

Inclusion of the Bailiwick of Jersey in the UK-EU Trade and Co-operation Agreement: Fisheries

Environment, Housing and Infrastructure Scrutiny Panel

19th February 2021

S.R.5/2021



States of Jersey
States Assembly



États de Jersey
Assemblée des États

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Chair's Foreword



I would first of all express my gratitude to those involved with the fishing industry in Jersey for their submissions to this report, and given the broad representation, have enabled the Panel to understand better the complexities of Jersey's fishing industry. It is regrettable that the Panel has had such a small window of time in which to research the necessary detail and will refer in the report to the requirement for further work.

History dictates that since 1204 and the splitting of Normandy from Great Britain there have been challenges over the demarcation of fishing zones surrounding Jersey which, unlike Guernsey, is closer to France. The agreements have been varied but have contributed to the Granville Bay Agreement which has created the framework from which future license allocations will doubtless be derived. Nature has provided us with rich fishing grounds and it is only right that we look after them in the interests of not only ourselves but future generations.

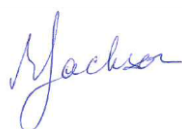
Fishing is a vocation practiced by relatively low numbers of people in the island but those involved are passionate about their role and more conscious than others regarding the conservation of fish stocks and particularly the effects of concentrated fishing effort by large, powerful EU vessels. The inequities are obvious and the present situation cannot be permitted to prevail.

The two main aspects of fishing, in simple terms, are catching the fish and selling them. In the event that they cannot be sold for any of a variety of reasons, there is no point in catching them. That leads to the crucial function of the fish merchants in the chain, given their relationships with fishermen and the markets. Merchants and some aquaculture enterprises in Jersey will tend to take the large part of the catch from the smaller artisanal fishing enterprises and ship in bulk via Granville or St.Malo for onward distribution in the EU. It is essential therefore that we continue to cultivate our relationships and ensure that our markets remain open. Exploration into further markets is warranted and previous experience of flying our fresh shellfish into lucrative markets should not be discounted.

The licensing proposals presently being proposed have the potential for Jersey to be able to control and manage its fishery in a sustainable manner and the Minister's ability to be able to condition these licenses in a fair and equitable way for all parties has to be the way forward. The Minister will need to be transparent in his allocation of licenses as failing this he will risk much criticism.

It is clear that the TCA doesn't alter our sovereignty over the 'rocks' of the Minquiers and Écréhous reefs but the ability for designated EU vessels to fish within 3 miles remains in line with previous agreements. Future consideration could be given to either regularise this arrangement given that our fleet are prevented from fishing inside 3 mile limits of the French Iles Chausey and Le Plateau des Roches Douvres. This will need to be done outside the present Brexit arrangements by the special committees that exist for these matters.

I'm grateful once again to the Greffe staff for their research and in producing this report in short order.

A handwritten signature in blue ink that reads "M Jackson". The signature is written in a cursive, flowing style.

Connétable Mike Jackson
Chair, Environment, Housing and Infrastructure Scrutiny Panel

Executive Summary

A States Assembly decision [[P.170/2020](#)] made on the 27th December agreed that in order for Jersey to continue to have a trade relationship with the European Union (EU) post-Brexit, Jersey should participate in the UK-EU Trade and Cooperation Agreement ('TCA'). This decision was based on summary terms of the TCA, as the [full legal text](#) was not made available until the morning of 24th December 2021 and there was insufficient time to scrutinise the detail before a decision on extension was required on 27th December. Given the tight timescale for ratification of the TCA, the UK and EU agreed a 90-day period, during which Jersey, through the UK, would be able to terminate its involvement in the agreement. The 90-day period provided time for further consideration of the detailed terms, including the final legal text.

[Amendments](#) to P.170/2020 requested that the Brexit Review Panel and the Environment, Housing and Infrastructure Scrutiny Panel present a report before the end of the 90-day 'cooling off period', which would consider the final legal text of the TCA and take advice from the Law Officers' Department, in order to form a view on whether the full legal text reflected the terms of the summary agreement (P.170/2020). The amendment also asked that scrutiny include any other information that, in the opinion of the Panels, should be brought to the attention of the Assembly, including whether or not the Panels believe it is in the best interests of the Island to subscribe to the relevant terms of the UK-EU Trade and Cooperation Agreement.

The overarching aim of the Panel's review was therefore to establish whether it is in Jersey's best interests of Jersey to subscribe to the relevant Terms of the TCA, noting that maritime resources and goods are linked and must *both* be approved to ensure Jersey's participation in the TCA. The goal of the review was to identify key issues for States Members to consider, following scrutiny of the full legal text, and to provide constructive feedback and recommendations for the Council of Ministers in the report.

The TCA supersedes the former Granville Bay Agreement (GBA), although the Panel has found this does not affect the delineation of the maritime boundary between Jersey and France. The Maritime Boundary Agreement is distinct from the GBA as it establishes definitive international maritime borders between the UK and France in the GBA area for all purposes and not just fisheries access. However, it is felt by Jersey's Fishermen's Association that under the terms of the Granville Bay Agreement, unfair and inequitable access arrangements have allowed French vessels to fish within 3 nautical miles (nm) of Jersey's offshore reefs and islets without a reciprocal agreement for Jersey vessels fishing off French sovereign territories. There are concerns that should this inequity continue to go unaddressed this will continue to disadvantage Jersey's fishing industry.

Jersey's inclusion in the TCA will mean that the management of its waters would now no longer be done jointly, as was previously the position under the GBA. Instead, Jersey will be entitled to manage its waters as it sees fit, within the general principles of Article FISH 4 of the TCA. This will include the ability to impose non-discriminatory management restrictions, on a scientifically justified basis. The Panel has recommended that the Minister for the Environment should ensure that evidence is evaluated carefully in line with the criteria in Article FISH 10 of the TCA before determining which EU vessels are licenced to fish after 1 May 2021. The Panel considers this essential in order to ensure Jersey's fishing interests are protected.

A notable finding of the Panel's review is that Jersey's inclusion in the TCA represents an opportunity to better manage fishing activity in Jersey's waters in terms of developing an ecologically and economically sustainable approach. The Panel has therefore recommended that consideration should be given to what measures can be taken to exercise powers under the TCA for the benefit of sustainable fisheries management and conservation. Furthermore, that a Marine Resources Strategy should be developed to underpin sustainable fisheries management. The Panel considers that the proposed strategy should be developed and brought forward for States debate before the end of 2021.

It was also found that establishing environmental agreements over shared fishing grounds has historically been problematic and required careful negotiation to ensure buy-in from all stakeholders. The Panel has therefore recommended that following the 90-day cooling off period, the Government of Jersey should help facilitate industry-level discussion between French and Jersey fishermen to address any key concerns or issues arising from the new regime and access arrangements to Jersey's waters.

The Panel is pleased to note that the TCA does not affect Jersey's sovereignty over its offshore reefs and islets, but there remains some scope through the new licensing regime, to apply conditions on access to these areas in a non-discriminatory way to ensure they are managed in a sustainable way that will benefit Jersey's fishing industry in the medium to long term.

However, new procedures and processes have created additional administration and handling charges for the fishing and aquaculture industry, such as the States Vet inspecting and producing export health certificates. This work is creating extra costs with industry having to absorb these costs and which is likely to have an impact on their profitability in the short to medium term. Furthermore, it was found that a lack of resources at the States Veterinary Department to inspect exports and award health certificates is partly responsible for the delays being experienced by shellfish exporters under new trade rules. The Panel has recommended that this under-resourcing is addressed as a matter of urgency.

The Panel is disappointed to note that Jersey's Government is not actively considering or pursuing the possibility of a dedicated post to support the fishing industry. Instead, support is proposed to be drawn upon from existing teams despite the fact that it is widely acknowledged that these teams are already under-resourced. As a result of this, the Panel has recommended that a business case be prepared, without delay, for a new, dedicated government post to assist the fishing industry with matters such as landing and export paperwork and identifying new export markets for Jersey-caught fish.

It is evident that developing alternative markets for export to reduce the historic reliance on trade to France and Southern Europe should be a key medium-to-long-term objective for the fishing industry. However, this will require significant investment in infrastructure and marketing. The Panel has recommended that, in the short-term, Government's priority focus must be on easing the flow of goods into France, especially at key ports such as Granville.

In addition, in order to future-proof Jersey's fishing industry, steps must be taken to identify new export markets and investigate market diversification, such as exporting frozen processed shellfish. The Panel has therefore recommended that a proposed new Marine Resources Strategy includes a strategic economic framework for market diversification which encompasses new thinking on trade and export routes for Jersey-caught fish and suitable investment in infrastructure to help support this.

The Panel has found that the TCA replaces existing fishing access arrangements with a regime based on EU vessels being required to demonstrate a 'track record' of fishing activity in Jersey's waters, in order to be issued a licence to enable these vessels to continue to fish

Jersey's waters. However, it will not be possible to definitively assess the full effect on provisions for fisheries within the first 90 days, particularly in relation to the amount of boats that will be able to fish in Jersey's waters or the conditions under which fishing activities may take place. Moreover, the process of collecting and evaluating evidence for EU vessels to demonstrate suitable track record is challenging and complex. Once evidence of track record has been received from vessels it will be important for Jersey's Government to apply the criteria in Article FISH 10(1) precisely.

The Panel received evidence that the transitional amnesty and issuing of licenses to EU vessels between January – May 2021 has caused deep concern amongst stakeholders about the fairness of licensing processes after May 1st. Consequently, the Panel has recommended that the Minister for the Environment should reassure the fishing industry that licensing procedures from May 1st will be non-discriminatory towards the Jersey fleet, with the same requirements applying to both Jersey and EU vessels in terms of conditions around catch, data collection and any other rules and regulations.

It was further highlighted that the conditions around meeting licensing requirements represent a significant financial obligation for Jersey's local fleet, who (unlike the EU fleet) do not receive Government subsidises to support local fishing interests. The Panel has recommended that in developing fair and equitable licensing conditions, the Minister for the Environment should be mindful to avoid discriminating against local fishermen by creating prohibitively expensive hurdles to attaining a license and seek to ensure the system is financially viable for Jersey fishermen. The Panel has suggested that consideration should be given to developing an appropriate grant system for the Jersey fleet.

Given that Jersey's appointment as the licensing authority represents a positive opportunity to preserve and enhance the marine environment and address access and management issues around shared fishing waters; the Panel has recommended that careful consideration should be given to various conditions that should be attached to licences to improve fisheries management and provide increased opportunities for Jersey's relatively low impact fleet.

The Panel found that, historically, it has been difficult to enforce and collect data about the type and quantity of fishing activity taking place by EU vessels in shared waters, which has impeded the proper management and cultivation of fisheries. It therefore may be challenging for EU vessels to be able to completely or accurately demonstrate the historic extent and nature of non-VMS vessel activity, in accordance with new licensing conditions. The Panel has recommended that the Minister for the Environment should exercise caution when defining what evidence will be required to determine the 'extent and nature' of fishing activity that is undertaken. Moreover, the evidence required should not unnecessarily restrict fishing activity or trade but should ensure licensing is robust and promotes sustainable ecological and economic management of the fisheries through the imposition of appropriate conditions.

Another finding of the review was that whilst Jersey fishing licence holders are, by their nature, linked to Jersey's economy, the same is not necessarily the case for French licence holders. The Panel has therefore recommended that consideration should be given to creating an economic link as a licence condition for all vessels fishing in Jersey waters, along the lines of those imposed in other jurisdictions (for example, a % of a vessel's catch being landed in Jersey or vessels being crewed by Jersey residents).

Jersey's fishing industry currently receives no financial support from the Government with regard to licensing fees, safety equipment and vessel upgrades, unlike EU fishing fleets. Whilst the Minister for the Environment has confirmed that a support package is being looked at, the Panel considers that this is not being expedited fast enough. The Panel has

recommended that Ministers confirm, without delay, what financial support can be made available to assist Jersey's fishing industry in the immediate short-term.

Another key finding of the review was that it is recognised by the Minister for the Environment that "more effort" will be required to ensure Jersey is adequately equipped to take enforcement action where unlicensed fishing vessels may attempt to operate in Jersey's waters. It is also recognised that more efforts will need to be concentrated on marine science, monitoring and ensuring Jersey achieves what is required in order to have a sustainable fishery. However, the Minister shared his concerns with the Panel that the Marine Resources team is not adequately resourced in terms of manpower at present. The Panel notes that it is anticipated that a further Government Plan bid will be made in the hope of securing added human resources to bolster the team's manpower. The Panel has recommended that Government should work as expeditiously as possible to ensure Jersey is fully equipped to manage any issues of enforcement which might arise following the transition period.

In order to assess whether Jersey's continued participation in the TCA is within the island's best interests, the Panel sought to understand what the implications would be if Jersey withdrew from the agreement. It was found that if Jersey took the decision to withdraw from the TCA it would have no formal relationship with the E.U. in relation to goods and customs. Tariffs would be imposed on all goods from Jersey into the E.U. There is also a perceived risk that Jersey (including its fishing industry) would find it more difficult to access European markets.

Moreover, Jersey's withdrawal from the TCA within the first 90 days of the TCA would see a return to the Granville Bay Agreement, which would remove the rights of the Minister for the Environment to issue licences to vessels to fish in Jersey's waters. Therefore, if Jersey terminated its inclusion in the TCA, it would need to address the concerns that exist around the Granville Bay Agreement and this would most likely require Jersey's Government to commence negotiations on a new fishing arrangement with the EU. The outcome of this would be uncertain for Jersey.

In consideration of all the findings, it is the Panel's view that the full legal text of the TCA reflects what was anticipated in the P.170/2020 summary text in relation to fisheries. Therefore, in consideration of the evidence presented and from what is known at the present time, it is considered in Jersey's best interests not to trigger the cancellation clause of the TCA. However, it is also evident from our findings that there are practical challenges that remain and will continue to remain under the TCA in terms of fisheries management. Moreover, there will be significant work to do to ensure the successful, practical implementation of the TCA at ground level and to ensure the fishing industry is sufficiently supported. Therefore, in the event that Jersey does continue to participate in the TCA, the Panel has recommended that the Minister for the Environment provides quarterly reports to the States Assembly culminating in a final main report in May 2022 outlining how, in relation to fisheries, Jersey's participation in the TCA has developed in the first twelve months. The Panel requests that these reports include detail of how the licensing regime is working in practice, as well as any other operational effects of Jersey's inclusion in the TCA. They should incorporate any stakeholder engagement and feedback and clearly note any successes or challenges faced.

Key Findings

KEY FINDING 1: The TCA supersedes the Granville Bay Agreement, although this does not affect the delineation of the maritime boundary between Jersey and France. The Maritime Boundary Agreement is distinct from the GBA as it establishes definitive international maritime borders between the UK and France in the GBA area for all purposes and not just fisheries access.

