like to endorse the sentiments of my Minister and would very much welcome this Agreement and our involvement in it. For Jersey it does provide us with certainty, it meets our own variety of objectives and it is good news for our autonomy, economy and businesses. As I think everyone knows, there are an awful lot of ups and downs in negotiations and it was quite likely at one stage that the deal being proposed to us, we would not be able to recommend it to the Assembly. But our very able and capable team worked incredibly hard pursuing our negotiation objectives and we stood firm. I have to say that the U.K. team represented our position extremely well. We have arrived at what I believe is the best deal we can get and one that the Council of Ministers unanimously supports. This Agreement, as far as goods are concerned, matches pretty much with what we would hope for in terms of trading goods that we would have had under Protocol 3. We have maintained tariff-free trading goods between Jersey and the E.U. There are some differences from Protocol 3, as the Minister has outlined in his Statement, and there will be more bureaucracy, we have to accept that, for those of us who want to trade into the E.U. and particularly our fishing friends, who are going to face quite a tough uphill battle to be able to land their fish in France. However, I have great faith in the Minister for the Environment and I am sure that there will be a substantial number of negotiations with our colleagues in France, and those problems will eventually be overcome but it is going to be very uncertain at times. I think we need to remember of course that, as we are no longer part of the U.K., things are going to change dramatically but the arrangement we have come to maintains as much as possible our trading connections, which is important for business, for our culture and heritage, and enable us ongoing opportunities in the future. As everyone will know, part of my specific responsibilities in the Government is for financial services and I, therefore, took an especially close interest when towards the end of negotiations requests were being made by the E.U. to broaden the deal to include assistance in the collection of certain taxes, so-called back protocol. This was not, in my view, an appropriate subject for this trade Agreement, let alone for a jurisdiction that does not even have that. But I understand the nature of negotiations and why the issues were raised by the E.U. It did cause considerable concern for our domestic and fiscal autonomy on which the success of our financial services industry is significantly built. Rebutting the request from the E.U. put Jersey to be included in the back protocol where we would have been required to collect V.A.T. on behalf of E.U. member States, was, therefore, a very significant victory for our very skilled negotiation team. It is important, I emphasise this because the successes you have in negotiations are often defined by what is not in

the Agreement, not just what is in the final text. We are willing and I think we are making a political commitment on assistance in collection for unpaid taxes and duties but that is not the same as it being in the text of the Agreement. The world knows that Jersey will co-operate in tax matters bilaterally and in the multilateral forum. We have a proven track record of doing so but we do so of our own accord, representing ourselves as an autonomous jurisdiction. As my Minister knows, I have had considerable concerns about the harmful tax practices statement but I am reassured that Jersey is seen by the E.U. as a co-operative jurisdiction and we have passed significant legislation around B.E.P.S. (Base Erosion and Profit Shifting) around economic substance of companies based in Jersey and we are in a strong position. We also had not heard that our financial services industry has the highest levels of regulation. In many ways we are ahead of mainland jurisdictions, and I will resist naming those mainland E.U. jurisdictions. That is why we have come to be part of the non-legally binding political declaration on harmful tax practices, which sits outside this Agreement. These commitments represent an extension of our ongoing and regular international engagement, including through the E.U., hopefully, which will continue in the years ahead. This Agreement makes no changes to Jersey's involvement with the E.U. for services. We are already a Third Country with appropriate measures in place and this remains the case, in my view. There might be acceptance of this deal and thus being seen as a co-operative partner with Europe, we will set a more beneficial framework for future negotiations about Jersey's financial industry. As I have already touched on, this is particularly important because we will not have the direct protection of the United Kingdom, although of course their officials and Ministers will do what they can to help us with any difficult negotiations. On balance, I think it is probably a fair deal for Jersey's financial services industry and one I think we can probably move forward with considerable confidence. Turning to the question of fish. The Agreement in respect of fish may not be what we would have ideally wished for but it still represents progress and I do understand the concerns of our fishing colleagues. The Agreement supersedes the Bay of Granville Agreement, which for years fishermen have wanted to see come to an end. Jersey takes control of the management of its own territorial waters, which is positive for sustainability, provided we can objectively and scientifically improve our approach on a non-discriminatory basis. Jersey will take sole control of licensing vessels which fish in our waters. Those French vessels that continue to fish here will have to prove a track record in the last 3 years and this should reduce the number of licences, compared with those available under the Bay of Granville Agreement, again another policy of point. The E.U. have stated that nobody should benefit from leaving the E.U., so our current limits were never going to change, despite the best wishes of the Jersey Fishermen's Association. However, this Agreement gives us more control and a better basis to work with our fishing friends. I think our fishing friends should take comfort from the Minister for the Environment's words. There is no doubt that he will go the extra mile to help them and to make sure that they can continue to enjoy the livelihood they currently enjoy from Jersey waters. Negotiations have been tough but I think that eventually we will reach an outcome which is satisfactory for them. It could have been worse for Jersey in this regard, the position which represents a small improvement on the status quo is indeed a good outcome. However, we need to be clear that if we do not agree to this we will be left with the Bay of Granville Agreement and all the issues that go with this, as well as our fishermen facing tariffs when exporting fish to the E.U., so it would be a substantially worse position. Our overarching principles and objectives for this 4-year Brexit process have been met. We have stability and continued continuity for our trading relationships, zero tariffs and our autonomy has been protected. Participating in this new Agreement is positive for our relationships with both the E.U., for whom we will continue to be a good neighbour, which is, in my view, very important and the U.K., who remain our most important partner. As has been mentioned, it also keeps us in parallel with Guernsey and the Isle of Man and together the 3 of us are stronger, rather than taking separate positions. Supporting this Proposition today will allow Jersey to move forward with confidence. Before I close, I would like, along with other speakers, to pay tribute to the Minister for External Relations and the team. It has been an incredible pleasure to work with the Minister for External Relations and to see him ably guide our negotiations and also to witness the talent and hard

work of the External Relations team, without whom Jersey, I believe, would not have reached such a successful outcome.

