

Deputy Moz Scott
Chair
Economic and International Affairs Scrutiny Panel
By email

14th of April 2023

Dear Deputy Scott,

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

Thank you for your letter dated 5th April 2023 in relation to the announcement of Jersey's inclusion in the United Kingdom's agreement in principle (the agreement) with the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP).

Securing accession to the CPTPP is a key trade policy priority for the UK. Accordingly, the Government of Jersey has been working with the UK's Department of Business and Trade (DBT) to enable the Island to benefit, to the fullest extent possible, from the extension of the CPTPP to Jersey. This is in line with the Council of Ministers' Common Policy on External Relations, which was updated in November 2022 following an in-Committee debate in the States Assembly, and which states: "Following assessment of the impact to Jersey of participation in the Free Trade Agreements concluded between the United Kingdom and other countries beyond the European Union, Jersey will seek to participate to the fullest extent advantageous to the island."

The UK is among many countries worldwide seeking to negotiate free trade agreements ("FTAs") to foster greater economic activity and job creation, and to deliver opportunities for big and small businesses to benefit from greater trade and investment. FTAs give businesses and consumers improved access to a wider range of competitively priced goods and services, new technologies, and innovative practices. Modern, comprehensive, FTAs achieve this not just by reducing and eliminating tariffs, but also by helping to address behind-the-border barriers that might otherwise impede the flow of goods and services to encourage investment.

Jersey has worked closely with Guernsey and the Isle of Man to seek a common position in respect of the extension of the CPTPP. Both Guernsey and the Isle of Man have indicated support for the extension of the CPTPP from the outset. Ensuring full alignment across the Crown Dependencies is an important policy objective and is achieved with this agreement in principle position.

Responses to the panel's specific questions on the CPTPP are set out below:

1. What are the potential positive and negative consequences of entering into the agreement on Jersey's (a) domestic market and (b) (relatively undeveloped) export/manufacturing market,

a. what risk analysis has been done in this respect?

A: The Government of Jersey undertakes a cross-government exercise to monitor and assess the positive and negative consequences of seeking inclusion in each UK FTA. When analysing risks and opportunities, the Government of Jersey considers not only the risk and opportunities

arising directly from the text of the Agreement itself but also considers broader risks and opportunities such as the difficulty (or otherwise) of future participation if not at this point in time, alignment (or otherwise) with the UK and Crown Dependencies' positions, and the possibility (or otherwise) of future benefits from participation in the agreement, for example where it is likely that the agreement will be updated and enhanced in future.

This process is coordinated by External Relations, which seeks policy input from all relevant government departments, including the Law Officers' Department, in order to assess collectively the impacts of each FTA in relation to the commitments which will apply to Jersey. Each department evaluates its areas of policy responsibility to determine if participation will affect or require any change to current government policy, and whether there are any associated risks with participation. These assessments are then considered collectively by officials meeting in the Jersey Partnership and Trade Group, which agrees a recommendation to present for the consideration of the Council of Ministers.

In the case of the CPTPP, Jersey's participation at this initial stage is limited to the goods chapters, with a possible future extension for services. This is in line with the principles for Jersey's participation in UK FTAs which was agreed by the States Assembly. This level of inclusion is also consistent with the smooth operation of Jersey's customs arrangement with the UK, noting that most of Jersey's exports go to the UK and that the free flow of goods between Jersey and the UK is a cornerstone of island life.

b. what consultation has there been with local industries before the agreement is formally entered into?

A: A large consultation and information sharing exercise was undertaken in Jersey when the UK was in the process of leaving the EU. This culminated in events such as Let's Talk Brexit and, most importantly in relation to trade, Let's Talk Trade. Let's Talk Trade was a consultation that sought views from across Jersey's local businesses on a wide range of trade issues including exports.

More recently, the Export Strategy consultation, conducted between May and September 2022, included a Business Survey to better understand current trade flows and where businesses would be seeking to expand trade flows. This consultation was led by the Department for the Economy but with input from across government, including those leading on Jersey's input into UK trade negotiations.

In addition, policy leads across those government departments involved in the analysis of FTAs maintain their own stakeholder groups, providing local industry with an opportunity to raise any trade interests or priorities.

c. why does Government consider now to be an advisable time to enter into the agreement?