KEY FINDING 2: It is felt by Jersey's Fishermen's Association that under the terms of the Granville Bay Agreement, unfair and inequitable access arrangements allowed French vessels to fish within 3nm of Jersey's offshore reefs and islets without a reciprocal agreement for Jersey vessels fishing off French sovereign territories. There are concerns that should this inequity continue to go unaddressed then this will continue to disadvantage Jersey's fishing industry.

KEY FINDING 3: Jersey's inclusion in the TCA will mean that the management of its waters would now no longer be done jointly, as was previously the position under the GBA. Instead, Jersey will be entitled to manage its waters as it sees fit, within the general principles of Article FISH 4. This will include the ability to impose non-discriminatory management restrictions, on a scientifically justified basis.

KEY FINDING 4: Jersey's inclusion in the TCA represents an opportunity to better manage fishing activity in Jersey's waters in terms of developing an ecologically and economically sustainable approach.

KEY FINDING 5: Establishing environmental agreements over shared fishing grounds has previously been difficult and required careful negotiation to ensure buy-in from all stakeholders.

KEY FINDING 6: The TCA does not affect Jersey's sovereignty over its offshore reefs and islets, but there remains some scope through the new licensing regime, to apply conditions on access to these areas in a non-discriminatory way to ensure they are managed in a sustainable way that will benefit Jersey's fishing industry in the medium to long term.

KEY FINDING 7: The new procedures and processes have created additional administration and handling charges, such as the States Vet inspecting and producing export health certificates. This work is creating extra costs and fishermen, merchants and aquaculture businesses will be under pressure to absorb these costs, which is likely to have an impact on their profitability in the short to medium term.

KEY FINDING 8: A lack of resources at the Veterinary Department to inspect exports and award health certificates is partly responsible for the delays being experienced by shellfish exporters under new trade rules.

KEY FINDING 9: Government is not actively considering or pursuing the possibility of a dedicated post to support the fishing industry. Instead, support is proposed to be drawn upon from existing teams, despite the fact that it is widely acknowledged that these teams are already under-resourced.

KEY FINDING 10: Developing alternative markets for export to reduce the historic reliance on trade to France and Southern Europe should be a key medium-to-long-term objective for the fishing industry, but this will require significant investment in infrastructure and marketing.

KEY FINDING 11: In order to future-proof Jersey's fishing industry, steps must be taken to identify new export markets and look into market diversification such as exporting frozen processed shellfish.

KEY FINDING 12: Apart from the Covid-19 emergency financial support scheme, the fishing industry has not yet been offered a support package to help mitigate the financial impact of the new processes and procedures under the TCA.

KEY FINDING 13: The TCA replaces existing fishing access arrangements with a regime based on EU vessels being required to demonstrate a 'track record' of fishing activity in Jersey's waters, in order to be issued a licence to enable these vessels to continue to fish Jersey's waters.

KEY FINDING 14: It will not be possible to definitively assess the full effect on provisions for fisheries within the first 90 days, particularly in relation to the amount of boats that will be able to fish in Jersey's waters or the conditions under which fishing activities may take place. It will be important for Jersey's Government to adopt a methodical and evidence-based approach to assessing track record to ensure that the criteria set out in Article FISH 10 are applied.

KEY FINDING 15: The process of collecting and evaluating evidence for EU vessels to demonstrate suitable track record is challenging and complex. Once evidence of track record has been received from vessels it will be important for Jersey's Government to apply the criteria in Article FISH 10(1) precisely.

KEY FINDING 16: The transitional amnesty with regards to issuing licenses to EU vessels between January – May 2021 has caused deep concern amongst stakeholders about the fairness of licensing processes after May 1st.

KEY FINDING 17: The conditions around meeting licensing requirements represent a significant financial obligation for Jersey's local fleet, who (unlike the EU fleet) do not receive Government subsidises to support local fishing interests.

KEY FINDING 18: Appointing Jersey as the licensing authority represents a positive opportunity to preserve and enhance the marine environment and address access and management issues around shared fishing waters that were not sufficiently resolved through the Granville Bay Agreement.

KEY FINDING 19: Historically, it has been difficult to enforce and collect data about the type and quantity of fishing activity taking place by EU vessels in shared waters, which has impeded the proper management and cultivation of fisheries. It may be challenging for EU vessels to be able to completely or accurately demonstrate the historic extent and nature of non-VMS vessel activity in accordance with new licensing conditions.

KEY FINDING 20: Whilst Jersey fishing licence holders are by their nature linked to Jersey's economy, the same is not necessarily the case for French licence holders.

KEY FINDING 21: Jersey's fishing industry currently receives no financial support from the Government with regard to licensing fees, safety equipment and vessel upgrades, unlike EU fishing fleets. Whilst the Minister for the Environment has confirmed that a support package is being looked at, the Panel considers that this is not being expedited fast enough.

KEY FINDING 22: It is recognised by the Minister for the Environment that “more effort” will be required to ensure Jersey is adequately equipped to take enforcement action where unlicensed fishing vessels may attempt to operate in Jersey’s waters. It is also recognised that more efforts will need to be concentrated on marine science, monitoring and ensuring Jersey achieves what is required in order to have a sustainable fishery.

KEY FINDING 23: France is also responsible for ensuring that French fishing vessels have the appropriate licences required as they must ensure that French vessels fishing in third countries’ waters, such as Jersey’s, have a licence, which is then followed up by a further licence from the country of the boat called a S.M.E.F.F. (Sustainable Management of External Fishing Fleets) licence.

KEY FINDING 24: The Minister for the Environment has concerns that the Marine Resources team is not adequately resourced in terms of manpower at present. It is anticipated that a further Government Plan bid will be made in the hope of securing added human resources to bolster the team’s manpower.

KEY FINDING 25: Suitable enforcement measures are likely to be resource intensive and seasonal and so the recruitment for additional posts to this role would need to take into account what other duties could be carried out when fishing fleets are not in operation.

KEY FINDING 26: If Jersey took the decision to withdraw from the TCA it would have no formal relationship with the E.U. in relation to goods and customs. Tariffs would be imposed on all goods from Jersey into the E.U. There is also a perceived risk that Jersey (including its fishing industry) would find it more difficult to access European markets.

KEY FINDING 27: Jersey’s withdrawal from the TCA within the first 90 days of the TCA would see a return to the Granville Bay Agreement, which would remove the rights of the Minister for the Environment to issue licences to vessels to fish in Jersey’s waters. Jersey would not be party to the Partnership Council and there would be no mechanism to deal with any difficulties with fisheries matters or other trade matters.

KEY FINDING 28: The full legal text of the TCA is broadly aligned to what was outlined and understood to be the case in the summary contained in the Minister’s Report on P170/2020. Specifically, both goods and fisheries are inseparably linked in the agreement and which is reflective of what the summary text asserted.

KEY FINDING 29: There is provision for termination of Jersey’s participation in the TCA after the 90-day cooling off period, albeit this provision is subject to a three-year notice period.

KEY FINDING 30: If Jersey terminated its inclusion in the TCA, it would need to address the concerns that exist around the Granville Bay Agreement and this would most likely require Jersey’s Government to commence negotiations on a new fishing arrangement with the EU. The outcome of this would be uncertain for Jersey.

Recommendations

RECOMMENDATION 1: The Minister for the Environment should ensure that evidence is evaluated carefully in line with the criteria in Article FISH 10 of the TCA before determining which EU vessels are licenced to fish after 1st May. This is essential in order to ensure Jersey's fishing interests are protected.

RECOMMENDATION 2: The Minister for the Environment should consider what measures can be taken to exercise powers under the TCA for the benefit of sustainable fisheries management and conservation.

RECOMMENDATION 3: The Minister for the Environment, Marine Resources Department and key stakeholders should work together to develop an ecologically and economically sustainable Marine Resources Strategy to underpin sustainable fisheries management, including the data and reporting requirements that might be imposed upon all fishermen, and the means to balance short-term losses against long-term growth. A Strategy should be developed and brought forward for States debate before the end of 2021.

RECOMMENDATION 4: Following the 90-day cooling off period, the Government of Jersey should help facilitate industry-level discussion between French and Jersey fishermen to address any key concerns or issues arising from the new regime and access arrangements.

RECOMMENDATION 5: The Minister for the Environment should, as a matter of urgency, seek to address the inadequate resourcing for the inspection of shellfish exports and issuing of health certificates. This should seek to be resolved as speedily as possible.

RECOMMENDATION 6: The Minister for the Environment should prepare a business case for a new, dedicated government post to assist the fishing industry with matters such as landing and export paperwork and identifying new export markets for Jersey-caught fish. The business case should be prepared and provided to the Panel without further delay.

RECOMMENDATION 7: The Minister for the Environment, together with the Minister for External Relations should ensure that the short-term, priority focus must be on easing the flow of goods into France, especially at key ports such as Granville.

RECOMMENDATION 8: The Minister for the Environment should ensure that, in consultation with industry, a new Marine Resources Strategy includes a strategic economic framework for market diversification which encompasses new thinking on trade and export routes for Jersey-caught fish and suitable investment in infrastructure to support this.

RECOMMENDATION 9: The Minister for the Environment should seek to reassure the fishing industry that licensing procedures from May 1st will be non-discriminatory towards the Jersey fleet, with the same requirements applying to both Jersey and EU vessels in terms of conditions around catch, data collection and any other rules and regulations.

RECOMMENDATION 10: In developing fair and equitable licensing conditions, the Minister for the Environment should be mindful to avoid discriminating against local fishermen by creating prohibitively expensive hurdles to attaining a license and seek to ensure the system is financially viable for Jersey fishermen. Consideration should be given to developing an appropriate grant system for the Jersey fleet.

RECOMMENDATION 11: The Minister for the Environment should give careful consideration to various conditions that should be attached to licences which would represent a step change

in improved fisheries management and increased opportunities for Jersey's relatively low impact fleet.

RECOMMENDATION 12: The Minister for the Environment should exercise caution when defining what evidence will be required to determine the 'extent and nature' of fishing activity that is undertaken. The evidence required should not unnecessarily restrict fishing activity or trade and but should ensure licensing is robust and promote sustainable ecological and economic management of the fisheries through the imposition of appropriate conditions.

RECOMMENDATION 13: The Minister for the Environment and the Minister for Economic Development, Tourism, Sport and Culture should consider creating an economic link as a licence condition for all vessels fishing in Jersey waters, along the lines of those imposed in other jurisdictions (for example, a % of a vessel's catch being landed in Jersey or vessels being crewed by Jersey residents).

RECOMMENDATION 14: The Minister for the Environment should work jointly with the Minister for Economic Development, Tourism, Sport and Culture to expedite, without delay, what financial support can be made available to assist Jersey's fishing industry in the immediate short-term.

RECOMMENDATION 15: Government should work as expeditiously as possible to ensure Jersey is fully equipped to manage any issues of enforcement which might arise following the transition period. The Panel requests that the Minister for the Environment provide the Panel with a further update before 31st March 2021 on progress made on the recruitment of additional enforcement officer post(s) and how these post(s) will be structured in order to ensure other duties can be undertaken out of season.

RECOMMENDATION 16: In the event that Jersey continues to participate in the TCA, The Minister for the Environment should provide quarterly reports to the States Assembly culminating in a final main report in May 2022 outlining how, in relation to fisheries, Jersey's participation in the TCA has developed in the first twelve months. These reports should include detail of how the licensing regime is working in practice, as well as any other operational effects of Jersey's inclusion in the TCA. They should incorporate any stakeholder engagement and feedback and clearly note any successes or challenges faced.

1 Introduction

Background and context

On 24th December 2020, a recommendation was made by the Council of Ministers that in order for Jersey to continue to have a trade relationship with the EU post-Brexit, Jersey should participate in the UK-EU Trade and Cooperation Agreement ('TCA'). Subsequently this recommendation was set out in a proposition ([P.170/2020](#)), which was brought forward for debate and approved at a requisitioned sitting of the States Assembly on 27th December 2020.

The decision by the States Assembly was based on summary terms of the TCA, as the [full legal text](#) was not made available until the morning of 24th December 2021 and there was insufficient time to scrutinise the detail before a decision on extension was required on 27th December. Given the tight timescale for ratification of the TCA, the UK and EU agreed a 90-day period, during which Jersey, through the UK, would be able to terminate its involvement in the Agreement. The 90-day period provides time for further consideration of the detailed terms, including the final legal text.

P.170/2020 acknowledges that TCA will apply to Jersey to a more limited extent than to the UK, and will govern the relationship between Jersey and the European Union principally in relation to:

“trade in goods, including customs tariffs and procedures, as well as certain recognition of regulatory standards in relation to agricultural and manufactured goods; and”

“the exploitation of maritime resources in Jersey’s territorial waters.”

During the debate, the proposition was [amended](#) (which included an [amendment to an amendment](#)) which was accepted by the Assembly. These amendments requested that the Brexit Review Panel and the Environment, Housing and Infrastructure Scrutiny Panel present a report before the end of the 90-day “cooling off period”, considering the final legal text of the TCA, having taken advice from the Law Officers’ Department, in order to form a view on whether it reflected the terms of the summary agreement (P.170/2020). The amendment also asked that scrutiny included any other information that, in the opinion of the Panels, should be brought to the attention of the Assembly, including whether or not the Panels believe it is in the best interests of the Island to subscribe to the relevant terms of the UK-EU Trade and Economic Cooperation Agreement. Following the approval of P.170/2020, scrutiny work was split across the Brexit Review Panel and the Environment, Housing and Infrastructure (EHI) Scrutiny Panel. The EHI Panel focused on fisheries and the Brexit Review Panel focused on all other areas relevant to Jersey within the TCA.

The EHI Panel was keen to ensure that the impact of the TCA on Jersey’s maritime resources was scrutinised and explored carefully. The overarching aim of the review was therefore to establish whether it is in Jersey’s best interests to subscribe to the relevant Terms of the TCA, noting that maritime resources and goods are linked and must *both* be approved to ensure Jersey’s participation in the Agreement. The goal of the review was to identify key issues for States Members to consider, following scrutiny of the full legal text, and to provide constructive feedback and recommendations for the Council of Ministers in the report.

The review therefore sought to examine the following key issues:

- whether the relevant maritime resources sections of the legal text reflect the summary agreement (P.170/2020) and whether the terms of the TCA in Jersey's best interests with regards to fisheries;
- the practical implications of ceasing joint management of Jersey's waters (the Granville Bay Treaty), with a particular focus on the following:
 - fishing in the waters within 3 nautical miles of the Minquiers and Écréhous reefs
 - Zone A of the Les Pierres de Lecq rock grouping (Paternosters)
 - Zone B of the Les Dirouilles rock grouping;
- the resource implications for Jersey's Marine Resourcing Team arising from the new agreement;
- the changes to processes and procedures for the fishing industry and what impact this might have in Jersey;
- the new model for licensing EU fishing vessels in Jersey waters and consideration of any subsidies offered by the French government to French fishing interests.