[16:00]

I, therefore, ask Members to support my Minister and his team and support the Council of Ministers' recommendation and approve this Proposition.

6.5.10 Deputy K.F. Morel:

Thank you to everyone who has spoken so far. There have been some excellent speeches and so much I agree with, particularly in Senator Mézec's speech when he was talking about the economic situation that was driving people to fall for the lies that created Brexit, and he is absolutely right in that respect. The Deputy of Grouville, who is absolutely right in saying that Jersey needs now to reach out and rebuild the relationships which have been undermined by the actions of the United Kingdom. One thing I would like to say is just to remind some people who have spoken to this with the help of both Ministers, that we are Jersey, we are not the U.K. We did not join the E.U., nor did we leave the E.U. but it is just to remind people of that. We are here to try and get the best for Jersey. What happens to the U.K. is what happens to the U.K. I believe the Minister for External Relations and his team have done a good job in getting the best of a terrible deal because that was the truth behind Brexit, which people seem to want to ignore, was that the U.K. would be worse off as a result of Brexit and, be under no illusions, Jersey only loses because of Brexit. There are no real gains here. It is interesting as well that the fishing industry was so strongly in favour of Brexit, both in the U.K. and in Jersey and yet it was clear from the beginning that the fishing industry would never benefit from Brexit. There is one article in the *F.T. (Financial Times)* recently showed and the reason being is the scale of it: "The importance of the fishing industry to coastal communities and the importance of the fishing industry to island communities"; absolutely correct and hugely important. But when it came to the negotiations it was always obvious that, particularly in the U.K., an industry which, according to the *Financial Times* and a couple of days ago, apparently gives less in terms of G.D.P. (gross domestic product) than Harrods does. That assertion was made in the *Financial Times* recently and it was always going to be a pawn and, sadly, always going to be a loser. Now, there are perhaps benefits to moving away from the Granville Bay Agreement, but there are also losses when it comes to moving away from the Granville Bay Agreement, and Jersey I think is going to have to work incredibly hard to overcome those losses. The main ones are both cultural in terms of our links with France but also in terms of sustainability. I know the Minister for the Environment mentioned sustainability, but we cannot, no matter how much control we have over the first 3 miles of our waters, indeed even if we had full control over the first 6 miles of our waters, we cannot maintain sustainable fisheries if people around us - in this case France - are not maintaining sustainable fisheries there. So, we have to work with them to try and encourage sustainability on their side in order to achieve sustainability on our side. I would like to see the Government move incredibly quickly to create the forums which will help us do that because we need to work together to do that. Moving away from the Granville Bay Agreement cannot be a move which just puts us in a place of our own because that will mean a lack of sustainability into the long term at all. The thing that I would like to speak mostly about is the issue of young people because Brexit in the U.K. was pushed through, essentially, by the older generation. By voting for Brexit, that generation were closing down enormous opportunities for the young people of the U.K., and they did not know it but also the young people of Jersey. I appreciate that in the U.K. Jersey was not on the minds of people there. Things like, in my view, the petulant decision by the U.K. to remove itself from the Erasmus scheme, nothing to do with the European Union in terms of politics. The Erasmus scheme, which is a scheme of exchange between universities, enabling students from different countries to go and study at other universities, is enormously beneficial and has benefited Islanders, including ... well, not directly myself, I did not use the Erasmus scheme, I used a different scheme, but including people like myself and Senator Moore, who both had the opportunity to study in France through such schemes. To know

that that is being thrown out and replaced with something which in typical political speak in the U.K. is being overblown and promoted beyond the true reality of it is just incredibly sad. Young people in Jersey ... I am one of those people, as I mentioned in the chat, who are discriminated against by Protocol 3, I have never been able to work in Europe, but while that frustrated me enormously at an individual level, I appreciated how Jersey was benefiting from the U.K.'s engagement in Europe and many, many people, including my own daughter - because her grandparents are English on her mother's side - until recently were able to go and work in Europe. Islanders now will not have that opportunity to gain that experience and it is wrong to think that suddenly they will be going all around the world in their droves. Regionalism occurs because spheres of influence are geographical. Nothing has ever overcome that economic geography. The U.K. is tearing itself away from its biggest market and it will not be able to replace that. No amount of jingoism is ever going to be able to replace the money that is being lost through the U.K.'s removal from that single market. Jersey as well will lose culturally and will lose intellectually as a result of this, so we need to build - and I would like to see plans coming through quickly from the Government - our own relationships with cultural institutions throughout Europe, whether it is universities or other institutions, to ensure that our young people can go out and benefit from such exchanges. Because it is clear now for me the story of Brexit has been a story of how Jersey can no longer rely on the U.K. The U.K. wants to do its own thing; that is absolutely fine. We have to have the confidence ourselves to do our own thing and work in our best interests for ourselves, and that means using the U.K. where it is appropriate but it means us speaking to other countries on our own terms and building the links that we need to help the young people of Jersey live stimulating lives and enabling them to go abroad and then come back and bring that expertise and that cultural enrichment to Jersey. So, I really hope that while this is the best we could get of a terrible, terrible deal, and I will support it for that reason - you have to be realistic on these matters - I think it needs to be the springboard and it needs to be the trigger point for the Government of Jersey to start building its own relations and just realising that in Jersey we can be confident in ourselves and we really can and must take this opportunity now to do what is best for Jersey economically, culturally and socially, as well as environmentally, because we can live the cleanest of lives in Jersey but if in France they are polluting our waters we will have polluted waters. So we need to work with these people and at the moment we do not have many fora in which to do that. So, I really hope we can see that change soon. The Minister for External Relations and future Ministers for External Relations will have to be at the forefront of that. While they have worked incredibly hard to get us to this point, I believe that this is just the beginning of their work and I do hope that their work will now change to building those relationships.