A: As with all UK FTAs, Jersey can seek to benefit by asking the UK to extend coverage of the agreement to include Jersey. This outcome is not automatic and depends on the broader UK negotiation with the relevant third countries. The Government of Jersey assesses that the best time to capitalise on any potential inclusion within UK FTAs is from the outset. This allows the Island to work with the UK from the beginning of the process to understand the full range of risks and opportunities presented by each agreement, and to benefit from the UK's own

assessments in this regard. It is by no means guaranteed that Jersey's participation could be secured at a later stage, particularly in a pre-existing plurilateral agreement like the CPTPP.

d. why are services-related chapters of the CPTPP not extended to Jersey in the current agreement?

A: In line with the principles agreed by the States Assembly, Jersey currently seeks an extension mechanism for the services aspects of FTAs. The Government of Jersey continues to monitor the best way in which Jersey can maximise its opportunities within FTAs, including those chapters which relate to services. If it is deemed in Jersey's best interests to update these principles, any proposed changes to Jersey's approach would be brought to the States Assembly at the earliest opportunity.

The Government of Jersey will now continue to work with UK counterparts to establish the best way forward, within the CPTPP, to enable possible utilisation of the extension mechanism. The Government of Jersey will continue to keep the Scrutiny Panel updated on policy developments in this area.

2. Will the agreement negatively impact on the protected Jersey milk market?

A: Officers have assessed that Jersey's inclusion in CPTPP should have no impact on Jersey's domestic milk market.

3. Has Jersey sought/will it seek exclusion from any provisions of the agreement? If so, which ones?

A: Jersey has sought, where applicable, specific references or exclusions to articles that historically we have secured in other FTAs, for participation in goods.

Looking ahead, if Jersey were to secure services participation through extension, then Jersey would need to secure its own 'reservations' in the form of a 'market access offer'. Working with the UK to develop our market access offer, Jersey would need to secure and maintain any reservations required to protect our small island economy.

4. Noting your provision of the Negotiation Conclusion Document, could the Panel be provided with a copy of the extension agreement?

A: There is no "extension agreement." This is a UK FTA so the extension of the relevant provisions of this Agreement to Jersey will be contained within the text of the UK treaty itself rather than in a separate agreement. The UK has reached agreement in principle, which means there is still a process called the 'legal scrub' to go through prior to the presentation of the text to the UK parliament following its signature. Once this stage of the treaty process is complete, the finalised text will be available for review, and we would be happy to direct the Panel's attention to the relevant provisions on the extension mechanism.

5. What is the anticipated likely impact of the agreement's requirement to promote sustainable fisheries practices on the management of both French and Jersey fishing licences (if this is relevant at this stage)?

A: The EU, and subsequently France, is not a member of the CPTPP and has given no indication of its intention to join it. Jersey and French fisheries management is a matter under the UK-EU Trade Cooperation Agreement (TCA) and not CPTPP.

6. Is it anticipated that the United States of America (US) will enter into the agreement after its former withdrawal?

A: The position of the United States in respect of the CPTPP is a highly political topic, and subject to change in line with the politics of each new administration. Former president Barack Obama hoped the US would also be a founder member before coming up against a Republican Congress that disagreed. Later, Donald Trump abandoned the deal altogether. At the time of writing, the current US administration has given no formal indication that it intends to seek US inclusion in the agreement.

7. A prominent US economist has highlighted Article 18.78 could be used to enforce non-compete agreements while pointing out California's economic success can partly be attributed to its non-allowance of the enforcement of non-compete agreements, which facilitates tech workers quitting their jobs and start to work for another company. Could this be a possible obstacle to Jersey's digital economy aspirations?

A: Jersey's current inclusion, from entry into force, within the agreement is for the goods-based chapters. Policy leads across government continue to assess the benefits of utilising the services extension mechanism and to analyse our ability to comply.

In addition, Article 18.78 refers to the standards set out in 39.2 of the WTO Trade-Related Intellectual Property Rights (TRIPS) agreement and Article 10b is of the Paris Convention, each of which Jersey is already fully compliant with as part of its existing international obligations.

8. What consultation with local industries will there be with respect to other provisions of the agreement?

A: In line with established practice, where Jersey seeks to participate, now or in the future, in any trade agreement which might significantly impact Jersey's current policy position, including a requirement for legislative change, the government will seek to consult with key stakeholders and relevant local industries accordingly. The Minister for External Relations would like to extend an invitation to the Panel for a technical briefing on the Government of Jersey's next steps in terms of the extension and implementation of the CPTPP at the Panel's convenience.

I hope this provides you with all the appropriate information and look forward to continued interest in this important matter.

Yours sincerely,

Minister for External Relations



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