The Panel's full Terms of Reference for the review can be found in Appendix 1 of this report.

Review methodology

In order to inform its review, the Panel issued a call for evidence between 14th – 29th January 2021, seeking the views of key stakeholders across the fishing industry, merchants, wholesalers and exporters as well as representatives from the maritime conservation and business industries. A total of 40 written submissions were received and can be viewed [here](#).

Public hearings were held with the Minister for the Environment and the Minister for External Relations, as well as with Jersey Oyster owner and director Chris le Masurier, former Marine Resources Advisory Officer Simon Bossy and the President of the Jersey Fishermen's Association, Don Thompson. The transcripts for these hearings can be viewed [here](#).

The Panel also received briefings and legal advice from the Law Officers' Department on the full legal text.

Report structure

Chapter 2 will assess the practical implications of the cessation of the Granville Bay Treaty for Jersey's maritime industries, including the application of the 3 nautical mile exclusive fishing zone around Jersey, but not around the Minquiers and Écréhous reefs as well as the offshore reefs in former Zone A and Zone B rock groupings;

Chapter 3 will consider the impact of the changes to processes and procedures in the fishing industry as a result of the new agreement, including new expectations around exporting Jersey-caught fish and aquaculture products and any financial impact this will have;

Chapter 4 will analyse the new licensing processes and procedures in place for EU vessels fishing in Jersey waters and consider the level of subsidy offered by the French government to support French fishing interests;

Chapter 5 will consider the resource implications that the TCA will have for Jersey's Marine Resources Team, in terms of supporting and enforcing the new protocols;

Chapter 6 will summarise the Panel's views with regard to whether the full legal text reflects the provisions of the P.170/2020 summary text and whether it is in the best interest of Jersey

to subscribe to the maritime resources section of the TCA. It will also provide comments for consideration on the opportunities and drawbacks that this represents for Jersey's fisheries.

Chapter 7 will provide a short concluding view, based on the evidence available, as to whether Jersey should trigger the cancellation clause or remain signed up to the TCA.

2 Practical implications of the cessation of the Granville Bay Agreement

The TCA supersedes and replaces the Granville Bay Agreement ("GBA"), a treaty made between the French and UK Governments¹ which established fishing zones within the Bay of Granville² (see Appendix 2) and made provision for the joint management of Jersey waters outside of the three miles from baselines around the coast of the Island of Jersey. The TCA replaces these historic fishing access arrangements with a new regime, which requires both EU and Jersey vessels to demonstrate a sufficient 'track record' of fishing activity in the waters under the preceding arrangements of the GBA in order to qualify for a license. The new regime applies to both EU vessels in Jersey waters and for Jersey vessels in EU waters. Access by EU and Jersey vessels in Jersey waters will be controlled via a licensing scheme administered by the Government of Jersey (see Chapter 4).

The Panel notes that Article FISH.19(2) of the TCA expressly supersedes agreements, such as the GBA, with respect to fishing in the territorial seas adjacent to the Crown Dependencies. However, the Panel is advised that this provision does not affect the delineation of the maritime boundary between Jersey and France. It is understood that this was addressed in a separate agreement from the GBA between the UK and France "concerning the Establishment of a Maritime Boundary between France and Jersey" (the "Maritime Boundary Agreement" or "MBA"). Figure 1³ demonstrates the two separate boundary lines. The Admiralty Chart also shows a more detailed depiction in nautical miles (see Appendix 3). While the MBA was

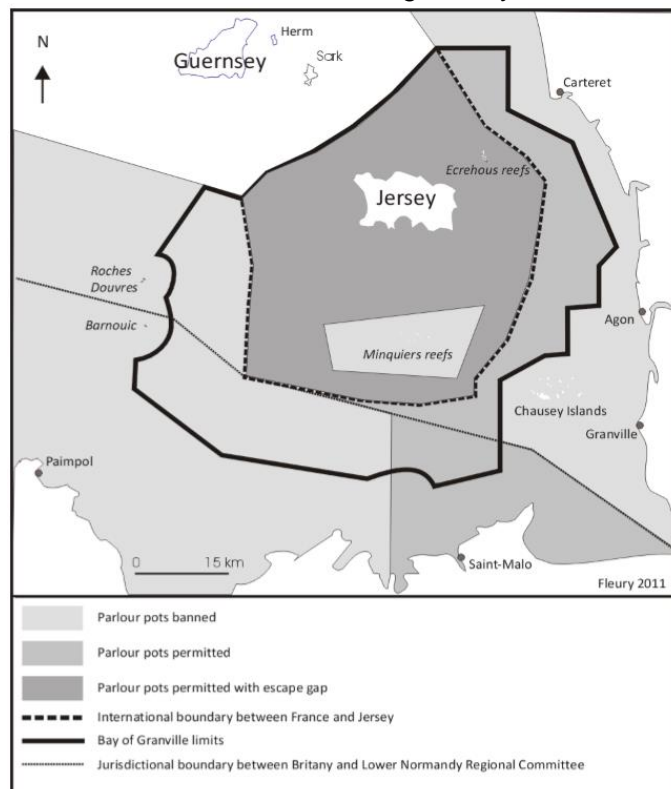


Figure 1 - Map showing international maritime boundary and GBA boundary (Fleury 2011)

¹ The UK was the holder of the international law rights in respect of the treaty as a legal instrument. This was not affected by the fact that, under Article 11 of the GBA, references to 'a Party' or 'the Parties' could have been read as meaning Jersey.

² See Article 1 of the GBA

³ [Fleury, C. \(2011\) Jersey and Guernsey: Two distinct approaches to cross-border fishery management](#)

concluded at the same time as the GBA, the purposes and effects of the MBA are considered distinct as it establishes definitively the international maritime borders between the UK and France in the Granville Bay Area for all purposes (not just fisheries access).

KEY FINDING 1: The TCA supersedes the Granville Bay Agreement, although this does not affect the delineation of the maritime boundary between Jersey and France. The Maritime Boundary Agreement is distinct from the GBA as it establishes definitive international maritime borders between the UK and France in the GBA area for all purposes and not just fisheries access.

Stakeholder concerns

The Granville Bay Agreement provided for shared fishing rights and management over the Granville Bay area (outside the exclusive three nautical mile limit around Jersey allocated to Jersey's fishing vessels) and divided the area into management zones (see Appendix 2). Fishing in Jersey's 3-6 nautical mile limit, west of the 2° west longitude, was restricted to specific numbers of French vessels and French fishing within 3 miles of the Pierres de Lecq (Zone A) was in the process of being "phased out" over a period of time completely.⁴ Jersey access for a specified number of vessels around the Plateau des Roches Douvres and waters adjacent to St. Malo was also defined.⁵ Under the terms of the TCA, these zones remain intact, but the Minister for the Environment is now also responsible for authorising qualifying EU vessels, as well as Jersey vessels, to fish in areas outside of Jersey's 3nm exclusion zone.

The overwhelming view of the fishing industry was that the TCA represents a missed opportunity to establish proper baseline limits for Jersey's fisheries, specifically exclusion zones over sovereign territories of the offshore reefs and islets (including the Minquiers and Écréhous Islands, the Paternosters (Zone A of the Pierres de Lecq rock grouping) and Zone B of the Dirouilles Rock group):

*"Regarding fisheries limits, why is Jersey the only place in the entire world that does not have exclusive rights to fisheries inside its own 3 mile limit, France has an exclusive 3 mile limit around the 'Roches douvres' why do we not have the same around Les Minquiers?"*⁶

*"I am feeling let down that we do not have 6 or 12 mile limit around Jersey like the rest of Europe. I believe that we should be increasing our current limit of 3 miles island to protect our industry. I am also feeling that there was been an overall lack of support for the fleet."*⁷

Many of those who wrote to the Panel felt that to leave the question of fair and equitable access rights for EU and Jersey vessels around sovereign reefs and islets unresolved could disadvantage Jersey's smaller fishing fleet economically in the future.^[6] The JFA reflected these concerns in a written submission:

⁴ Note that the areas within 3 miles of the Paternosters and Les Dirouilles (Zones A and B under the GBA) were only accessible by certain French boats (on a diminishing basis) under the Exchange of Notes on Access to Fishing in Certain Zones of the Bay of Granville Area (No. 1).

⁵ See <https://statesassembly.gov.je/assemblypropositions/2002/10656-24757.pdf>

⁶ Written Submission from [David de Carteret](#)

⁷ Written Submission from [Andrew Walsh](#)

“It is important to note firstly that, with Jersey's fleet effectively pinned to just 3 nautical miles , rather than the minimum of 6 nm and more standard 12 nm around the rest of UK & Europe, it is certain, that our fleet will continue to diminish as it has done since the Granville Bay Accord became effective in 2002. Of the total area of Jersey's territorial seas Jersey has exclusivity over a little over 600 [sic – see note below] square miles, while the rest in the 3-12 nm zone(1422 sq miles) [sic – see note below] is covered by the new TCA.”⁸

A written submission from Jade-S Fisheries reflected wider fears amongst stakeholders that under new arrangements, access to shared fishing grounds could be restricted for Jersey's fleet, with a resultant economic and environmental impact:

“A 50% reduction [in the exclusion zone] will severely impact the livelihoods of local fishermen which rely on exclusive rights to these waters. The environmental impact of allowing more vessels within the areas will put excessive pressure on fish and shellfish stocks which the local fleet and Fisheries Dept. are already working extensively to preserve. In addition, with less to catch, the economic impact will be severe for the small, local fishing vessels. It will undoubtedly cause a number of fishermen to go out of business putting extreme pressure on them, their crew and their families, and ultimately on the Government.”⁹

Legal advice from the Law Officers' Department clarified that the TCA does not affect or question Jersey's territorial sovereignty over the rocks of the offshore reefs, as determined by the International Court of Justice (Minquiers and Écréhous) in France v United Kingdom,¹⁰ or the effect of the Territorial Seas Act 1987 (Jersey) Order 1997¹¹ with respect to the delineation and extent of Jersey's territorial waters. However, the ambiguity over how fishing access by EU and Jersey vessels in these areas will be agreed going forward was a cause for concern amongst stakeholders.

It is the Panel's understanding from the legal advice that with respect to fishing access around the Les Écréhous and Les Minquiers, both these areas generate their own “basepoints” for the purposes of the delineation of Jersey's territorial waters. However, territorial sea measurements are a distinct matter from access to fisheries within those boundaries. Furthermore, it is only fisheries access that is dealt with under the terms of the TCA. As a result of the terms of the GBA and prior fishing access agreements French vessels have previously been permitted to fish around these reefs and may be able to provide evidence of a track record of fishing activity in these areas. If this is the case, this will need to be taken into account in the licensing provisions.

However, the Panel notes an important difference for Jersey under the TCA is that the management of its waters would now no longer be done jointly, as was previously the position under the GBA. Article FISH 4 provides that:

⁸ Written Submission from [Jersey Fishermen's Association](#)

N.B. Following their written submission the JFA has advised that these were approximate figures recalled from memory and that “notes from previous research indicate the exclusive area inside Jersey 3 miles 635 sq km and the wider area of Jersey's waters covered by the treaty is 1820 sq km.”

⁹ Submission from [Jade-S Fisheries](#)

¹⁰ I.C.J Reports 1953, page 47.

¹¹ <https://www.jerseylaw.je/laws/unofficialconsolidated/Pages/15.800.aspx> As also further amended by the Territorial Sea Act 1987 (Jersey) (Amendment) Order 2002.

“Each Party shall decide on any measures applicable to its waters in pursuit of the objectives set out in Article FISH.2(1) and (2)[Objectives and principles], and having regard to the principles referred to in Article FISH.2(3) [Objectives and principles]... A Party shall base the measures referred to in paragraph 1 on the best available scientific advice.... A Party shall not apply the measures referred to in paragraph 1 to the vessels of the other Party in its waters unless it also applies the same measures to its own vessels.”¹²

Jersey is therefore entitled to manage its waters as it sees fit, within the general principles of Article 2. The ability to impose non-discriminatory management restrictions, on a scientifically justified basis within Jersey’s jurisdiction, is noted by the Panel as a positive divergence from the position under the GBA.

This would appear to be a positive step forward given the prevailing desire of those in the fishing industry was that *“Jersey waters should be fished and managed for the benefit of Jersey”*¹³ and that this should be at the forefront of negotiating shared access arrangements to key territories in the future.

KEY FINDING 2: It is felt by Jersey’s Fishermen’s Association that under the terms of the Granville Bay Agreement, unfair and inequitable access arrangements allowed French vessels to fish within 3nm of Jersey’s offshore reefs and islets without a reciprocal agreement for Jersey vessels fishing off French sovereign territories. There are concerns that should this inequity continue to go unaddressed then this will continue to disadvantage Jersey’s fishing industry.

KEY FINDING 3: Jersey’s inclusion in the TCA will mean that the management of its waters would now no longer be done jointly, as was previously the position under the GBA. Instead, Jersey will be entitled to manage its waters as it sees fit, within the general principles of Article FISH 4. This will include the ability to impose non-discriminatory management restrictions, on a scientifically justified basis.

The Panel understands that whilst the concerns of the fishing industry are legitimate, there is no scope within the TCA to negotiate alternative access arrangements. The only means by which Jersey can suitably manage access into its waters is by ensuring the licensing regime (discussed further in chapter 4), and the associated criteria for establishing a qualifying track record, is suitably robust. The Panel is aware that 344 French vessels are currently permitted to fish in Jersey waters under the transitional amnesty arrangement recently agreed with the EU that will last until the end of April 2021 and that the process of collating evidence to prove track record is underway. It is possible that a number of these vessels will be unable to successfully prove sufficient track record, thereby resulting in a noticeable reduction in the number of French fishing vessels that are permitted to fish in Jersey’s waters once the amnesty period ends. This highlights the importance of having an effective licensing regime in place and that evidence should be evaluated carefully in terms of how licensing takes place to ensure Jersey’s fishing interests are protected.

¹² [TCA Full Legal Text](#)

¹³ Written Submission from [Jersey Inshore Fisherman’s Association](#)

RECOMMENDATION 1: The Minister for the Environment should ensure that evidence is evaluated carefully in line with the criteria in Article FISH 10 of the TCA before determining which EU vessels are licenced to fish after 1 May. This is essential in order to ensure Jersey’s fishing interests are protected.

