

# Environment, Housing and Infrastructure Panel

## Record of Meeting

### Meeting held by video conference

Date 9th November 2021

Present	Connétable Michael Jackson, Chair Connétable John Le Maistre, Vice-Chair Deputy Graham Truscott Deputy Steve Luce Deputy Inna Gardiner Connétable Sadie Le Sueur-Rennard
Apologies	
Absent	
In attendance	Deputy John Young, Minister for the Environment Ben Markwell-Sales, Private Secretary to the Minister for the Environment Alistair Breed, Chief Veterinary Officer, Infrastructure, Housing and Environment Department Stewart Petrie, Environmental Health Consultant, Infrastructure, Housing and Environment Department Dr Steve Webster, Consultant (Tautenay Ltd)  Nikita Hall, Committee and Panel Officer Fiona Scott, Research and Project Officer
Agenda Matter	Action
<b>1. Briefing: Draft Official Controls (Jersey) Regulations 202-</b>  The Panel received Officers and the Minister for the Environment for a briefing on the Draft Official Controls (Jersey) Regulations 202x (hereafter 'the OCR').  Officers informed the Panel that, prior to the UK's departure from the European Union (EU) ('Brexit'), the import and export of sanitary and phytosanitary (SPS) products in Jersey was set out in Regulation (EU) 2017/625, which was extended to Jersey under Protocol 3 of the UK's 1972 Accession Treaty. Due to the evolving border regime negotiated between the UK and the EU following Brexit, SPS goods arriving in Jersey from the EU would now be treated differently from those arriving from the UK. The Panel learned that the OCR was intended to repeal and replace the existent EU Legislation (Official Controls) (Jersey) Regulations 2020, which had until now allowed Jersey to keep within the EU trading regimes without incurring additional checks.  It was explained that the OCR had been designed to allow for flexibility in how differences in the trading regime with the EU are turned on or off, including allowing for the possibility to turn on checks, certification and notification on SPS goods arriving from the EU (mainly France). The Panel noted that the extent to which some of these checks would need to be implemented is unknown as much depends on the outcome of negotiations with the UK over the extent of Jersey's system of border controls. The Panel heard that the intention behind the OCR was to allow free and unfettered trade	

with UK to continue, but at same time creating minimal impediments to trade with the EU. Officers told the Panel that the OCR would allow for these trading conditions to be defined by Jersey, rather than defined by the UK on Jersey's behalf.

The Panel questioned whether the OCR extended to both plants and animal imports and asked for more information as to whether this included domestic pets. It was explained that the OCR was mainly concerned with controlling the entry of products of animal origin and plants into Jersey's territory. Domestic pets were not affected, unless in a consignment (for example, a number of stray animals being re-homed from within the EU). However, the veterinary treatment of horses in France would be affected by the OCR.

The Panel noted that the UK had delayed the implementation of its own post-Brexit border controls on agri-food imports with the EU and questioned whether this had implications for Jersey. Officers explained that the UK had twice delayed introducing full controls, with partial controls due to be in place by 1<sup>st</sup> January 2022, and full controls in place by July 2022. It was explained that the UK had decided on a phased introduction of controls to avoid incorrectly certified consignments of SPS goods being turned away at the border and was handling each case individually rather than applying blanket measures. Officers informed the Panel that it would be advantageous if Jersey could demonstrate willingness to follow the UK's example in implementing the OCR on a similar timescale.

The Panel asked the amount of EU goods currently being imported into Jersey. Officers stated that there were currently a relatively small but significant number of traders who import SPS goods from the EU (e.g., diaspora community businesses importing food from Poland, Portugal and France for sale in Jersey). Officers highlighted that the OCR would allow for flexibility should it be necessary to increase the volume of SPS imports from France in future. For example, in the event of the UK-Jersey supply chain being disrupted. Officers informed the Panel that a number of major retailers were currently considering the need to develop stronger trade links with France.

*[The Minister joined the meeting at this point]*

The Panel asked whether the OCR would present additional costs for small businesses importing from the EU. Officers explained that because the OCR provide the Minister with powers to introduce requirements for notification and certification on SPS goods, that there is likely to be a cost that is passed on to importers. Officers cited the requirement to have SPS goods certified by a vet as an example of where additional costs might arise. It was explained that by introducing nuanced regulations that reflect the relatively small volume of EU goods arriving in Jersey (rather than adopting the UK's border control approach wholesale) it was hoped that such costs to importers could be minimised.

The Panel noted that if Jersey were not to act to introduce its own SPS border controls, there was a risk that the UK could apply its own Regulations to goods traded Northbound, effectively re-classifying any SPS goods traded from Jersey to the UK as an export. In this event, goods would be re-directed to a Border Control Post (BCP) in the UK and require pre-notification and pre-certification checks. Officers stated that it would be preferable to tolerate additional costs to the EU trade route rather than impede the Jersey-UK trade route.