6.5.11 Senator S.C. Ferguson:

There is no reason why we should not streamline the bureaucracy that is being threatened to occur, particularly with things like the V.A.T. and G.S.T. (goods and services tax) arrangements and with the agility of up-to-date computer systems. We just have to look at the way things are done and work out how to do them better. I am also hopeful for the proper support of the fishing industry and I am pleased to hear the Minister for the Environment confirm that he will be following this up. I am very pleased on that. As for the student schemes mentioned by Deputy Morel, there were a lot of students able to work in Europe and work there both in the Bacs and after graduation. It is just a different scheme. I was a student in the pre-E.U. days. There was no problem. As it happened, my friends went to glamorous places like Lucerne in Switzerland and so on and so forth, and I had to do a vocation in my chosen industry, so I ended up working in Accrington, which really was a different world. But we do things differently. We just adjust and so on, so there is no reason that it should be all doom and gloom. I am sorry, I think we will have to do some things differently but we can do it.

6.5.12 The Connétable of St. Martin:

I would like to acknowledge all the hard work and long hours that Senator Gorst and his officers have put into this. It is indeed an historic day but also a very sad day, and while I will vote for this, I

would say that ending our current relationship with the E.U., and acknowledging that we were only a bystander in the vote for Brexit, Brexit was voted for by the older generation. My children in their 20s have always been European. I have considered myself European, and my home as the crow flies is only 60 miles from France. So to me it is a really sad day. But as we leave with a deal much less savoury than it could have been, my hope for the future is that Jersey seeks to forge a stronger relationship over the years with our close friends and near neighbours in Europe and Jersey will just have to punch well above its weight. That is all I would like to say.

6.5.13 Deputy K.G. Pamplin:

It is always a pleasure to follow the Connétable of St. Martin because I often think what her father would be thinking about the times that we are going through. For me, the way I look at this is often through the eyes of my children, and I am sure other Members and members of our community have had similar conversations. While on the North Coast, I recall a conversation with my daughter: a clear day and she can see France, and that moment of recognition for the first time on her face when she could see France from Jersey. Then the obvious question that would follow: “So, Daddy, why are we not French? They are just there.” You say: “Well, we have a long and interesting history that goes way, way back. We were French and then we were not French, and then we liked the French and then we did not like the French. Then we built castles to keep the French out. They got in, we put them out again. Then we were English, we were British, we were part of the U.K., but we are still part of Normandy.” I am sure her teachers at school will do a better job than I on getting through the important moments of our history. It is interesting because history teaches us many things but the parallels are often there. Of course, we were not French; I know Deputy Morel has Whats Apped me as we speak, but I was talking in children speak. In around the early 13th century, 1348, there or thereabouts, it was the Black Plague, the Black Death, that caused much disruption to the Island’s population.

[16:15]

All of a sudden the dealings of invasions and territories and who owned what suddenly felt very insignificant to a threat that cost the lives and livelihoods of many and changed the world as we know it. Now, I am not comparing, obviously, the pandemic that we are going through now to that, absolutely not, but the similarities are very real. It is very interesting that the biggest impact of this side of the world for the last 4 years, i.e. Brexit, has culminated at the same time with our biggest challenge since the end of the Second World War, dealing with a contagious virus, though not a severe one for vast members of the population but for 20 per cent of a population it can be very impactful. I think this is where we all are at the moment as citizens of the world, citizens of an Island, where we are trying to balance what is important and trying to teach our children at the same time. It is very difficult sometimes to strike the balance, but that is the balance we have to strike. Then I am reminded of another conversation with the outgoing C.E.O. (Chief Executive Officer) of the Ports of Jersey. He is much missed by many on this Island, with his cool head and those soft American tones when dealing with anything that was before him. When I discovered he was taking on the C.E.O. of the Ports of Dover, it did stand me back a step to think, wow, what a job to be stepping into in these times, with everything going on, and he just looked at me and said: “It is opportunity.” That is why he is who he is and I am who I am. But it is in that moment that I reflect on now. This is a massive opportunity for this Island going forward. As Deputy Morel has stated, and others, we have no say on certain things, but we have a say on the control of our destination and where we go. I think many things have been said about this Brexit period, and history and many future generations to come will look back and make their own minds up. It is not for us to say now, but I think we have a moment here for Jersey to go many, many different ways. There may be one way we never thought that we would end up going, but I think that is more of reality than it has ever been. It is to that and the courage and the children coming through that we must set them on the right path now. That is all I need to say. Great faith to everybody who has made today happen, and I congratulate Senator

Gorst and everybody for getting to this part. It is with a heavy heart I will be supporting today's Proposition.