Environmental implications

A significant number of stakeholders felt that clarifying exclusive fishing rights over the areas cited above was critical in helping Jersey to achieve its environmental objectives with regards to securing a sustainable and well-managed marine environment.¹⁴ Several submissions highlighted concerns over a perceived increase in the size and number of French vessels in shared waters, which the smaller Jersey fleet struggled to compete with in terms of volume of catch and horsepower.¹⁵¹⁶¹⁷¹⁸ Anecdotal reports from fishermen noticing an increase in French trawler activity¹⁹ and pots²⁰ in shared fishing zones were received by the Panel, with one stakeholder fearing that, if allowed unchecked, this type of fishing activity could “decimate Jersey fish stocks”²¹.

In a public hearing, the President of the JFA emphasised again the importance of establishing a 3nm exclusion zone around the offshore reefs for environmental reasons:

President, Jersey Fishermen’s Association:

...when we talk about proper delineation or proper drawing of the 3 nautical miles to include and to recognise the sovereignty of the Minquiers and the Écréhous, that gives Jersey a much stronger hand in managing those waters...²²

A submission from the Blue Marine Foundation (BLUE) welcomed the TCA as an opportunity to deliver an “ecosystem-based approach to fisheries management, fulfil current international commitments and deliver on future ambitions such as those recently endorsed by the UK and France within the High Ambition Coalition for nature and people”,²³ stating:

“The agreement further gives Jersey the ability to deny access to waters for vessels from authorities where there is a failure to meet the terms of the agreement. We would encourage Jersey to consider prohibiting access to Jersey’s territorial waters to vessels where there has been a breach of the TCA.”²⁴

This view was echoed by a submission from Tautenay Ltd, a specialist consultancy advising on regulation, strategy and policy for the agricultural, fisheries and food sectors:

“As noted by many other respondents, the agreement presents Jersey with the opportunity to better manage fishing activity in Jersey’s waters; and in particular it presents the opportunity to take an approach that is both ecologically and economically

¹⁴ Written Submissions can be accessed [here](#)

¹⁵ Written Submission from [David de Carteret](#)

¹⁶ Written Submission from [Jersey Fishermen’s Association](#)

¹⁷ Written Submission from [Jersey Inshore Fisherman’s Association](#)

¹⁸ Written Submission from [Andrew De La Haye](#)

¹⁹ Written Submission from [Oliver Heart](#)

²⁰ Written Submission from [Andrew Walsh](#)

²¹ Written Submission from [Andrew Walsh](#)

²² [Public Hearing with the Jersey Fishermen’s Association, 26 January 2021, p.12](#)

²³ Written Submission from [Blue Marine Foundation \(BLUE\)](#)

²⁴ Written Submission from [Blue Marine Foundation \(BLUE\)](#)

sustainable. Jersey's Government, fishermen and merchants should now work together to determine an agreed position on what such an ecologically and economically sustainable fishery would look like; the scientific principals (sic) that will underpin fisheries management, the data and reporting requirements that might be imposed upon all fishermen, and the means to balance short-term losses against long-term growth."²⁵

KEY FINDING 4: Jersey's inclusion in the TCA represents an opportunity to better manage fishing activity in Jersey's waters in terms of developing an ecologically and economically sustainable approach.

RECOMMENDATION 2: The Minister for the Environment should consider what measures can be taken to exercise powers under the TCA for the benefit of sustainable fisheries management and conservation.

RECOMMENDATION 3: The Minister for the Environment, Marine Resources Department and key stakeholders should work together to develop an ecologically and economically sustainable Marine Resources Strategy to underpin sustainable fisheries management, including the data and reporting requirements that might be imposed upon all fishermen, and the means to balance short-term losses against long-term growth. A Strategy should be developed and brought forward for States debate before the end of 2021.

Simon Bossy, former Marine Resources Advisory Officer for the Government of Jersey suggested that the creation of "no take zones" in key areas (for example, the Écréhous) were "worth persevering with", but warned that establishing these kinds of agreements was challenging where different groups of people were fishing in a particular area, and that this would require "a lot of agreement on the ground". He also highlighted stakeholder engagement between France and Jersey as a positive strength of the GBA, which allowed for regular meetings between fishermen from either jurisdiction to discuss issues and "clear the air."²⁶

KEY FINDING 5: Establishing environmental agreements over shared fishing grounds has previously been difficult and required careful negotiation to ensure buy-in from all stakeholders.

RECOMMENDATION 4: Following the 90-day cooling off period, the Government of Jersey should help facilitate industry-level discussion between French and Jersey fishermen to address any key concerns or issues arising from the new regime and access arrangements.

The Government response

During a public hearing with the Minister for the Environment and the Minister for External Relations, both Ministers emphasised that the TCA, being a trade deal, does not directly alter

²⁵ Written Submission from [Tautenay Ltd](#)

²⁶ [Public Hearing with Simon Bossy](#), p.8-9

access rights for French or Jersey vessels fishing in shared waters, which remain as they were under the GBA:

The Minister for the Environment:

The T.C.A. agreement is an agreement for access and access that existed as at 31st December 2020. It says nothing about sea limits and all the rest of it. It maintains the access that was there albeit under a different regime. Those sea areas are not an issue that is under active consideration. I am aware that this issue has been raised by the Jersey Fishermen's Association and that is something which is, as I said, entirely not covered by the T.C.A. agreement which is quite simple. Access is defined as what pre-existed and will be maintained but I will take advice on that. That is all. There is nothing in progress on that at the present time.

The Minister for External Relations:

The Minister is absolutely right. This is a trade deal. This talks about the access to those waters in regard to the limits, as in the mile limit, which has not changed. It does not impact the sovereignty of the reefs and baseline issues are not addressed or changed by this trade agreement.²⁷

The Minister for External Relations strongly rejected the notion of establishing the wider exclusion zones called for by stakeholders:

The Minister for External Relations:

More than that, I think it is inferred in the question that some believe that we should throw French fishermen out of our waters to be on the 12-mile limit. I think that is wholly unrealistic and it is wholly unacceptable. Jersey and French fishermen have largely been fishing side by side in the Bay of Granville waters, under the Bay of Granville, for the last 20 years. But before that for hundreds of years. So it is completely unrealistic to think that, through a trade deal of negotiation between Jersey, U.K. and the E.U., that we would not expect French boats to be able to access our waters. But what this agreement does very clearly is, under the terms of the agreement, give back the licensing issue authority to the Jersey Minister for the Environment and the management of Jersey's waters to the Jersey Minister for the Environment. We really should not underestimate the benefit that will be to Jersey fishermen in the medium and longer term, and to Jersey.²⁸

KEY FINDING 6: The TCA does not affect Jersey's sovereignty over its offshore reefs and islets, but there remains some scope through the new licensing regime, to apply conditions on access to these areas in a non-discriminatory way to ensure they are managed in a sustainable way that will benefit Jersey's fishing industry in the medium to long term.

²⁷ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.19

²⁸ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.19

3 Impact of the changes to processes and procedures for the fishing industry

The UK-EU Trade and Economic Cooperation Agreement supersedes previous agreements, meaning that for agricultural goods and fisheries Protocol 3 no longer applies and Jersey sits outside the European single market. The immediate consequence of this has been that a number of non-tariff measures now apply to goods traded from Jersey into France. The significance of these non-tariff measures has been amply demonstrated by the difficulties that Jersey vessels have experienced in landing catch for export in French ports²⁹ since January 1st, 2021.³⁰

The Panel received submissions from fishermen reporting delays to exporting catch arising from the need to fill in additional paperwork;³¹ longer than usual waits to have paperwork approved by the relevant French authorities;³² and being unable to land catch at all due to having health certificates and other documents rejected by French officials for reasons that were not immediately clear.^{33 34 35} The Panel also learned that the shellfish industry has been particularly negatively affected,³⁶ not only by extra administration costs involved in processing new export documentation, but also by the delay in establishing a border inspection post³⁷ at Granville³⁸ and reduced freight sailings to St. Malo – a key export location for shellfish merchants.³⁹ The owner of Jersey Oyster told the Panel that being forced to land catch at St. Malo due to the export problems with Granville created additional costs in excess of £3,000⁴⁰ for the company for each trip made to St. Malo.

Most stakeholders wrote emotively about the impact of the new processes and procedures on their ability to export catch in France, describing the situation as “*frustrating*”⁴¹ and “*unfair*”⁴² towards the Jersey fleet when their French colleagues were not subject to any similar increase in administrative burden as a result of the TCA. One stakeholder articulated that the new processes and procedures had created an “*uneven playing field*”⁴³ in terms of Jersey’s ability to remain competitive in terms of EU exports.

Jersey Business identified that the impact of the new trade agreements on Jersey’s fishing industry would be felt on an economic level:

“We are aware that the new procedures and processes have created additional administration and handling charges such as the States vet inspecting and producing export health certificates. This work is creating extra cost and fisherman (sic),

²⁹ <https://jerseyeveningpost.com/news/2021/01/20/jersey-fishermen-facing-threats-and-intimidation/>

³⁰ Written Submission from [Tautenay Ltd](#)

³¹ Written Submission from [Kevin Singleton](#)

³² Written Submission from [Tina Burt](#)

³³ Written Submission from [Phill Channing \(Jenna Dee Scallops\)](#)

³⁴ Written Submission from [Tina Burt \(2\)](#)

³⁵ Written Submission from [Jade-S Fisheries](#)

³⁶ Written Submission from [Jade-S Fisheries](#)

³⁷ In French BIPs are referred to as S.I.V.E.P. (Service d’Inspection Vétérinaire et Phytosanitaire aux frontières)

³⁸ Public Hearing with [Jersey Oyster](#), p.3

³⁹ Written Submission from [Battricks Seafood](#)

⁴⁰ Public Hearing with [Jersey Oyster](#), p.2

⁴¹ Submission from [Kevin Singleton](#)

⁴² Written Submission from [Andrew Reynolds](#)

⁴³ Written Submission from [Battricks Seafood](#)

merchants and Oyster businesses will be under pressure to absorb these costs and therefore is likely to have an impact on their profitability.”⁴⁴

KEY FINDING 7: The new procedures and processes have created additional administration and handling charges, such as the States Vet inspecting and producing export health certificates. This work is creating extra costs and fishermen, merchants and aquaculture businesses will be under pressure to absorb these costs, which is likely to have an impact on their profitability in the short to medium term.

The Panel learned that a lack of resources at the Veterinary Department in undertaking inspections as part of the health certification was, in part, the cause of some of the delays to aquaculture products, and that one person⁴⁵ is currently responsible for undertaking all inspections:

Managing Director, Jersey Oyster Company:

One of our main issues that we have come up against is veterinary certificates...Now, the requirement for the physical inspection of all the shellfish that gets exported is being required 5-days' notice. A lot of this is stemming from the lack of resource that the Veterinary Department has...The States vet is not even present on the Island. Everything has been left to the veterinary assistant who has been helpful to my staff, to my office staff, and has been doing his best. I believe he has asked for extra resources and help from the Marine Resources Department and that has been turned down because they are too busy with Brexit-related fisheries issues. That is something that I feel could be improved on, on our own side. It is one thing saying that we have problems when we arrive in the French ports, but if we can get our own stuff in order it would be a help.

KEY FINDING 8: A lack of resources at the Veterinary Department to inspect exports and award health certificates is partly responsible for the delays being experienced by shellfish exporters under new trade rules.

RECOMMENDATION 5: The Minister for the Environment should, as a matter of urgency, seek to address the inadequate resourcing for the inspection of shellfish exports and issuing of health certificates. This should seek to be resolved as speedily as possible.

The Panel wrote to the Minister for the Environment to attempt to further understand what support and provision for the fishing industry was being discussed by Government. In his response the Minister advised that:

“In terms of short-term support, Ministers are aware of the need to address the immediate issues following Jersey’s inclusion in the TCA. Officers are working with various sector representatives from the industry (including fishermen, aquaculture, exporters) to define what form this support should take. As you will be aware, each sector has different arrangements in place and therefore different support requirements. It is hoped that this work will be concluded very soon and considered by Ministers.

⁴⁴ Written Submission from [Jersey Business](#)

⁴⁵ Public Hearing with [Jersey Oyster](#), p.7

To address the longer-term needs, Ministers are working with the industry to prepare a report which will set out the future requirements of the fishing sector. Once that report is received, the recommendations will be put forward for consideration. It is intended that the report will study issues including markets, processing, infrastructure, sustainability certification, and industry structure.”⁴⁶

The Panel is pleased to note from the Minister’s letter that a business case is being prepared to ensure that regulatory services (Veterinary, Marine Resources and Environmental Health) all have the appropriate resources to deliver the required services under the new arrangements outlined in the TCA. However, we are disappointed to note a dedicated new Government post to support the industry is not being considered and this much needed resource is instead proposed to be drawn upon from existing teams. It is unclear to the Panel how this will be achievable given that it has been recognised on numerous occasions by the Minister that the Environment section of the Infrastructure, Housing and Environment Department is considerably under-resourced. It is the Panel’s view that Government has not placed enough urgency on providing immediate support and assistance to the industry to keep it going in the short term as this is ultimately fundamental to safeguarding the long-term viability of the industry.

KEY FINDING 9: Government is not actively considering or pursuing the possibility of a dedicated post to support the fishing industry. Instead, support is proposed to be drawn upon from existing teams, despite the fact that it is widely acknowledged that these teams are already under-resourced.

RECOMMENDATION 6: The Minister for the Environment should prepare a business case for a new, dedicated government post to assist the fishing industry with matters such as landing and export paperwork and identifying new export markets for Jersey-caught fish. The business case should be prepared and provided to the Panel without further delay.

Opportunities of the new processes and procedures

Submissions from stakeholders and industry experts identified that, despite the teething problems with processes and procedures under the new trade agreement, the lack of tariffs represented a significant benefit for Jersey’s fishing industry,^{47 48} in addition to the reduction in prior notification periods applicable to Jersey vessels (Article FISH.11) with respect to direct landings and to validation of catch certificates for direct movements of consignments.⁴⁹ Without these benefits, the Panel learned that direct landings (and perhaps exports) would not be economically sustainable.⁵⁰

⁴⁶ [Letter from the Minister for the Environment, 5 February 2021](#)

⁴⁷ Written Submission from [Jersey Business](#)

⁴⁸ Public Hearing with [Jersey Oyster](#), p.4

⁴⁹ Written Submission from [Tautenay Ltd](#)

⁵⁰ Written Submission from [Tautenay Ltd](#)

Whilst both industry experts and stakeholders cited the need to identify and develop new export markets⁵¹, either on island⁵² or in other countries to reduce the traditional dependence on France / Southern Europe,⁵³ the Panel were advised that this was a medium-term goal and that in the short-term, the Government's focus should be on easing problems with trade at French ports⁵⁴:

*"...in the short-term at least there will be a continued dependence on direct landings and exports into France. Not only is the EU one of the major global importers of fish but it is also a market that places a particularly high value on fresh fish and shellfish. Developing alternative markets that are dependent on processing to retain product value will require investment in infrastructure and in marketing. Moreover, it should be noted that there are many in the UK fishing and processing sector who are also looking to reduce their reliance on the EU and who are investigating similar alternatives. Hence, whilst it is imperative for risk-mitigation that fishermen and merchants should look in the long-term to diversify their markets, the short-term focus for Government must be on easing the flow of goods into France."*⁵⁵

KEY FINDING 10: Developing alternative markets for export to reduce the historic reliance on trade to France and Southern Europe should be a key medium-to-long-term objective for the fishing industry, but this will require significant investment in infrastructure and marketing.

