



**II
2020**

BILLET D'ÉTAT

WEDNESDAY, 15th JANUARY 2020

THE BUSINESS OF THE MEETING

1. Policy & Resources Committee – The Withdrawal Agreement between the United Kingdom and European Union – Implications for the Bailiwick of Guernsey, P.2020/1

BILLET D'ÉTAT

TO THE MEMBERS OF THE STATES OF THE ISLAND OF GUERNSEY

I hereby give notice, pursuant to the provisions of Rule 2(4) of the Rules of Procedure of the States of Deliberation and their Committees, that at the Meeting of the States of Deliberation to be held at **THE ROYAL COURT HOUSE**, on **WEDNESDAY**, the **15th January, 2020** at **9.30 a.m.** the item listed in this Billet d'État is submitted for debate.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey

8th January, 2020

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

**THE WITHDRAWAL AGREEMENT BETWEEN THE UNITED KINGDOM AND EUROPEAN
UNION – IMPLICATIONS FOR THE BAILIWICK OF GUERNSEY**

The States are asked to decide: -

Whether, after consideration of the Policy Letter entitled “The Withdrawal Agreement between the United Kingdom and European Union – Implications for the Bailiwick of Guernsey”, dated 7 January 2020, they are of the opinion:-

1. To acknowledge the Withdrawal Agreement which will, if ratified, effect the orderly withdrawal of the UK from the EU;
2. To acknowledge that, should the UK and the EU both ratify the Withdrawal Agreement –
 - a) the territorial extent of the Withdrawal Agreement includes the Bailiwick of Guernsey and the Withdrawal Agreement will apply to the Bailiwick insofar as Protocol 3 to the UK’s Act of Accession to the European Community (1972) currently applies;
 - b) the UK will cease to be a member of the EU on the coming into force of the Withdrawal Agreement and the UK and EU will enter into a transition period;
 - c) during the transition period, which will end on 31 December 2020 (subject to any extension of up to two years), the same rights and obligations will apply to the UK as if it were still a member of the EU;
 - d) the same rights and obligations will apply to the Bailiwick during the transition period as if Protocol 3 still applied in respect of the UK’s membership of the EU;
3. To acknowledge the Political Declaration as a statement of the UK and EU’s intentions in regard to their future relationship;
4. To direct the Policy & Resources Committee to maintain efforts to ensure that –
 - a) the Bailiwick’s interests continue to be represented to the UK during any negotiations in relation to the UK-EU future relationship; and

- b) any future agreement or protocol should meet the Bailiwick's needs, while respecting the constitutional relationship with the Crown and the Bailiwick's domestic autonomy.
- 5. To agree, in particular, that any agreement or protocol in respect of the Bailiwick should be underpinned by the principles of relevance, proportionality and practicality taking into account the island nature of the Bailiwick, its size and population and unique needs arising out of the same;
- 6. To note, for the purposes of Article 72A of the Reform (Guernsey) Law, 1948 as amended, that pursuant to clause 42 of the European Union (Withdrawal Agreement) Bill –
 - a) clause 1 of that Bill would extend to Guernsey, in order to give effect to the saving for those provisions of the European Communities Act 1972 referred to in that clause;
 - b) the power in section 36 of the Immigration Act 1971 or (as the case may be) the UK Borders Act 2007 Act may be exercised, following consultation with the Policy & Resources Committee and the Committee *for* Home Affairs, so as to extend (with or without modifications) to Guernsey the modifications made to that Act by clause 10 of that Bill; and
 - c) paragraphs 1 and 2 of Schedule 5 to that Bill would extend to Guernsey, so far as they relate to the modification of any provision in subordinate legislation which extends to Guernsey;

and to signify their approval to the same for those purposes as necessary.

- 7. To agree that such other provisions of the European Union (Withdrawal Agreement) Bill and of any other Act of Parliament, as the Policy & Resources Committee believes to be necessary or expedient for the purpose of protecting or promoting the interests of Guernsey during the transition period, may extend or be extended to Guernsey.
- 8. To direct the preparation of such legislation as may be necessary to give domestic effect to the Withdrawal Agreement.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE WITHDRAWAL AGREEMENT BETWEEN THE UNITED KINGDOM AND THE
EUROPEAN UNION – IMPLICATIONS FOR THE BAILIWICK OF GUERNSEY