6.5.14 Deputy L.B.E. Ash of St. Clement:

It is going to be pretty brief, but the first thing I would like to address is that we are not leaving the E.U. We were never in the E.U. We voted not to join the E.U. We have been incredibly fortunate for the last few years to piggyback on the back of the U.K. and get the benefits of the E.U., and I think we will now still enjoy a lot of those benefits. I would like to thank Senator Gorst and his team, who have done a really good job for the Island. I am of the belief that this Agreement will allow the Island to trade our goods in a tariff-free manner and I am sure we will continue to build bridges across the water, on the continent of Europe, as we always have done. Metaphorical bridges, of course, not the fanciful *J.E.P. (Jersey Evening Post)* ones. I do not want to commit the Treasury to that sort of cost. We have always done this. We do wonderful work by our twinning committees and associations and these will be enhanced. I think it was Denis MacShane, who is a Labour politician not of huge note, who did liken the Franco-British relationship as being akin to an old married couple who, although they often think of killing one another, in reality cannot face a life apart. I think that is a very good analogy and I think we will continue to have good relationships by and large with our French neighbours. I do, though, have some sympathy with our fishermen, who must have found their Christmas present not quite what they had hoped for. While they have removed themselves, or with our help they will have removed themselves, from the G.B.T. (Granville Bay Treaty), other measures are, of course, less welcome. In many ways it must have been like getting a toy only to find that the batteries were not included. To this end, I would ask the Minister in his conclusion to state whether he believes a 3-mile limit includes the offshore reefs and, if it does not, what powers we have to protect those areas. I would also ask the Assembly to continue to press wherever they can that we provide financial assistance for the fishermen to cope with the considerable new legislation that will come. I would also like the Assembly to bear in mind and see what we can do to this end to remedy the situation that from 1st January our fishermen who are fishing for the bivalves and the gastropods in France will not be able to land them until April due to the fact that the E.U. system will not be ready, while French boats can fish our waters and land that catch back in France. Now, surely that cannot be a fair system and I would ask the French authorities - and I hope perhaps Senator Gorst will be able to assist - that they suspend that ruling until April when they are able to process our catches accordingly. Because it is their failing on this at the moment that is preventing our fishermen from doing that.

The Bailiff:

Thank you very much, Deputy. Does any other Member wish to speak on the proposition? If no Member wishes to speak, then I close the debate and I call upon Senator Gorst to respond.

6.5.15 Senator I.J. Gorst:

It has indeed been a fascinating and at times wide-ranging debate. I want to start by turning my remarks on their head. It is normally that one would finish one's summing-up speech by a number of thanks, but I want to do that now before I get into the summing-up of the actual issue. I think it is particularly important that I do so because of the way that many Members have referred to the officials involved, and they are not just an addition at the end. They have been absolutely integral into ensuring that we arrive where we are today. Any team member or any team leader knows that they are only as good as their team and I have been reminded of that fact day in and day out throughout the last number of years. Of course, it was former Senator Sir Philip Bailhache, who was then the Minister for External Relations, who was doing my job when the United Kingdom decided to leave the European Union, and he was supported on the financial services side by former Senator Ozouf. The work that they did, and I supported them in, was the foundation of where we find today. It was Senator Bailhache who pushed and drove forward the idea of Jersey's own Euro law and that

is still effective. I will be signing orders under that law in due course. It is still working. But it has not just been a narrow number of people involved. There have been outstanding contributions from the Minister for Home Affairs' team. I well remember when Customs and Immigration - it feels like years ago - wanted money for a new computer system and so they have been proven to be absolutely right in their forward planning. I congratulate them. There are the officials in the economy team who have had to prepare for a no-deal Brexit for probably 3 occasions now. Of course, there are the marine resources officials, who have been constantly at the centre of all these negotiations because of the difficulties that there is around fishing and the passion that fishing rightly engenders in island communities like our own, in the words of the Deputy of St. Martin right in the first speech earlier. So I thank them for all of the work that they have undertaken. Sir, I thank your former colleagues in the Law Officers' Department. We can be so grateful for the wisdom and intelligence that they have brought to getting us to where we are today. I thank, of course, all of those in Scrutiny, those officials and those members of Scrutiny, the Brexit Scrutiny Panel so ably chaired by Deputy Morel and now by the Deputy of St. Mary. I am extremely grateful for all of their input and advice and suggestions. I am grateful to the Greffe's Department for all the work that they have done in facilitating even today as well, and I am grateful to you, Sir, for agreeing to have this extraordinary sitting on a Sunday. I am grateful to all of those right across the many industry representative groups who have been available to discuss issues as they have arisen and to input into where we arrive at today. You would expect me to give special mention to my own officials in the External Relations Ministry. They include some communications officials as well who seem to have been snatched away to some central unit, but they are still doing a sterling job on behalf of the Island. As Members have said, and I will come on and talk about this in more detail, this deal is not everything that we might ultimately have wished to present to the Assembly today, and we will talk about that later, but it is a deal arising out of a negotiation. I can only pay humble tribute to all of those officials in my Ministry who have worked day in and day out, have secretly or behind closed doors, unseen ... so not so secretly but unseen is probably the better word, from the public eye, quietly, calmly, but with great charm and diplomacy and great intelligence and wisdom made arguments which, as my Assistant Minister reminded us, often some of the greatest wins in a negotiation are what is no longer in the deal on the table. Certainly, in regard to this Co-operation Agreement on our part there are a number of wins which are not on the table thanks to their work. The Island owes all of these officials a debt of gratitude and it is right that we record our thanks to them this afternoon, as I say, on this third day of Christmas. In politics we are often minded that we stand on the shoulders of giants, and perhaps never more so when we have a debate like this. Forty-odd years ago, Members of the States Assembly had a similar decision to make about how they would be party or not to the U.K.'s membership of the European Union.