RECOMMENDATION 7: The Minister for the Environment, together with the Minister for External Relations should ensure that the short-term, priority focus must be on easing the flow of goods into France, especially at key ports such as Granville.

Other suggestions from stakeholders for future-proofing the fishing industry included the development of a Fisheries Strategy⁵⁶, market diversification (including looking into the possibility of tinning or freezing processed shellfish for export)⁵⁷ and developing a Jersey Fisheries Brand to showcase the fishery sector both in the local market and abroad.^{58 59}

Jersey Business also emphasised the importance of establishing a better digital presence for Jersey's fishing industry, not only in terms of improving access to local fish by consumers via catch data, timing and live pricing, but also in terms of timely and visible analysis of catch volumes and vessel data to demonstrate Jersey's commitment to a sustainable and ecologically sound marine environment.⁶⁰ Digital solutions to the paperwork requirements under new trade rules were also mentioned as a means of easing the delays on exports currently being experienced by the industry.⁶¹

⁵¹ Written Submission from [Jade-S Fisheries](#)

⁵² Written Submission from [Jersey Business](#)

⁵³ Written Submission from [Jersey Business](#)

⁵⁴ Public Hearing with [Jersey Oyster](#), p.12

⁵⁵ Written Submission from [Tautenay Ltd](#)

⁵⁶ Written Submission from [Jersey Business](#)

⁵⁷ Written Submission from [Jersey Business](#)

⁵⁸ Written Submission from [Jersey Business](#)

⁵⁹ Public Hearing with [Jersey Oyster](#), p.12

⁶⁰ Written Submission from [Jersey Business](#)

⁶¹ Written Submission from [Jersey Business](#)

KEY FINDING 11: In order to future-proof Jersey’s fishing industry, steps must be taken to identify new export markets and look into market diversification such as exporting frozen processed shellfish.

RECOMMENDATION 8: The Minister for the Environment should ensure that, in consultation with industry, a new Marine Resources Strategy includes a strategic economic framework for market diversification which encompasses new thinking on trade and export routes for Jersey-caught fish and suitable investment in infrastructure to support this.

The Government perspective

The Minister for External Relations told the Panel that the additional bureaucracy faced by fishermen in terms of exports was the price to be paid for securing a trade deal which allows Jersey to act as the licensing authority for EU and Jersey fishing vessels:

The Minister for External Relations:

...for our fishermen, also out of the single market, there is an inevitability about the added bureaucracy... Let us be clear that it is most unlikely that those positive benefits would have been repatriated to the Minister for the Environment in Jersey had there been a broader ability to access the single market without checks at the border... We are looking at support mechanisms and seeing some settling down of access for Jersey fishermen into the French or European market...we need to just continue the conversations to alleviate that bureaucracy as much as we possibly can but this is the new way of us relating to the E.U.⁶²

When pressed on support for the industry, especially in terms of administrative support for landing and catch paperwork required at French ports, the Minister for External Relations indicated that the Government was “*trying to find a package of measures, which is universally accepted*” by fishermen, agents and wholesalers.⁶³

KEY FINDING 12: Apart from the Covid-19 emergency financial support scheme, the fishing industry has not yet been offered a support package to help mitigate the financial impact of the new processes and procedures under the TCA.

The Minister for External Relations summarised his view that the short-term financial and administrative difficulties imposed on the fishing industry by the new trade agreement were worth tolerating for the future benefits:

The Minister for External Relations:

Once it settles down and once the licences are issued and we can properly consider conservation measures and sustainable fishery management measures, we will all look back and see that this deal was in Jersey’s best interests and in the Jersey fishing industry’s best interests.... It is important that we make decisions in the best long-term and medium-term interests of Jersey because our relationship with France and our

⁶² [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.17

⁶³ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.21

*relationship with Brussels is fundamental to the entire Island's cultural and economic interests.*⁶⁴

Whilst the Panel acknowledges that some concessions in the trade deal were inevitable, and in this case has resulted in more bureaucracy and stringent checks at the border. However, this is a likely scenario that Government should realistically have planned for in Brexit readiness. Therefore, it is the Panel's view that there should have been better contingencies and immediate support put in place to help alleviate the burden on the fishing and aquaculture industry.

4 New licensing arrangements for EU vessels: an analysis

The TCA replaces existing fishing access arrangements for EU vessels in Jersey waters and for Jersey vessels in EU waters with a regime based on those vessels recent 'track record' of fishing activity in those waters. Article FISH 10(1) says that the access that Jersey should permit EU vessels to have its territorial waters from 1st January 2021 should reflect the "extent and nature" of fishing activity by "qualifying vessels" that it can be "demonstrated" took place under preceding treaty arrangements, such as the GBA during a specific period from 1st February 2017 to 31st January 2020 (i.e. a three year period preceding the UK's departure from the EU which official occurred on 31st January 2020).

It is the Panel's understanding is that in practice this means that EU vessels that can provide evidence of a sufficient track record of fishing activity in Jersey waters to show they are 'qualifying vessels' will be licenced to fish after 1st May 2021. The fishing activity permitted by these licences should reflect (but not exceed) the "extent and nature" of the fishing activity that took place in the three-year period ending on 31st January 2020.

A qualifying vessel is deemed as one that can prove, via tracking data, that it fished lawfully in Jersey waters for more than 10 days in any one of the 12-month periods between 1st Feb 2017 and 31st Jan 2020. Under the TCA as individual qualifying EU vessels cease operating then the access they were permitted to have by licence would be available to new vessels. While the TCA does not address the point directly, consideration will need to be given to ensuring that any vessels replacing previously licensed vessels do not result in an increase in the "extent or nature" of fishing activity by the previous vessel, in terms of horsepower, size, or fishing activity. The Panel notes that the criteria in Article FISH 10(1) therefore establishes a static pool of fishing access that Jersey must allow under the TCA in future years.

The Panel is aware that the full effect of provisions for fisheries under the TCA will only become clear as the administrative arrangements for implementing them are developed. Moreover, that it will not be possible to definitively assess their effect within the first 90 days in relation to the amount of boats that will be able to fish in Jersey' waters or the conditions under which fishing activities may take place. The Panel further notes from legal advice, the importance of Jersey adopting a methodical and evidence-based approach to assessing track record to

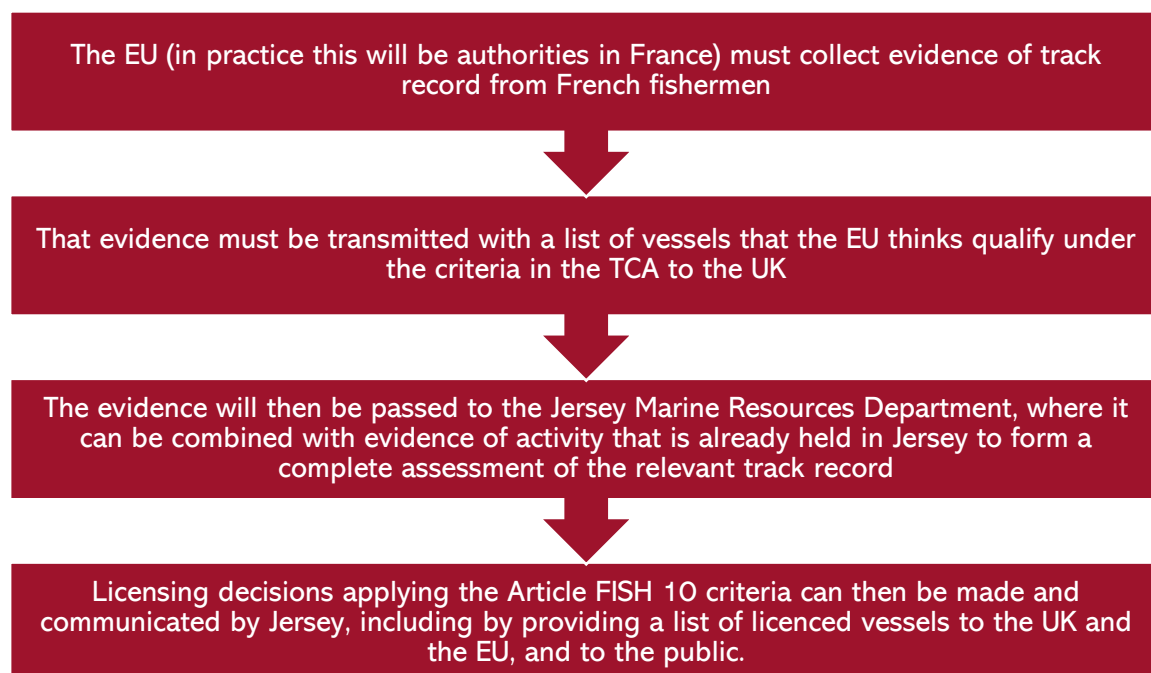
⁶⁴ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.28

ensure that the criteria set out in Article FISH 10 are applied. Once that has occurred it will then be possible to make licensing decisions going forward, which will have consequences, not only for vessels in the short term, but also over the lifetime of the TCA.

KEY FINDING 13: The TCA replaces existing fishing access arrangements with a regime based on EU vessels being required to demonstrate a ‘track record’ of fishing activity in Jersey’s waters, in order to be issued a licence to enable these vessels to continue to fish Jersey’s waters.

KEY FINDING 14: It will not be possible to definitively assess the full effect on provisions for fisheries within the first 90 days, particularly in relation to the amount of boats that will be able to fish in Jersey’s waters or the conditions under which fishing activities may take place. It will be important for Jersey’s Government to adopt a methodical and evidence-based approach to assessing track record to ensure that the criteria set out in Article FISH 10 are applied.

The Panel understands, including from its legal advice, that the task of collecting and evaluating evidence of track record is a substantial one. For licensing to take place for vessels in Jersey waters the following process will be required to be undertaken:



In recognition of the challenging nature of this process, the Government of Jersey agreed a transitional period from 1st January 2021 until 30st April 2021⁶⁵ where vessels that had been issued with GBA permits by France in December 2020 (when the GBA was still existent), would be able to continue to fish to the extent allowed by those permits. The Panel understands that this was not a requirement of the TCA, however it is intended as a gesture

⁶⁵ <https://www.gov.je/news/2021/pages/statementfisheriesamnesty.aspx>

of good faith to ensure that there is minimal disruption to fishing activities whilst evidence is collected and assessed. It is further noted that this offer was made expressly on the basis that this gesture does not reflect an assessment of track record for the purposes outlined under the TCA.

Legal advice received by the Panel stresses the importance that once evidence of track record has been received from vessels it will be important for Jersey's Government to apply the criteria in Article FISH 10(1) precisely. Moreover, Jersey is only obliged to continue to allow access to its waters by French vessels where the track record criteria are met. Consideration of the criteria may take into regard the areas of Jersey's territorial waters that French vessels were entitled to access under the GBA. It is noted that some of these zones were only accessible to limited numbers of French vessels, on a diminishing basis and the TCA does not make alternative provision regarding these areas. However, as limits on access to certain GBA zones were among the limits placed on the extent and nature of fishing activity during the period up until 31st January 2020, this may be taken into account when making future licensing decisions.

KEY FINDING 15: The process of collecting and evaluating evidence for EU vessels to demonstrate suitable track record is challenging and complex. Once evidence of track record has been received from vessels it will be important for Jersey's Government to apply the criteria in Article FISH 10(1) precisely.

Stakeholder views

The majority of stakeholders were concerned by the Government's decision to grant temporary permits to EU vessels to continue fishing in Jersey's waters between 25th January and 1st May 2021 as part of a "transitional amnesty"⁶⁶, without these vessels having to meet the full requirements under the TCA. In contrast, Jersey boats have been expected to adhere to the new regulations when landing catch in France with immediate effect under the terms of the TCA with no exceptions.^{67 68 69} In addition, a number of submissions highlighted a disparity between Jersey fleets paying full license fees but French fleets not being charged a licence fee for the temporary permits. The President of the Jersey Fishermen's Association described the precedent set by the transitional amnesty as "discriminatory" towards Jersey fishermen:

*"We are looking at our boats having any number of conditions and the one that is the most obvious is the 12-metre rule, where our fishermen have been prevented from bringing vessels over 12 metres into the fishery for the last 18 months. That we see around about 30 of the vessels that have been permitted so far are anything from 15 right up to 24 metres and 1,000 horsepower, so we are struggling to get our head around why it is that we have not applied or why Jersey has not applied conditions the same on French boats as on Jersey boats. So there is a discriminatory element of it."*⁷⁰

⁶⁶ <https://www.gov.je/news/2021/pages/statementfisheriesamnesty.aspx>

⁶⁷ Written Submission from [Ian Syvret](#)

⁶⁸ Written Submission from [Jade-S Fisheries](#)

⁶⁹ Written Submission from the [Jersey Fisherman's Association](#)

⁷⁰ [Public Hearing with the Jersey Fishermen's Association](#), p.8

A submission from Jade-S Fisheries summarised some of the anxieties felt by fishermen about fairness in the processes and procedures involving in granting licenses:

“Can Government assure fishermen that any permits granted either in the interim transfer period (until April) and in any agreements drawn after this point, that these permits delineate sovereignty to Jersey on all fishing matters? That any conditions, bans and laws must be adhered to by all vessels. Will catch quotas match the same restrictions as on Jersey vessels? Will the same sustainability measures be imposed on foreign vessels such as size and catch limits?... Can Government also assure fishermen that it will develop and comprehensive monitoring system of all foreign vessels fishing in local waters and of what they catch – in a similar light to that which Jersey fishing vessels are already required to submit?”⁷¹

KEY FINDING 16: The transitional amnesty with regards to issuing licenses to EU vessels between January – May 2021 has caused deep concern amongst stakeholders about the fairness of licensing processes after May 1st.