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

7 January 2020

Dear Sir

1. Executive Summary

- 1.1 In June 2016, there was a referendum in the United Kingdom ('UK'), when a majority voted to leave the European Union ('EU'). Consequently, the then Prime Minister of the UK, Theresa May, notified the European Council in March 2017 of the UK's intention to leave the EU¹, in accordance with Article 50 of the Treaty on European Union ('TEU')².
- 1.2 Article 50 provides for a period of two years, following a notification under that Article, to negotiate and conclude an agreement ('Withdrawal Agreement') setting out the arrangements for the withdrawal of the departing Member State, "taking into account the framework for the future relationship with the Union". This period was originally due to end on 29 March 2019. The UK made three requests to the EU (in March, April and October 2019) to extend this period³ (and extensions to 12 April 2019, 31 October 2019 and 31 January 2020 were agreed, respectively). The statement of the UK and EU's intentions in regard to their future relationship is set out in a document referred to as the 'Political Declaration' (as in paragraph 1.9).
- 1.3 A Withdrawal Agreement and Political Declaration were initially agreed between the UK and the EU in November 2018. However, the UK Parliament declined to give its approval to those documents on three occasions in the run up to 29

¹ [Letter to Donald Tusk, President of the European Council, triggering Article 50 \(29 March 2017\)](#)

² [Text of Article 50 of the Treaty on European Union](#)

³ Also known as the implementation period. The transition period is the term contained within the Withdrawal Agreement. The implementation period is the term generally used by the UK.

March 2019. In due course, Boris Johnson replaced Theresa May as UK Prime Minister. Subsequently, a revised Northern Ireland Protocol within the Withdrawal Agreement and Political Declaration were agreed between the UK Government and the European Council on 17 October 2019 and are awaiting ratification by the UK and EU. The European Union (Withdrawal Agreement) Bill⁴ ('WAB') has been laid before the UK Parliament to satisfy the requirement for parliamentary approval of the Withdrawal Agreement before ratification by the UK Government.

1.4 Although the Bailiwick of Guernsey ('the Bailiwick') did not participate in the UK's EU referendum in June 2016, it is and has been seeking to engage with the challenges presented and to maximise the opportunities offered positively and constructively. This Policy Letter is to:

- update the States of Deliberation on developments relevant to the Bailiwick which have taken place during the process of the UK's withdrawal from the EU ('Brexit') thus far;
- provide an opportunity for the States of Deliberation to consider and acknowledge the UK/EU Withdrawal Agreement and the Political Declaration, both of which will affect the Bailiwick;
- set out, at a high level, the anticipated major implications and next steps for the Bailiwick including the proposed approach for Guernsey's participation in the negotiations phase for the UK/EU future relationship;
- direct the preparation of any necessary legislation; and
- ensure the requirements of Article 72A of the Reform (Guernsey) Law, 1948, as amended, are fulfilled.

1.5 The content and timing of this Policy Letter have been affected by the timing and nature of decisions and actions by the UK's government and parliament as well as by the EU.

1.6 The States are asked to acknowledge the unratified draft "Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community"⁵, as endorsed by the European Council on 17 October 2019. That Withdrawal Agreement is yet to be approved by the UK's parliament – at the time of writing, the relevant Bill is progressing through the House of Commons. If ratified by both the UK and EU, the Withdrawal Agreement will effect the orderly withdrawal of the UK from the EU.

1.7 Following the UK's withdrawal from the EU (on 31 January 2020), there will be a

⁴ [European Union \(Withdrawal Agreement\) Bill](#)

⁵ [Agreement on the Withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community - October 2019](#)

transition period during which the UK is no longer an EU Member State, but when EU rules and regulations will continue to apply to the UK subject to the terms set out in the Withdrawal Agreement. During the transition period, the same rights and obligations will apply to the UK as if it were still a member of the EU. That transition period will last until 31 December 2020 (or beyond if an extension were to be agreed).