[16:30]

It was a last-minute decision, not quite down to the timeline that we unfortunately find ourselves in today, but it was a late decision. It was a balanced decision that the Members of the day thought stood the Island and its economy in good stead for the future. Did they have every "i" dotted, every "t" crossed? Did they know what being in the European Union for goods would mean, what legislation they would have to implement? No, they did not. Because for those 40 years we have had to keep refreshing that legislation, amending it to ensure that we played our part and met our international obligations arising out of Protocol 3. But has that decision proven the test of time? It most certainly has. It gave us flexibility. It gave us the ability to build a good and positive relationship with the E.U., and then, of course, we have the Bay of Granville Agreement, signed around 20 years ago, again by political giants who took strong and courageous decisions. They did not know exactly how that would work out but it has been the foundation of a productive relationship with our French neighbours for those 20 years. Any decision in 20 years' time or 40 years' time will show its age and it will be clear that changes, refinements and amendments might be needed. So, just as that decision has so proven and now we stand at the portal of a similar decision, do we have

every “i” dotted, every “t” crossed? Have we had the appropriate time that in an ideal world we would have liked? No, we have not. Does this deal give to us everything that we might have wanted? It gives us the vast majority of the detailed issues that we went into this negotiation asking the U.K. to represent us. That, for a small nation state like ours, is something that we can be proud and grateful to our officials for. It meets our overarching negotiation objectives of protecting our constitutional autonomy and upholding our economic interests by maintaining tariff-free trading links. It keeps us in an Agreement with the E.U., that massive and important trading bloc that we are on the edge of. It keeps us aligned with other members of the British family, again relationships that have served us well in the past. So, I come to, of course, the Deputy of Grouville’s challenge, because there is an area in the fishing deal that we in an ideal world would have liked to have had one more term to present to Members today. That is quite simply the differing access between the 3 to 6. But as we said to Members earlier, and as the Minister for the Environment has ably reminded Members, because that access is already granted under the Bay of Granville Agreement, it was not possible for us to negotiate a different access arrangement in the 3 to 6 and the E.U. were very, very committed and stubborn in that regard. In fact, the U.K. on our behalf on Wednesday evening, in the final stages of the negotiation, continued to push our case, and we know that they pushed it strongly because they got the concession of the 90-day cooling-off period. That has left us with a position where we have got largely what we desired. We now do have a position that can fully respect our constitutional autonomy by taking time to consider in detail the legal text. I do not have the concern that the fishermen have about where the reefs stop and start in regard to this Agreement, but there is further clarification required to ensure the law officers’ and marine resources’ understanding that those reefs are properly protected in the same way that zones are acknowledged in the Bay of Granville Agreement, I do not want to go into detail because it is out of my area of expertise, but there are zones A, B and C and the reef and it is our understanding that they are protected, but that does require further clarificatory work. But this Agreement does - something that the fishing industry have made very clear to me over the number of months - supersede in the legal text the Bay of Granville Agreement in those words that it supersedes all other Agreements in the territorial waters adjacent to the Bailiwick of Jersey in regard to fishing. So that, I believe, is a benefit to the fishing industry. It does deal with the latency issue in licences. I believe that is a benefit to the fishing industry. It does allow, on a non-discriminatory scientific and data-led approach, for the Minister for the Environment in Jersey to deal with in due course environmental and sustainability matters within our waters. So I recognise that the fishing industry, or parts of the fishing industry, are not happy with the differential that we find ourselves in compared to Guernsey and the Isle of Man, and that arises quite simply out of the historic access that that Granville Bay Agreement represents. But I do think, as other Members have said, this is a deal that I can recommend to the Assembly. It is a deal that whether we agreed with Brexit or not can create and drive opportunity for our Island community for years to come. Others have suggested that my department might need to start dealing with our French neighbours and Brussels and Member States in a different way. I would counter that. They are doing exactly the things that that Member wants them to start doing. We now have an E.U. Directorate. They are visiting now virtually and out again of public glare because of the COVID pandemic. They have a new strategy for engagement with E.U. capitals, and we are doing that, as I say, virtually rather than in person. As soon as we can do it in person we will do that again next year. We have a first-class team of officials in the joint Guernsey and Jersey office in Brussels and they do a first-class job engaging there with Governments. That work is the day-to-day work of my officials, and once we get over this Brexit period, if I might call it that, they will be able to get back and more of them will be able to do that day-to-day work. Because the world does not stand still. This T.E.C.A. is not the end of the issue. It is the start of a new relationship that we will forge and we will continue to forge with Brussels, with Member States, particularly with France, and our continuing engagement and most important constitutional relationship with the United Kingdom. Will there be challenges? There certainly will, and the economic situation that we will find ourselves in post the COVID pandemic will be challenging. It will be challenging for small Island states like ours. It will be

challenging for large sovereign states like the ones by which we are surrounded. But do I think that we as an Island and a community can rise to those challenges, can make the most of the opportunity, can be confident in our economy, the strength and resilience of our financial services industry, the growing strength and resilience of our digital industry, the strength and resilience as we come out of the pandemic of other sectors of the economy? I absolutely do. Therefore, on balance, time will test whether we have made the right decision in the future, but I have no hesitation in recommending that Jersey take its place in this new relationship with the European Union, and I commend it to the Assembly and I ask for their support.

The Bailiff:

Thank you very much, Minister. I ask the Greffier to put a voting link into the chat. The vote is on the Proposition as amended. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The Proposition has been adopted.