RECOMMENDATION 9: The Minister for the Environment should seek to reassure the fishing industry that licensing procedures from May 1st will be non-discriminatory towards the Jersey fleet, with the same requirements applying to both Jersey and EU vessels in terms of conditions around catch, data collection and any other rules and regulations.

Many stakeholders raised the issue of prohibitive licensing fee costs. The Panel heard of licenses costing £65,000⁷², £90,000⁷³ and even £250,000⁷⁴ in one case, and stakeholders described the situation as an “not a level playing field”⁷⁵ in terms of the financial burdens of sustaining their livelihoods in the face of a “modern EU subsidised French fleet.”⁷⁶

“As it stands, at the moment, the Jersey tax payers are footing the bill to have a French fleet unsustainably exploiting our waters and getting nothing in return for the estimated €20,000,000 they take annually from our waters. There are examples around the world where third countries like ourselves are given funding by the EU to manage foreign vessels’ activities and to ensure all international agreements are adhered to and stocks are monitored and kept at sustainable levels by accurate catch recording and scientific data collected from surveys as required under the United Nations IUU convention, Illegal, unreported and unregulated fishing.”⁷⁷

KEY FINDING 17: The conditions around meeting licensing requirements represent a significant financial obligation for Jersey’s local fleet, who (unlike the EU fleet) do not receive Government subsidises to support local fishing interests.

RECOMMENDATION 10: In developing fair and equitable licensing conditions, the Minister for the Environment should be mindful to avoid discriminating against local fishermen by

⁷¹ Written submission from [Jade-S Fisheries](#)

⁷² Written Submission from [David de Carteret](#)

⁷³ Written Submission from [Jack Bailey](#)

⁷⁴ [Public Hearing with the Jersey Fishermen’s Association](#), p.4

⁷⁵ Written Submission from [Stephen Viney](#)

⁷⁶ Written Submission from [Stephen Viney](#)

⁷⁷ Written Submission from [Stephen Viney](#)

creating prohibitively expensive hurdles to attaining a license and seek to ensure the system is financially viable for Jersey fishermen. Consideration should be given to developing an appropriate grant system for the Jersey fleet.

Licensing conditions

In a public hearing, Simon Bossy (a former Marine Resources Advisory Officer for the Government of Jersey) cited setting conditions around licensing of EU vessels as a key tool in improving Jersey's interests with regards to fisheries in a post-Brexit environment:

Mr. S. Bossy:

It would seem to me that if the Brexit process puts Jersey as the issuing authority for licences, that is going to be the main way that you can improve the lot for both Jersey fishermen and the Jersey marine environment by attaching conditions to those licences that will then preserve the marine environment and enhance the marine environment. A healthy marine environment will produce a healthy fishery. So, yes, I think it is the licensing and the conditions attached to the licences by which you can improve the situation, really. But, of course, the rub will be if you improve the environment deciding who gets what in partitioning it off to which particular groups.⁷⁸

Mr. Bossy agreed that recording and collecting data on EU fishing activity should be at the heart of any new licensing processes in order to achieve Jersey's environmental and economic objectives:

The Deputy of St. Martin:

...would you agree with me that moving forward if we get to issue permits and licences in our own waters that it will be vital that we make it an absolute condition of those licences that data on the fish, lobster, whatever that is taken is recorded and given to the Jersey authorities as part of that condition of the licence?

Mr. S. Bossy:

Yes, absolutely, no doubt. You really need that information, not only the catch information but you want effort information as well, so what is being landed but out of how many pots or how many hours trawling or length of tangle net or whatever. So you want effort as well as catches.⁷⁹

The requirement in the TCA to demonstrate a track record of fishing activity as a precursor for a license to be granted was also welcomed by other stakeholders. Blue Marine Foundation (BLUE) wrote to the Panel to recommend that licensing conditions are strengthened to level the playing ground for Jersey's "relatively low impact fleet"⁸⁰ in terms of fishing opportunities, but also to improve the management of the marine environment. BLUE suggested the following conditions be considered:

⁷⁸ [Public Hearing with Simon Bossy](#), p.9

⁷⁹ [Public Hearing with Simon Bossy](#), p.9

⁸⁰ Written Submission from [Blue Marine Foundation \(BLUE\)](#)

- a 12-metre length limit on new vessels
- the inclusion of a ‘sunset clause’ for any licences that have to be issued for boats exceeding 12 metres – as has already been applied to Jersey boats that are over 12m
- all boats fishing within Jersey territorial waters must declare landings to Marine Resources every quarter
- iVMS on board all vessels
- all vessels fishing within Jersey territorial waters should pay a licence fee to Jersey authorities
- the cost of licences should be linked to the environmental impact of the gear type.⁸¹

KEY FINDING 18: Appointing Jersey as the licensing authority represents a positive opportunity to preserve and enhance the marine environment and address access and management issues around shared fishing waters that were not sufficiently resolved through the Granville Bay Agreement.

RECOMMENDATION 11: The Minister for the Environment should give careful consideration to various conditions that should be attached to licences which would represent a step change in improved fisheries management and increased opportunities for Jersey’s relatively low impact fleet.

However, the President of the Jersey Fishermen’s Association noted that there had been challenges in procuring such data in the past that would need to be carefully monitored in the new licensing regime:

“I will just go one step further to say that it was written into the [GBA]... being all about sustainable management of the shared stocks, that each side had to submit data from their boats on an annual basis. Jersey asked for 18 years for the data from the French side and never, ever received the data from an official level. The administration claim that they could not separate the data coming from the Granville Bay area from the rest of the areas that the boats access... Yes, there should have been data and that would have been a really easy way to verify whether vessels had a track record or not.”⁸²

A written submission from Tautenay Ltd cautioned that creating too-stringent licensing requirements regarding data collection could risk creating tensions amongst the French fleet, and further exacerbate the recent export issues at French ports⁸³:

“With regard to access by French vessels to Jersey waters (Article FISH.10): it is unlikely that France will be able to accurately demonstrate the historic extent and nature of non-VMS vessel activity. Given that Jersey will need to retain access to French ports, it may be necessary to consider a negotiated compromise.”⁸⁴

⁸¹ Written Submission from [Blue Marine Foundation \(BLUE\)](#)

⁸² [Public Hearing with the Jersey Fishermen’s Association](#), p.6

⁸³ Written Submission from [Tautenay Ltd](#)

⁸⁴ Written Submission from [Tautenay Ltd](#)

KEY FINDING 19: Historically, it has been difficult to enforce and collect data about the type and quantity of fishing activity taking place by EU vessels in shared waters, which has impeded the proper management and cultivation of fisheries. It may be challenging for EU vessels to be able to completely or accurately demonstrate the historic extent and nature of non-VMS vessel activity in accordance with new licensing conditions.

RECOMMENDATION 12: The Minister for the Environment should exercise caution when defining what evidence will be required to determine the ‘extent and nature’ of fishing activity that is undertaken. The evidence required should not unnecessarily restrict fishing activity or trade and but should ensure licensing is robust and promote sustainable ecological and economic management of the fisheries through the imposition of appropriate conditions.

Tautenay Ltd also identified scope within the TCA to apply an economic link as a license condition as a means of mitigating the economic damage caused by the imposition of non-tariff barriers resulting from the agreement:

“Whilst Jersey licence holders are by their nature linked to Jersey’s economy, the same is not necessarily the case for French licence holders and it would seem perverse to offer access to Jersey’s waters, for the purpose of taking fish from within those waters, with no apparent societal, economic or environmental benefit accruing to Jersey. As such it may be sensible to consider including such an economic link as a licence condition for all vessels fishing in Jersey waters, along the lines of those imposed elsewhere i.e. vessels being crewed by Jersey residents or 50-100% of a vessel’s catch (by value) being landed into Jersey.”⁸⁵

KEY FINDING 20: Whilst Jersey fishing licence holders are by their nature linked to Jersey’s economy, the same is not necessarily the case for French licence holders.

RECOMMENDATION 13: The Minister for the Environment and the Minister for Economic Development, Tourism, Sport and Culture should consider creating an economic link as a licence condition for all vessels fishing in Jersey waters, along the lines of those imposed in other jurisdictions (for example, a % of a vessel’s catch being landed in Jersey or vessels being crewed by Jersey residents).

The Government perspective

At a public hearing, the Minister for External Relations strongly refuted the notion that the interim licensing amnesty had set a damaging precedent for establishing fair and equitable licensing process going forward:

The Minister for External Relations:

⁸⁵Written Submission from [Tautenay Ltd](#)

*No, we do not believe it sets a precedent. Those 57 licences were issued temporarily and the interim amnesty is a temporary interim amnesty and so we are very clear that no precedent has been set.*⁸⁶

In response to a question from the Panel Chair on how the new licensing process will ensure that Jersey fishing vessels benefit economically from fishing the same waters as larger and more powerful French vessels, the Minister for the Environment responded:

The Minister for the Environment:

One of the strengths of the T.C.A. is that there are very clear overarching principles within it about sustainable fisheries. So those objectives are written right the way throughout the whole basis of the fishing agreement but those principles have to be applied based on scientific evidence and in a way which is non-discriminatory. So the rules have to apply equally to both Jersey boats accessing our waters and to the European Union vessels.

*What the arrangements will make absolutely plain now, because Jersey will be the licensing authority and the sole body responsible for managing our seas, is we will receive full and complete information, as I see it, of catches, of the species being landed, the quantity being landed and so on and from where they are fished... The key thing is [that licensing conditions] have to be based on marine science evidence and they have to be applied equally, fairly and non-discriminatory between all vessels accessing our waters.*⁸⁷

The Panel also questioned Ministers on the matter of subsidies offered by the French Government to French fishing interests and the lack of any similar financial support for the local fishing industry:

The Connétable of St. Brelade:

We can take as benchmarks both France and the U.K. in that they both subsidise their fleets for licensing costs, safety equipment and vessel upgrades. But no such support exists here in Jersey... With fishermen having to pay up to £250,000 for a licence alone, are there plans on the table to offer similar support?

The Minister for the Environment:

*I have discussed it with my officers. They are on the case now. My officers are working with the Economic Development team. Obviously, at the moment, we all know just how stretched they are. I am going to make excuses for them, but we have COVID, we have the issues of other parts of industry. But we have to follow through. So, as soon as that is possible, I will do my best to get it public. But there is nobody arguing against the principle. What I cannot do at the moment is to put the details on the table.*⁸⁸

⁸⁶ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.16

⁸⁷ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.14

⁸⁸ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.20

The Minister for the Environment described Jersey's fishing industry as "part of our national souls" and stated that "it was really morally wrong that our agriculture industry has had support and yet our fishing industry has had very little", but committed to pursuing financial support for the industry with the Council of Ministers "as soon as we can work out the details".⁸⁹

KEY FINDING 21: Jersey's fishing industry currently receives no financial support from the Government with regard to licensing fees, safety equipment and vessel upgrades, unlike EU fishing fleets. Whilst the Minister for the Environment has confirmed that a support package is being looked at, the Panel considers that this is not being expedited fast enough.

RECOMMENDATION 14: The Minister for the Environment should work jointly with the Minister for Economic Development, Tourism, Sport and Culture to expedite, without delay, what financial support can be made available to assist Jersey's fishing industry in the immediate short-term.

5 Resource implications for Jersey's Marine Resources Team

In light of concerns raised relating to the new licensing regime and how this would be adequately enforced, the Panel sought to understand what resources were in place to be able to address any enforcement issues which might arise. In particular, it was noted that a French skipper was quoted in the French media as saying: "If one of us is arrested as being a fishing boat without a licence, we will all go together."

In the Public Hearing the Panel questioned the Minister for the Environment on what enforcement action would be taken by Government should unlicensed fishing vessels attempt to operate in Jersey's waters after the transition period. The Minister responded as follows:

The Minister for the Environment:

Well, I am sorry to tell you that that is not a bridge I want to cross at the moment. We are in a transitional period and we have agreed to honour those vessels that had licences issued by the French prior to the T.C.A. agreement. Nonetheless, we have to prepare for that in the future of how we regulate our waters in practice. I am quite clear that we are going to have to put more effort into that. We have to put more effort on marine science, on monitoring and making sure we achieve the level of compliance which is required in order to have sustainable fisheries. I think it is like all other enforcement issues. I hate to use these words but there is no other way. One uses a balanced approach where you try to be realistic and accept the fact that sometimes people make mistakes. There is always a spectrum of possibilities between the States and deliberate flouting of regulations and so on and one makes a judgment. We have a system where we have a marine resources team who are responsible for reporting. We have legal structures. As you say, the Minister for Defence could follow through those things when it is considered necessary. All I can say is, as Minister, personally I

⁸⁹ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.19-20

have not had knowledge of or been required to intervene in any enforcement matters that have required things to go before courts and arrests since I have been Minister. I would like to think it is a very uncommon situation but I have to take advice on that. That is my immediate reaction not having thought about that. I think my Assistant Minister wants to say something here.

Assistant Minister for the Environment:

Yes, there is quite an important point to add. Yes, we continue to enforce fishing in our waters in the way that we have always done but because we have had become a third country, now France has to obey our new rules which are rules about unlicensed fishing. Basically, it means that they must ensure that their boats fishing in third countries' waters have a licence from that third country, which is then followed by a licence from the country of the boat called a S.M.E.F.F. (Sustainable Management of External Fishing Fleets) licence.

[15: 00]

If you remember, those are the licences from France because of Guernsey last year. The scramble for fishing in Guernsey in January last year was because France had to issue those S.M.E.F.F. licences and Guernsey had to issue licences. To summarise, it means that France, the country, is responsible for its own boats having a S.M.E.F.F. licence issued onsite off a Jersey licence. In other words, they are responsible for their boats fishing in Jersey waters and they have to enforce them.⁹⁰

KEY FINDING 22: It is recognised by the Minister for the Environment that “more effort” will be required to ensure Jersey is adequately equipped to take enforcement action where unlicensed fishing vessels may attempt to operate in Jersey’s waters. It is also recognised that more efforts will need to be concentrated on marine science, monitoring and ensuring Jersey achieves what is required in order to have a sustainable fishery.

KEY FINDING 23: France is also responsible for ensuring that French fishing vessels have the appropriate licences required as they must ensure that French vessels fishing in third countries’ waters, such as Jersey’s, have a licence, which is then followed up by a further licence from the country of the boat called a S.M.E.F.F. (Sustainable Management of External Fishing Fleets) licence.