The Panel asked about the timeline for implementing the OCR and whether Jersey was up to speed with the UK in terms of the implementation of the revised border

controls. Officers explained, should the OCR be significantly delayed, the EU trade route would continue to operate unimpeded, but to allow this to continue would negatively impact Jersey's relations with the UK. Officers acknowledged that seeking to create a more flexible import regime for EU goods arriving in Jersey could be perceived as a challenge to the UK's negotiating position, but confirmed that in negotiations with the UK, the need to introduce proportionate controls for Jersey's size and scale had been upheld. It was explained that, should the UK settle on a position that required all SPS goods arriving from the EU to be directed to a Border Control Post, and this was also applied to Jersey, it would be possible to respond by defining BCPs in a different way to the UK to reflect the smaller scale of importation involved.

The Panel probed how quickly the introduction of a BCP in Jersey could be achieved, should this be required by the UK at short notice. Officers informed the Panel that a delegation from the Department for Environment, Food & Rural Affairs (DEFRA) came to Jersey recently to inspect the potential for a small BCP to be installed at the Harbour, in the form of an extension to the Ferryspeed terminal. If necessary, this could be in place by the time BCP requirements were due to be in place in the UK (July 2022). It was further highlighted that the requirement for live animals (equines) to be processed through a BCP could be avoided in the Jersey context by using an appropriate licensing regime instead. Officers said that the UK's Chief Veterinary Officer had considered both approaches as satisfactory, but ongoing negotiations were taking place with DEFRA policy officers to confirm this.

The Panel questioned what Guernsey's current position was. The Panel was informed that all negotiations with the UK had been undertaken jointly between Jersey and Guernsey, and that both islands were aligned in terms of seeking an approach which allowed for more autonomy from the UK's own controls but was broadly consistent with the UK's position. The Panel heard that Law and Policy Officers from both islands continued to speak weekly to progress work in this area. It was again emphasised that the introduction of the OCR would reassure third party countries (other than the UK and the EU) that Jersey was a trustworthy jurisdiction to deal with in terms of importing and exporting SPS goods.

Officers highlighted the Miscellaneous Provisions of the OCR and explained that these implemented six other EU Regulations which together created the framework for control that underpinned third country listing for exports.

Regulation (EC) No 1830/2003 was highlighted, as it concerned the traceability and labelling of genetically modified organisms and the traceability of food and feed products produced from genetically modified organisms (GMOs). This Regulation also created powers for the Minister to introduce a labelling requirement concerning GMO products in future if required.

The Panel noted that the Faroe Islands were listed as "territory subject to special import arrangements" in the OCR (Regulation 1(a)(ii)) and questioned the implications of enshrining this relationship in the regulations, given the recent concern about the Faroe Island's fishing activities. Officers explained that as Jersey does not directly import volumes of fish from the Faroe Islands, and was unlikely ever to do so in the future, that this definition was included as a technical requirement under World Trade Organisation (WTO) rules, rather than an indication of a future trading relationship.

The Panel asked about the implications for Jersey should the UK shift position towards accepting GMOs in imported food. Officers informed the Panel that discussions with Law Officers were ongoing in this area, and negotiations with the UK had emphasised Jersey's stringent desire to retain autonomy on this issue. Officers explained that if the

UK did accept GMO foodstuffs and these were introduced via the service sector unsighted, it would be difficult for Jersey to manage and prohibit the goods being imported from entering the supply chain. Officers stated that this could be countered by introducing a requirement to include "means of production" on imported food labelling, so that retailers and outlets would be compelled to inform customers of the presence of GMO in goods on sale. Officers further explained that a move by the UK to de-regulate in terms of allowing GMO imports would present a challenge for Jersey, but that introducing appropriate food labelling controls would allow the greatest opportunity to take a different stance. The Panel were informed that a public consultation would be held to gauge Islander's concerns with regards to GMO in foodstuffs prior to introducing any labelling requirements.

Officers explained that it was not possible under WTO rules to enforce restrictive food labelling on goods exported from countries that allowed GMOs in food production without also applying this to imports from non-GMO countries, as this would be construed as unfair. However, Officers pointed out that it was in the best of interests of countries with GMO food production to ensure that products destined for non-GMO markets did not accidentally include traces of GMOs, as this would cause significant reputational damage. It was noted that the USA and New Zealand produced hormone free beef and lamb respectively for the EU market, and the means of production was kept entirely separate to ensure international SPS controls were not breached.

The Panel asked how much industry consultation had taken place during the drafting of the Official Controls, given that its introduction was likely to affect the shellfish industry in terms of importing seed pearls from Ireland and France. Officers stated that the needs of the shellfish industry had been taken into account and that the OCR updated the current trading framework to allow trade to carry on as normal, whilst giving the Minister for the Environment flexibility to adjust to Jersey-specific requirements in future. Officers also stated that discussions with businesses importing goods from Poland and France were underway around the need for certification, if and when UK protocols would change.

The Panel asked what implications the OCR had for the continuation of the Le Marchi Nouormand (Norman-French Market). Officers stated that, as drafted, the OCR could pose as a barrier to the continuation of Le Marchi Nouormand, as each individual product imported for sale would need its own individual certification, and any unsold items would need to be sent back to the EU. Officers explained that in negotiations with the UK there had been concerns raised that Jersey could be used as a 'back door' through which a large volume of goods could be imported from the EU without going through a BCP, but that it had been established this would be highly unlikely due to cost and impracticability.

The briefing ended and the Panel thanked the Officers for their time.