POUR: 45	CONTRE: 0	ABSTAIN: 0
Senator I.J. Gorst		
Senator L.J. Farnham		
Senator S.C. Ferguson		
Senator J.A.N. Le Fondré		
Senator T.A. Vallois		
Senator K.L. Moore		
Senator S.W. Pallett		
Senator S.Y. Mézec		
Connétable of St. Helier		
Connétable of St. Clement		
Connétable of St. Lawrence		
Connétable of St. Saviour		
Connétable of St. Brelade		
Connétable of St. John		
Connétable of Trinity		
Connétable of St. Peter		
Connétable of St. Mary		
Connétable of St. Ouen		
Connétable of St. Martin		
Deputy J.A. Martin (H)		
Deputy of Grouville		
Deputy K.C. Lewis (S)		
Deputy M. Tadier (B)		
Deputy M.R. Higgins (H)		
Deputy J.M. Maçon (S)		
Deputy S.J. Pinel (C)		
Deputy of St. Ouen		
Deputy L.M.C. Doublet (S)		
Deputy R. Labey (H)		
Deputy S.M. Wickenden (H)		
Deputy G.J. Truscott (B)		
Deputy J.H. Young (B)		
Deputy L.B.E. Ash (C)		
Deputy K.F. Morel (L)		
Deputy G.C.U. Guida (L)		
Deputy of St. Peter		
Deputy of Trinity		

Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Senator I.J. Gorst:

Could I just beg the indulgence of the Assembly for one moment and say thank you very much to Members? The Chief Minister and myself really appreciate their support in this decision. Again, they have our apologies that we have had to ask them to come into the Assembly on a Sunday, but we are very grateful for their support.

7. Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 8) (Jersey) Regulations (P.171/2020)

The Bailiff:

Thank you very much indeed, Minister. The next item on the Order Paper is the Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 8) (Jersey) Regulations, P.171/2020, lodged by the Minister for the Environment. I ask the Greffier to read the citation.

The Deputy Greffier of the States:

Draft Sea Fisheries (Licensing of Fishing Boats) (Amendment No. 8) (Jersey) Regulations 20-. The States make these Regulations under Articles 12 and 29 of the Sea Fisheries (Jersey) Law 1994.

7.1 Deputy J.H. Young (The Minister for the Environment):

I shall try and be brief bringing this what at first sight looks a small amendment.

[16:45]

It is a small amendment but it is a vital one, even more important now as a result of today's decision than what it was when the documentation was drafted. For some time now, we have known that during the negotiations all of us, our fishermen, wanted at some appropriate point to have the legal powers so that where we have non-British vessels accessing our territorial seas - and that is our 12-mile seas - then the responsibility ... we had the legal powers within Jersey's legislation to be able to control that access by way of licences and so on. So, as it were we have had that ready but, of course, it is now essential in order to do all the things we have spoken about in terms of management of fisheries that these regulations enable that. Currently, at the moment, obviously just to sum up, only Jersey vessels require a licence to fish commercially in Jersey's territorial seas, and that is issued under my ministerial responsibility, which, of course, I delegate to our excellent Marine Resources team, myself and Deputy Guida dealing with policy matters and individual issues. So, these changes will not impact that in any way. We will carry on to issue licences and condition the licences, and it remains an offence for people to fish commercially - that is the thing with that one - through our waters. Of course, what this will replace is the current arrangements where vessels from France are at the moment able to access parts of our waters and do so by virtue of what we have talked about, the Granville Bay Agreement, its full title: Agreement between the Government of the United Kingdom and Northern Ireland and the Government of the French Republic concerning fishing in the Granville Bay, commonly known as the Granville Bay Agreement or as has become known as the G.B.A. That was signed on 4th July 2000. Now, those vessels currently, as we speak today - hopefully, if the Members approve this in not too much longer - do not require a licence issued by

the Minister for the Environment but instead require a French National Fishing Licence and a Granville Bay Access Permit issued by competent authorities - and this is the key point - in France, of France, in order to access our waters. What this Regulation does is to require Jersey to access all those vessels, all those French vessels ... or, sorry, more accurately E.U. vessels that have the relevant track record and so on who qualify under the new Agreement to apply for a licence under the procedures set down in the Agreement. Interestingly enough, conversely Jersey fishing vessels require a Granville Bay access payment under the G.B.A. for Jersey to fish in the G.B.A. area and so, of course, there is reciprocal access here because some of our boats do access the French territorial waters and presumably will continue to do so. So, the terms of the amendment allows us, as I said, to issue the licences and the whole idea of this law is to manage and conserve exploited fish stocks. The law itself that we are amending has copious arrangements for conditions and details of that. I do not know that really I need to say any more, so I would like to ... the Scrutiny Panel have had the opportunity to meet the Marine Resources team to be updated about that, and I think rather than dwell on it I would like to propose those vital Regulations in principle and deal with any questions, if I may, in view of the time.

The Bailiff:

Are the principles seconded? [**Seconded**] Does any Member wish to speak on the principles?