The Panel sought to understand further whether there was currently sufficient manpower and equipment/vessels available to Jersey to be able to enforce the new arrangements under the TCA and the new licensing regime in both the short and medium term. The Minister for the Environment responded as follows:

The Minister for the Environment:

As you know, Chairman, you and I, we have spoken on this on numerous occasions at the Scrutiny Panel. I have absolutely not been quiet about this. It is not just marine resources, the whole area of our resource for environmental work generally, we are very poorly equipped in terms of numbers. We have outstanding people, high-quality people, real ability, experience and knowledge. But, unfortunately, they are stretched

⁹⁰ [Public hearing with the Minister for the Environment and Minister for External Relations, 2 February 2021, p.17-8](#)

far too far. We always knew that the marine resources part with Brexit would have a lot more work to do. Their task was always big, but it has now become vastly bigger than the team can cope with. That is why we put forward a bid for resources, additional resources into the Government Plan, which is why thankfully, with your support, Chairman, we were supported by that. Therefore that got voted in the Government Plan. Of course, what you are aware of, Chairman, I was very disappointed that the vetting of the proposals removed some of the staff aspects from that. Because, without people, you are not able to do things. So I shall be coming back on that the moment the licensing details become clear. Because I have given commitments, the same as the Minister for External Relations, we will fulfil our part of the T.E.C.A. to the letter. That means us delivering. That means that the outstanding team we have we will need to strengthen. Equipment, as you know, our fisheries regulation vessel is still in the U.K., as I understand it.

[15:15]

There is in the Government Plan, it has just been refitted. That is good news. There is also a smaller R.I.B. (rigid inflatable boat) that has been acquired. There is also, in the Government Plan, a replacement enhanced vessel ahead. I cannot remember if it is 2024. So those facilities, we will need to carry on making that investment.

...

Environment Director and Acting Director of Regulation:

If I can perhaps interject as well there, Chairman. I know that, over the weekend, we have been having discussions with Treasury colleagues with a view to bidding in or securing funds that were initially put together in respect to Brexit costs. There has been more clarity over how we go about that. Greg has not mentioned it, but I know he is instrumental, as well as many of our colleagues here at the department, in putting together a more consolidated and quick bid to get funds that we know are going to be required for our Brexit obligations. We always knew and we had coupled it with the border control post requirement. We recognise that there is still a lack of clarity from our Defra colleagues about what a border control post is going to look like or what they are going to look like generally. But we do know that the people element or the human resource element of the work that is going to be associated with that is still going to be needed. So that bid is going in and we will seek to resource it accordingly and quickly.⁹¹

The Panel was further advised that Government had a good working relationship with Ports of Jersey and would be able to use or to charter either their pilot boat or another one of their vessels if there was a requirement to do so. It was also stressed that there was good liaison with Jersey's coastguard, particularly in terms of monitoring routine marine traffic, radio traffic and communications.⁹²

KEY FINDING 24: The Minister for the Environment has concerns that the Marine Resources team is not adequately resourced in terms of manpower at present. It is anticipated that a further Government Plan bid will be made in the hope of securing added human resources to bolster the team's manpower.

The Panel was advised by a former Marine Resources Advisory Officer that bolstering resources to address enforcement would also enhance Jersey's ability to suitably control the

⁹¹ [Public hearing with the Minister for the Environment and Minister for External Relations, 2 February 2021, p.22-3](#)

⁹² [Public hearing with the Minister for the Environment and Minister for External Relations, 2 February 2021, p.23](#)

conservation of its waters. However, it was stressed that this degree of enforcement would likely be resource intensive and seasonal and so the recruitment for these posts would need to take into account what other duties could be carried out by enforcement staff when fishing fleets are not operating:

The Connétable of St. Brelade:

Do you think that the higher management ... well, I was really picking up on what you are saying, a higher volume of management, if one can call it that, increased number of inspections on vessels fishing in our waters, would enhance our ability to control, shall we say, the standard and the arrangements that we have at the moment in terms of conservation? Because it seems that that is an area that is lacking at the moment because, as you said earlier, the French are very thin on the ground. So, would an increased presence in our waters have any marked effect?

Mr. S. Bossy:

Yes, I think it would, particularly if those officers had powers to inspect logbooks and check catch data. I am sure that would help, but fisheries enforcement at sea is always quite difficult and time consuming because you have to be doing it sometimes 24/7. You have to do it at all times of the day and night, and having teams on shift and standby is quite expensive. Also, you can go out there, out to sea, and because of the seasonality of fishing you can stooze around in the boat and not find any French fishing boats at all and the day's or the week's surveillance work comes to nothing. So, yes, increased surveillance work will help, but the people that are involved in that need to be multi metier so in times when the fishing fleets are not operating they are able to be employed usefully elsewhere.⁹³

KEY FINDING 25: Suitable enforcement measures are likely to be resource intensive and seasonal and so the recruitment for additional posts to this role would need to take into account what other duties could be carried out when fishing fleets are not in operation.

The Panel is pleased to note that adequate provision for manpower and resources is being given due consideration by Government. However, Government will need to take a 'belt and braces' approach to expedite efforts as swiftly as possible and to ensure Jersey is suitably equipped to enforce its territorial waters, should the need arise.

RECOMMENDATION 15: Government should work as expeditiously as possible to ensure Jersey is fully equipped to manage any issues of enforcement which might arise following the transition period. The Panel requests that the Minister for the Environment provide the Panel with a further update before 31 March 2021 on progress made on the recruitment of additional enforcement officer post(s) and how these post(s) will be structured in order to ensure other duties can be undertaken out of season.

⁹³ [Public hearing with S. Bossy, 2 February 2021, p.11](#)

6 Is it in Jersey's best interests to participate in the TCA?

As has been highlighted previously in this report, there are potential opportunities both environmental and economic which could be realised by Jersey's participation in the TCA. In addition, reverting back to the Granville Bay Agreement is not considered a tenable situation for suitable fisheries management.

In order to consider further whether Jersey's participation in the TCA is in Jersey's best interests, it is important to consider what implications could, or would, arise if Jersey chose to withdraw from the Agreement. The Panel put this question to the Minister for External Relations in the Public Hearing:

The Connétable of St. Brelade:

I am going to address this to Senator Gorst, the Minister for External Relations. While this particular review focuses on fisheries, Minister, would you please help us to understand what the wider implications would be if Jersey withdrew from the T.E.C.A.?

The Minister for External Relations:

Firstly, we would no longer have any formal relationship with the E.U. We would be the only place in the British islands to not have that formal relationship, so Guernsey would continue and the Isle of Man as well as all of the other British islands. We would suffer tariffs on all of our goods into the E.U. I think we would find it even more difficult, or our fishermen would find it even more difficult, to access European markets. They would have, not only then tariffs, but we have seen already some of the difficulties of accessing those markets when we do have this new and exciting formal relationship. From a fishing perspective, of course, we would then have to continue to use the Bay of Granville Agreement, which would take away from the Minister for the Environment the right to issue permits in our own waters and the management of our own waters. So the issue that the Deputy of St. Martin raised, about you could refer to the non-level playing field of S.P.S. (sanitary and phytosanitary) checks, would be even greater. Because we would have joint management of our waters by an E.U. state when we were a third country and out of the single market and have no formal relationship with the E.U. We would be out of the Partnership Council. There would be no mechanism to deal with difficulties either in regard to fishing or in regard to other trades. So the Council of Ministers made the right decision in unanimously backing this new trade deal and the States Assembly made the right decision. I look forward to receiving the report from our lawyers confirming, one way or the other, I hope and understand that currently there is nothing in the legal text, which would mean that we needed to change our minds in that regard. But I look forward to their formal report confirming that the legal text does work and does have the effect that we thought it had when we made those decisions.⁹⁴

KEY FINDING 26: If Jersey took the decision to withdraw from the TCA it would have no formal relationship with the E.U. in relation to goods and customs. Tariffs would be imposed on all goods from Jersey into the E.U. There is also a perceived risk that Jersey (including its fishing industry) would find it more difficult to access European markets.

⁹⁴ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.24-5

KEY FINDING 27: Jersey's withdrawal from the TCA within the first 90 days of the TCA would see a return to the Granville Bay Agreement, which would remove the rights of the Minister for the Environment to issue licences to vessels to fish in Jersey's waters. Jersey would not be party to the Partnership Council and there would be no mechanism to deal with any difficulties with fisheries matters or other trade matters.

The Minister for External Relations further commented in the Public Hearing that:

...I absolutely believe that local artisanal fishermen in the Norman and Breton community will and can benefit greatly from this new arrangement. It is in their interest, as well as our fishing interest, economically and from a sustainability perspective, that we all keep this T.E.C.A. on the road and we form a new and positive relationship based upon it.⁹⁵

As noted previously, a significant advantage which the TCA offers is the ability for Jersey to exercise sole management of its territorial waters and with this the power placed with the Minister for the Environment to issue licences for qualifying vessels. Notwithstanding this, Jersey will need to be mindful of the fact that under the TCA it is made clear that access arrangements to each parties' waters should be non-discriminatory and furthermore that previous arrangements under the GBA and the history of what access arrangements have existed prior to the implementation of the TCA will remain relevant for Jersey, in order to successfully implement its obligations.

It is noted that the full legal text of the TCA has undergone a legal analysis by the Law Officers' Department and it is the Panel's understanding that this analysis has determined that there is no significant new information which has come to light since the summary text was agreed and that the terms outlined in the full legal text are broadly aligned to what was outlined in the P.170/2020 summary text. It is further understood that the full legal text confirms what the P.170/2020 summary anticipated which is that both goods and fisheries are inseparably linked, in that terminating goods obligations would terminate fishing obligations and vice versa; and therefore terminating the TCA based on disagreement with the terms of the agreement relating to fisheries, would mean Jersey would cease to benefit from the provisions of the TCA which secure tariff and quota free access for any Jersey goods into the EU Market.

KEY FINDING 28: The full legal text of the TCA is broadly aligned to what was outlined and understood to be the case in the summary contained in the Minister's Report on P170/2020. Specifically, both goods and fisheries are inseparably linked in the agreement and which is reflective of what the summary text asserted.

The Panel notes that should Jersey wish to terminate the TCA after the 90-day cooling off period, this termination would be subject to a three-year notice period. It being noted that the length of this term reduces risk of an arbitrary attack on removing Jersey from the TCA and with the support of the UK, would allow Jersey to exit the TCA in a managed way.

KEY FINDING 29: There is provision for termination of Jersey's participation in the TCA after the 90-day cooling off period, albeit this provision is subject to a three-year notice period.

⁹⁵ [Public Hearing with the Minister for the Environment and the Minister for External Relations](#), p.26

It is understood that if TCA participation is terminated within the 90-day cooling off period, then Jersey would need to consider how to address the significant concerns which exist surrounding the operation of the GBA, specifically how this has previously hindered appropriate conservation measures in Jersey's waters. It is noted that in order to address these concerns the Government of Jersey would most likely need to attempt to commence negotiations on a new fishing arrangement with the European Union to supersede the GBA and the outcome of any potential negotiation with the EU would be uncertain. Furthermore, the UK Government would need to open these negotiations on behalf of Jersey, or Jersey would need to obtain a Letter of Entrustment from the UK Government to do so.

KEY FINDING 30: If Jersey terminated its inclusion in the TCA, it would need to address the concerns that exist around the Granville Bay Agreement and this would most likely require Jersey's Government to commence negotiations on a new fishing arrangement with the EU. The outcome of this would be uncertain for Jersey.

The Panel recognises that this could lead to a more uncertain situation for Jersey's fishing industry and for potentially a longer period of time. Furthermore, that it would not be in Jersey's best interests if fisheries management fell back to the arrangements under the GBA in the intervening time.

As outlined in chapter 2, it is a common view amongst those in the fishing industry that the TCA is a missed opportunity to establish proper baseline limits for Jersey's fisheries and in reducing the inequity of access arrangements which has prevailed to date under the GBA. Whilst the Panel empathises with the inequitable situation which has existed, we are cognisant of the fact that the TCA is a trade deal negotiated by the United Kingdom and which has been extended to Jersey on non-negotiable terms. On reviewing all the evidence presented to the Panel we believe that, on balance and from what is known at the present time, it is within Jersey's best interests to remain in the TCA.

It is the Panel's view that if Jersey continues to participate in the TCA then there should be active monitoring and reporting by Government of how it is operating in practice. This will require in-depth engagement and consultation with the fishing industry to understand further any challenges that are presented. To this effect, we would recommend that Government seeks to monitor and review whether the TCA is having a positive, neutral or negative impact on the fishing industry over a 12 month period. Recognising that the full operational effects of the TCA in relation to fisheries and licensing will not become known until after the amnesty period, the Panel recommends that this twelve-month period takes effect from May 2021 – May 2022.

RECOMMENDATION 16: In the event that Jersey continues to participate in the TCA, The Minister for the Environment should provide quarterly reports to the States Assembly culminating in a final main report in May 2022 outlining how, in relation to fisheries, Jersey's participation in the TCA has developed in the first twelve months. These reports should include detail of how the licensing regime is working in practice, as well as any other operational effects of Jersey's inclusion in the TCA. They should incorporate any stakeholder engagement and feedback and clearly note any successes or challenges faced.

7 Conclusion

Overall, it is the Panel's view that the full legal text of the TCA reflects what was anticipated in the P.170/2020 summary text in relation to fisheries. Therefore, in consideration of the evidence presented and from what is known at the present time, it is considered in Jersey's best interests not to trigger the cancellation clause of the TCA.

The cessation of the Granville Bay Agreement and the opportunities presented by the new licensing regime present a much welcomed, positive step forward for Jersey in terms of sustainable fisheries management and the Panel hopes the Minister for the Environment will assume a proactive role in appropriately exercising these powers, for the benefit of Jersey's marine conservation and to the promote the interests of Jersey's fishing fleet.

Notwithstanding this, it is evident from our findings that there are practical challenges that remain and will continue to remain under the TCA in terms of fisheries management. Moreover, there will be significant work to do to ensure the successful, practical implementation of the TCA at ground level and to ensure the fishing industry is sufficiently supported.

It is the Panel's view that in pre-emptive Brexit readiness there should have been better contingencies and immediate support put in place to help alleviate the impact on the fishing and aquaculture industry. However, it is evident that manpower and resourcing in a number of areas is not sufficient and this will need to be adequately and speedily addressed by Government. Not least in areas of providing support to the fishing industry and including Jersey's regulatory teams. Furthermore, as highlighted earlier in our report, Government will need to take a 'belt and braces' approach to ensure Jersey is suitably equipped with the appropriate level of manpower and resources to be able to enforce its territorial waters, should the need arise.

There is much uncertainty for the fishing industry at present and Government will need to expedite its efforts in providing vitally important financial support for the industry in the short-term, if it is to survive in the long-term.

Communication and engagement is also vitally important and so the Panel hopes the Minister for the Environment will take on board our recommendation to provide frequent monitoring and reporting, in consultation with the industry moving forward, in order to gauge how the effects of Jersey's participation in the TCA are being felt at ground level. It is the Panel's hope that Government will take a proactive approach to communicate and provide reassurance to the industry in what is a particularly challenging and uncertain time.