7.1.1 The Connétable of St. Brelade:

A couple of points if I may ask the Minister to respond to. One question is over fees. Is there an intention to charge French vessels fees? Presently, our fleet have to pay for their licences and, as a consequence, one presumes pay a fee for fishing in our waters. I think it would be discriminatory if that were not to be the case with the French. The other point is over the arbitration mechanism. It seems unclear at the moment what that is going to be, and it would be nice to ... I think it is important to have some clarity as to how that is going to operate. The other element that I think is crucial is that we know what the review process will be with regard to the future. Times change, needs change, and we must be able to be responsive. We have been constrained in the Granville Bay Agreement of late by not being able to review it and suffering the consequences, so I feel it is essential that we do build in some process for doing this. I think we need to be aware that there will be restraints, as I read it using the proposed Regulations, on certain French fishing boats, particularly the larger, over 12-metre fishing boats. There are a lot of them and I wonder whether the Minister will be prepared for a hostile reception, which may come from our neighbouring French ports. I would also like the Minister to comment on the fact that our exports presently represent a significant part of the income of the Crier in Granville and wonder what negotiations or discussions he has had with them to date on the matter. I will be supporting the regulations but, as I have said earlier, will be keen to look at these further in the round in the envelope of the Brexit discussions rather than as a separate scrutiny of this particular legislation, but I suspect our comments will encompass this.

The Bailiff:

Does any other Member wish to speak on the principles? If no other Member wishes to speak on the principles, then I close the debate and call upon the Minister to respond.

7.1.2 Deputy J.H. Young:

I thank the Connétable for the questions. The first question is easy for me to answer: yes, there will be fees paid and the sterling amount is going to be under the new fees order a revised £109.30. Obviously, presumably that will have to be converted into euros. On the arbitration mechanism, obviously my understanding at the moment is that I have asked the team about this. I am advised at the moment that there is a requirement for the E.U. to provide us, being the licensing authority, with a list of those vessels for which it considers that we should consider issuing licences for, together with the track record qualifying information and the various details of the application, which the

Marine Resources team will have to deal with. That will include what the conditions are that they believe those licences should include. So there is obviously scope for issues to arise as part of that process. I think the Marine Resources team have told me that they are able in terms of those vessels where there is the vehicle monitoring system requirement, which is a requirement in the E.U. at the moment where vessels over 10 metres who have mobile gear are required to have that. So, if you like, there should be historic evidence which our team will know about, so potentially those issues will not give rise to issues. But I think it is inevitable that there will be, and I think this is where the team will have to work on the mechanism in my answers I have given. Although we have the new structure of these new authorities to resolve these, there will have to be local mechanisms in place. I think the place for that to be worked up is really an example of one of the key tasks that will have to happen during the 90 days, what I suppose has been called a cooling-off period but it is not really that. I think it is a period by which there is the options which we have spoken about. So that work will go on and the team is already, if you like, active on it because they have already compared information on what they know about French vessels already. On the question of the review process for the future, that will have to be part of the same work to be done. Regulations on larger vessels, I think the Connétable is talking about the over 12-metre boats, well, I think my understanding, and again this is where I am today on what I am being told, is that that arrangement obviously is not intended to diminish, so any impression that that will sort of fade away under this Agreement is not there. But, of course, those vessels and the *métiers* they use will be subject to the measures that we introduce. For example, for a long time we have wanted to introduce a bream nursery protection area preventing such destructive *métiers* from larger vessels, and similarly it will be open for us to introduce measures to prevent pair trawling and scallop-dredging measures, which are damaging in certain places. So those things we will certainly have now the power to look at it. The last point I think the Connétable raised is about the arrangements with French ports. I think this is probably part of the work that is being done by our Economic Development colleagues. Obviously, there are very longstanding arrangements which take place for landing of aquaculture products into those ports but, of course, they are subject to new phytosanitary rules, which means those ports need to be designated on the Normandy coast under ... I cannot remember if it is N.E.H.A.P. (National Environmental Health Action Plan) or something like that. At the moment I do not have that information but I know that part of the discussions were we were trying to get that confirmed. At the moment I am not able to do that, but again I will make sure the Connétable and the Scrutiny Panel pick that up. Of course, I am delighted very much that as a result of our earlier decisions I am sure all these issues and others, there will be a lot of dialogue between the Marine Resources team, myself and Deputy Guida on facilitating that work during the 90-day period because we are now, if the Members approve this, on 1st January we will be into implementation. So I hope that deals with the Connétable's question and I will ask for the Regulations to be approved in principle, if I may.

The Bailiff:

Thank you very much, Deputy. I ask the Greffier to put a voting link in the chat. The vote is on the principles. The link is there. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The principles have been adopted.

POUR: 43		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				

Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hagarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Does your Scrutiny Panel wish to call the matter in, Connétable of St. Brelade?

The Connétable of St. Brelade (Chair, Environment, Housing and Infrastructure Scrutiny Panel):

No, thank you, Sir, we will look at it in the round with the other Brexit matters.

The Bailiff:

Thank you very much indeed. Do you wish to deal with the matter in Second Reading, Minister?

7.2 Deputy J.H. Young:

Yes, if I could, Sir. I propose the Regulations *en bloc*. Just to say there are only 2 Regulations.

[17:00]

Regulation 1 is the power for issuing the licence and the second one is implementation. Of course, that has to be done by a Ministerial Order. I propose them in Second Reading, please.

The Bailiff:

Are they seconded in Second Reading? [**Seconded**] I open the debate.

7.2.1 Deputy K.F. Morel:

Just a very quick one: the issue of scallop dredging has been brought up a couple of times. I was wondering if the Minister, once he has the power of these Regulations, would he even consider a ban on scallop dredging. I like scuba diving. I have seen the incredible damage. It is appalling damage done by scallop dredgers. Whether they are Jersey dredgers or French dredgers or English dredgers does not matter, they destroy the seabed. There is no good place to do scallop dredging. So is that something that is on the mind of the Minister?

7.2.2 The Deputy of St. Martin:

I would just like to return very, very quickly to the issue of licence fees. The Minister mentioned a fee but I would urge him to go away and maybe have a look at the whole issue of what he might charge. There is an opportunity for recycling some money back into the industry which I think must not be missed.