It is further evident that a Marine Resources Strategy will be key to underpinning a sustainable fisheries management regime and we hope to see a new strategy presented to the States Assembly before the end of 2021.

The Panel hopes this report has been a useful aid to the States Assembly in highlighting the complexities and challenges faced by Jersey's fishing sector, but also the opportunities which the new regime can provide. Moreover, we hope the recommendations which have resulted from this review provide helpful and constructive feedback to the Minister for the Environment and his Department as they navigate their way forward in this new, post-Brexit era of fisheries management.

Appendix 1

Panel Membership



Constable Mike Jackson (Chair)



Constable John Le Maistre (Vice-Chair)



Constable Sadie Le Sueur-Rennard



Deputy Inna Gardiner



Deputy Graham Truscott



Deputy Steve Luce

Terms of Reference

- 1) To undertake a review of the Trade and Economic Cooperation Agreement (TCA) in relation to fisheries. The review will focus on the following areas in particular:
 - a) To analyse the relevant maritime resources sections of the legal text in order to determine whether it reflects the summary agreement and Jersey's best interests.
 - b) To assess the practical implications of ceasing the joint management of Jersey's waters (Granville Bay Agreement) with a particular focus on:
 - i) the 3 to 6 mile limit with regard to the Minquiers and Écréhous islands
 - ii) Zone A of the Les Pierres de Lecq rock grouping (Paternosters)
 - iii) Zone B of the Les Dirouilles rock grouping.
 - c) To assess the resource implications for Jersey's Marine Resourcing Team.

- d) To examine the changes to processes and procedures for the fishing industry and what impact this might have in Jersey.
- e) To analyse the processes and procedures in place for licensing EU fishing vessels in Jersey waters and consider any subsidies offered by the French government to French fishing interests.
- f) To provide an objectively informed assessment on whether it is in the best interests of Jersey to subscribe to the relevant Terms of the TCA, whilst noting that maritime resources and goods are linked and must both be approved to ensure Jersey's participation in the Agreement.

Evidence Considered

Public hearings

- Joint Public Hearing with the Minister for the Environment and the Minister for External Relations
- Jersey Fishermen's Association
- Simon Bossy (former Marine Resources Manager)
- Jersey Oyster*

The public hearing transcripts can be viewed on the States Assembly website [here](#).

The webcast of the hearings can also be viewed [here](#) up until 6 months after the hearing was held.

*Due to a declared financial conflict of interest, Deputy Luce did not participate in this public hearing

Written Submissions

A total of 40 written submissions were received by the Panel and can be viewed [here](#).

Other evidence considered

- Law Officer advice

Review costs

The costs of this review totaled £572 for Public Hearing transcription costs

What is Scrutiny?

Scrutiny panels and the Public Accounts Committee (PAC) work on behalf of the States Assembly (Jersey's parliament). Parliamentary Scrutiny examines and investigates the work of the Government, holding ministers to account for their decisions and actions. They do this by reviewing and publishing reports on a number of areas:

- Government policy;
- new laws and changes to existing laws;
- work and expenditure of the Government;
- issues of public importance.

This helps improve government policies, legislation and public services. If changes are suggested, Scrutiny helps to make sure that the changes are fit for purpose and justified.

The Environment, Housing and Infrastructure Scrutiny Panel, scrutinise Government on matters within these three remits. To learn more about the Panel's work – [CLICK HERE](#)

Appendix 2 - Fleury, C. (2011) Jersey and Guernsey: Two distinct approaches to cross-border fishery management

Fleury – Channel Islands' Fisheries

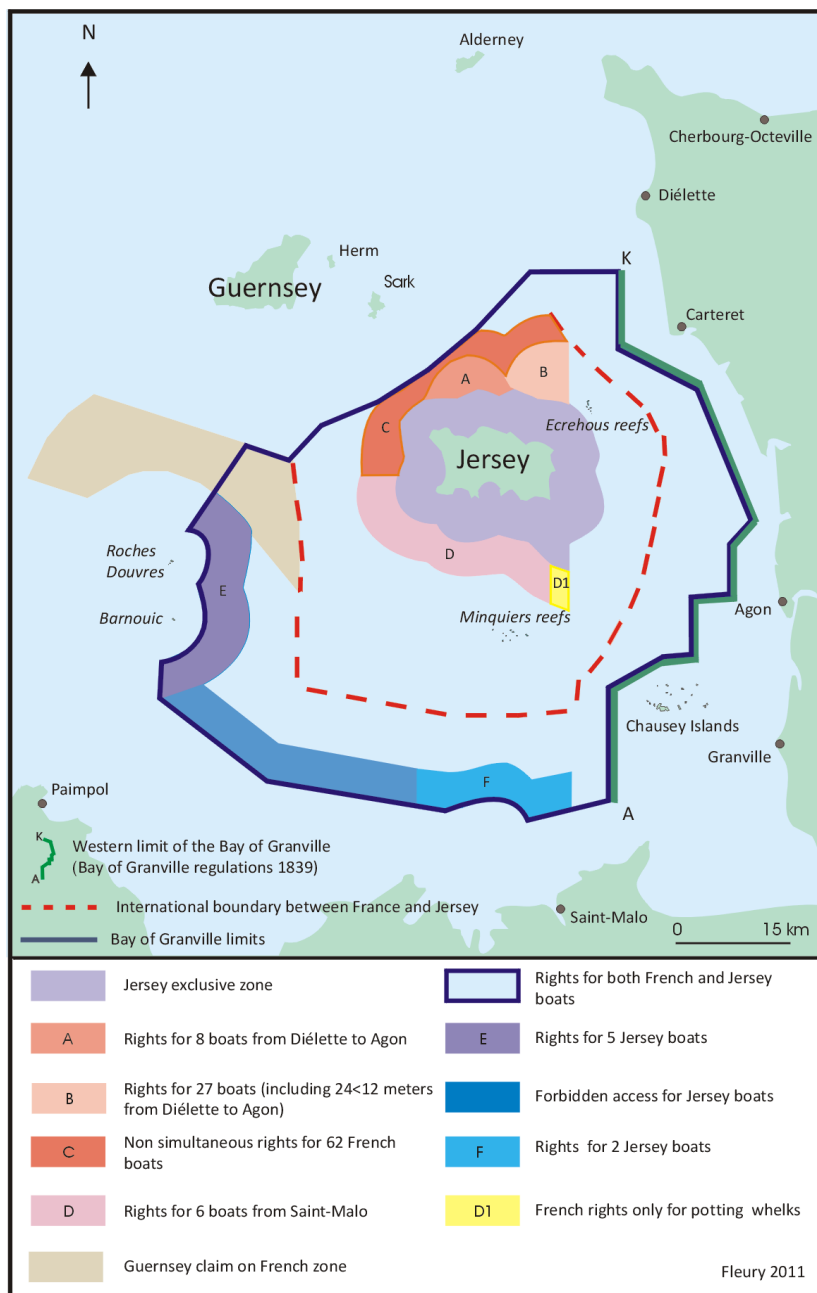
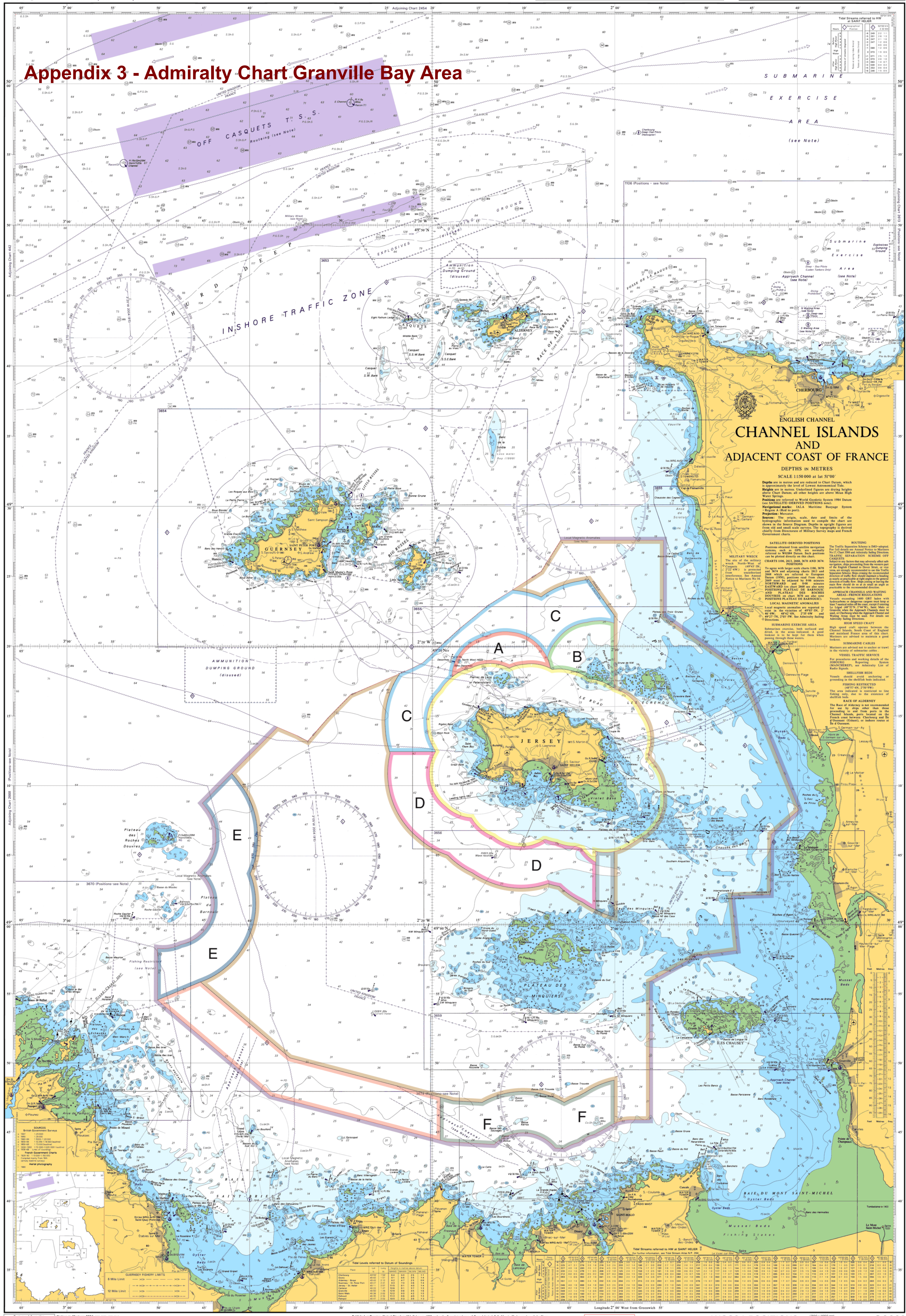


Figure 5 – Boundaries established under the The Bay of Granville Treaty (Sources: Agreement concerning the Establishment of a Maritime Boundary between France and Jersey; Agreement between France and UK concerning Fishing in the Bay of Granville with Exchanges of Notes and Declaration [4th July, 2000.]



Appendix 3 - Admiralty Chart Granville Bay Area

Tidal Streams referred to HW at SAINT HELIER

Direction	1/2	3/4	Full	1/4	1/2	3/4	Full	1/4	1/2	3/4	Full
Force	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0	1.1
Direction	100	110	120	130	140	150	160	170	180	190	200

Tidal Streams referred to HW at SAINT PIERRE

Direction	1/2	3/4	Full	1/4	1/2	3/4	Full	1/4	1/2	3/4	Full
Force	0.1	0.2	0.3	0.4	0.5	0.6	0.7	0.8	0.9	1.0	1.1
Direction	100	110	120	130	140	150	160	170	180	190	200

SUBMARINE EXERCISE AREA
(see Note)

INSHORE TRAFFIC ZONE

EXPLOSIVES

AMMUNITION DUMPING GROUND (disused)

RAZES OF ALDERNEY

FOUR DE LA RAQUE

CHERBOURG

ENGLISH CHANNEL AND ADJACENT COAST OF FRANCE
DEPTHS IN METRES
SCALE 1:150 000 at lat 51°00'

Depths are in metres and are reduced to Chart Datum, which is approximately the level of Lowest Astronomical Tide.

Heights are in metres. Underlined figures are drying heights above Chart Datum, other figures are above Mean High Water Springs.

Positions referred to World Geodetic System 1984 Datum (see SATELLITE-DERIVED POSITIONS note).

Navigation marks IALA Maritime Buoyage System - Region A (Red to port).

Propulsion Methods

SATELLITE-DERIVED POSITIONS
Positions obtained from satellite navigation systems, such as GPS, are generally referred to WGS84 Datum. Such positions can be plotted directly on this chart.

MILITARY WEEDS
The site of the military weed, North-West of Jersey, is shown on this chart. To refer to larger scale charts 1105, 970 and 974 and adjoining charts 2613 and 2604 which are referred to European Datum 1975, positions read from chart NORTHWARD and 0.66 minutes EASTWARD.

LOCAL MAGNETIC ANOMALIES
Local magnetic anomalies are reported in the vicinity of 49°51'N, 2°49'W, 49°51'N, 2°49'W. See Admiralty Sailing Directions.

SKUTTING
The Traffic Separation Scheme in 180°-abrupt, the 180° line is shown on this chart. The 180° line is shown on this chart. The 180° line is shown on this chart.

APPROACH CHANNELS AND WAITING AREA - FRENCH REGULATIONS
Vessels, including 1000 GRT, shall not enter the Channel Islands ports, unless they have been advised to do so by the Admiralty Sailing Directions.

SUBMARINE CABLES
Main cables are shown on this chart. The positions of the cables are shown on this chart. The positions of the cables are shown on this chart.

VESSEL TRAFFIC SERVICE
Vessel Traffic Service is provided in the Channel Islands. The positions of the VTS are shown on this chart. The positions of the VTS are shown on this chart.

ISLANDS
The Channel Islands are shown on this chart. The names of the islands are shown on this chart. The names of the islands are shown on this chart.

LES MINQUIERS
The Minquiers Islands are shown on this chart. The names of the islands are shown on this chart. The names of the islands are shown on this chart.

LES SAUVAGES
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Tidal Levels referred to Datum of Soundings

Time	10m	20m	30m	40m	50m	60m	70m	80m	90m	100m	110m	120m	130m	140m	150m	160m	170m	180m	190m	200m	
10:00	1.0	0.9	0.8	0.7	0.6	0.5	0.4	0.3	0.2	0.1	0.0	-0.1	-0.2	-0.3	-0.4	-0.5	-0.6	-0.7	-0.8	-0.9	-1.0



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