The Bailiff:

Does any other Member wish to speak on the Regulations or any of them in Second Reading? If no other Member wishes to speak, I close the debate and call upon the Minister to respond.

7.2.3 Deputy J.H. Young:

Dealing with the second point first: yes, very much I will give the Deputy of St. Martin that commitment. Obviously, the answer I gave was from the note I got here, but I am not able to confirm whether there are other fees. There may well be, but the principle he has spoken of is a good one. The only point I think to the contrary is that, of course, we will have to, I believe, strengthen our resources in this regulatory team. I am not quite sure how that will be done. I have charged the officers to do that and, of course, the current budgetary policy of this part of the I.H.E. (Infrastructure, Housing and Environment) ... actually, no, that is not true, it is Economic Development, interestingly enough - it is one of the things I have to sort out - but our current policy is that these regulatory services are self-financing, but I will take that away and get the Deputy that commitment. On Deputy Morel's question, yes, Deputy Morel is absolutely right. I have heard horrendous horror stories of the damaging effect of scallop dredging but, of course, it is true that we do have vessels that do that ourselves. So, the process is any bans that we put in place would have to be applied not in any discriminatory way. They would affect both E.U. accessing vessels and ourselves. But, of course, the important point is where that is permissible to be done, what areas and what do we know about that. That takes you to the issue of science and knowledge and evidence, which I think is the principle of the Agreement that such changes have to be justified in accordance with those principles. So, absolutely with the Deputy; in fact, I would cite the case in the Isle of Man where the Isle of Man I know ... I have seen scientific work that says that in the Isle of Man they banned that from a number of areas and there was originally a lot of hostility about it. Then they found that the yield in other areas was increased because of the fact that the juveniles were allowed to develop. So there is a lot of science to support that. That is the sort of work that I shall be doing now with our team to try and introduce science-based areas and conservation areas where we can control those *métiers*, all the sort of work we could not do before. Sorry it is a long answer but I wanted to give that to the Deputy. I think if that is it, could I propose Second Reading? I have responded to that now, I think.

The Bailiff:

Yes, I think you have dealt with that. I will ask the Greffier to put a voting link into the chat. The vote is on the Regulations in Second Reading. The link is there. I open the voting and ask Members to vote. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The Regulations are adopted in Second Reading.

POUR: 45		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of St. John				
Connétable of Trinity				
Connétable of St. Peter				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				
Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Do you propose them in Third Reading, Minister?

7.3 Deputy J.H. Young:

Yes, Sir, if I can simply propose them in Third Reading and ask for the *appel*, please.

The Bailiff:

Are they seconded in Third Reading? [**Seconded**] Does any Member wish to speak in Third Reading?

7.3.1 Deputy M.R. Higgins:

Just very briefly, although resources are going to be put into the department to monitor the fishing agreements, can I suggest before we go whole hog into a vote we look at aerial drones fitted with forward-looking infrared and cameras, who can record a much wider area and quickly, and that can be used as evidence in courts for breaches of the Regulations?

The Bailiff:

Does any other Member wish to speak in Third Reading? If no other Member wishes to speak in Third Reading, I close the debate and call upon the Minister to respond.

7.3.2 Deputy J.H. Young:

I thank Deputy Higgins for his very interesting idea. It sounds very exciting. I will commit to asking the team to look at that and see whether that is feasible and whether we can add that to our processes. With that, I propose the Third Reading, please.

The Bailiff:

Thank you very much. I ask the Greffier to put a link into the chat. The link is there. I open the voting and ask Members to vote in the normal way. If Members have had the opportunity of casting their votes, I ask the Greffier to close the voting. The Regulations have been adopted in Third Reading.

POUR: 44		CONTRE: 0		ABSTAIN: 0
Senator I.J. Gorst				
Senator L.J. Farnham				
Senator S.C. Ferguson				
Senator J.A.N. Le Fondré				
Senator T.A. Vallois				
Senator K.L. Moore				
Senator S.W. Pallett				
Senator S.Y. Mézec				
Connétable of St. Helier				
Connétable of St. Clement				
Connétable of St. Lawrence				
Connétable of St. Saviour				
Connétable of St. Brelade				
Connétable of Trinity				
Connétable of St. Mary				
Connétable of St. Ouen				
Connétable of St. Martin				
Deputy J.A. Martin (H)				
Deputy of Grouville				
Deputy K.C. Lewis (S)				
Deputy M.R. Higgins (H)				
Deputy J.M. Maçon (S)				
Deputy S.J. Pinel (C)				
Deputy of St. Martin				
Deputy of St. Ouen				
Deputy L.M.C. Doublet (S)				
Deputy R. Labey (H)				
Deputy S.M. Wickenden (H)				

Deputy of St. Mary				
Deputy G.J. Truscott (B)				
Deputy J.H. Young (B)				
Deputy L.B.E. Ash (C)				
Deputy K.F. Morel (L)				
Deputy G.C.U. Guida (L)				
Deputy of St. Peter				
Deputy of Trinity				
Deputy of St. John				
Deputy M.R. Le Hegarat (H)				
Deputy S.M. Ahier (H)				
Deputy J.H. Perchard (S)				
Deputy R.J. Ward (H)				
Deputy C.S. Alves (H)				
Deputy K.G. Pamplin (S)				
Deputy I. Gardiner (H)				

Very well, that concludes Public Business for this meeting and, there being nothing more, the Assembly stands adjourned until what might be Tuesday, 19th January 2021. Thank you very much indeed.

ADJOURNMENT

[17:09]