- 1.8 The States are also asked to acknowledge the Withdrawal Agreement's extension to and application in the Bailiwick of Guernsey (if approved and ratified) insofar as Protocol 3 to the UK's Act of Accession to the European Community (1972) currently applies. During the transition period, the same rights and obligations will apply to the Bailiwick as if Protocol 3 still applied in respect of the UK's membership of the EU.
- 1.9 The States are asked to acknowledge that the "Political Declaration setting out the Framework for the future relationship between the European Union and the United Kingdom" ('the Political Declaration') (Appendix 1) sets out the aspirations for a future relationship between the UK and the EU. The UK Prime Minister has committed to seeking, "a future relationship with the EU that works for the entire British family" (including the Channel Islands and the Isle of Man, as set out in correspondence in Appendix 2).
- 1.10 The ongoing expectation of the States of Guernsey is that such an agreement for the UK/EU future relationship will, in its extension to and application in the Bailiwick, be relevant, proportionate and practical and will, in its entirety, respect the Bailiwick's domestic autonomy and constitutional relationship with the Crown.
- 1.11 Reassuringly the UK Prime Minister has previously demonstrated the UK Government's support for the special relationship with the Crown Dependencies. He made a commitment to **"further strengthen the relationship after the UK has left the European Union, when the UK Government will be negotiating its own free trade agreement on behalf of the entire British family, including the Crown Dependencies"** (emphasis added). The UK Prime Minister made a further commitment reaffirming an important constitutional principle that **"the UK Government does not intervene in the Crown Dependencies domestic affairs without consent** other than in very limited circumstances and as a matter of last resort" (emphasis added). This was raised in relation to public registers of beneficial ownership and the Prime Minister asserted that **"The UK Government is unambiguous in supporting the constitutional position that the UK Parliament should not legislate on your behalf on these matters without your consent"** (emphasis added) (see Appendix 2 for original correspondence). This respect for the constitutional relationship with the Crown by the UK Government will be an important foundation for the work during and after the negotiations to establish our future partnerships.

- 1.12 This Policy Letter also includes information on the work undertaken within the Bailiwick to plan for the risk of a ‘no deal’ exit ⁶ in order to manage and mitigate the impacts that such an exit would cause (whether it were to be at the date when the UK left the EU or at the end of the transition period).
- 1.13 The Propositions include legislative provisions to satisfy the requirements of (the new⁷) Article 72A of the Reform (Guernsey) Law, 1948 as amended.

2. Background

- 2.1 The Bailiwick has a special relationship with the European Union set out in Protocol 3 to the UK's Act of Accession to the European Community (1972) ('Protocol 3'). Under Protocol 3, the Bailiwick is effectively part of the EU Customs Union and the Single Market so far as it relates to the free movement of goods. The detailed rules setting out the conditions with respect to trade in agricultural products (which include fish and fish products) are set out in EC Regulation 706/73⁸. Protocol 3, amongst other things, requires the Channel Islands to treat all natural and legal persons of the EU in the same way but the Bailiwick is not bound by other aspects of the Single Market. Outside the formal Protocol 3 relationship, the Bailiwick is treated as a ‘third country’ by the EU. As a third country, and due to the Bailiwick's location and close trading relationships with both the UK and other EU Member States, the Bailiwick voluntarily implements appropriate EU legislation and applies relevant international standards. Protocol 3 is linked to the UK's membership of the EU and remains in effect whilst the UK is an EU Member State.
- 2.2 On 23 June 2016, the UK held a referendum on the following question: “Should the United Kingdom remain a member of the European Union or leave the European Union?” There was an option of a ‘remain’ or a ‘leave’ result. The result of this referendum was declared on the morning of 24 June 2016 with 51.9% (17,410,742 votes) of the electorate voting for the UK to leave the EU, with 48.1% (16,141,241 votes) favouring remaining in the EU. The voter turnout was 72.2%.
- 2.3 On 29 March 2017, the then UK Prime Minister, Theresa May, notified the

⁶ In the event that the UK leaves the EU without a Withdrawal Agreement ratified and implemented or that an agreement for the UK/EU future relationship is not made or implemented before the end of the transition period.

⁷ The Reform (Guernsey) Law, 1948, was amended following consideration of a [Policy Letter \('Referral of UK Acts of Parliament and Orders in Council to the States of Deliberation'\)](#) in March 2019. The relevant [Projet de Loi](#) was approved by the States of Deliberation in June 2019 and the Reform Law was duly amended with effect from 04 November 2019.

⁸ [Regulation \(EEC\) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products](#)

European Council of the UK's intention to leave the EU, in accordance with Article 50 of the TEU. Article 50 provides for a period of two years to negotiate and conclude an agreement setting out the arrangements for the UK's withdrawal from the EU, "taking into account the framework for the future relationship with the Union". When the UK ceases to be a member of the EU, Protocol 3 falls away subject to any provision made by the Withdrawal Agreement (see paragraphs 4.11 to 4.15 about the transition period).

- 2.4 The UK was initially due to leave the European Union at 11pm GMT+1 on 29 March 2019. However, following a House of Commons vote on 14 March 2019, the UK Government sought to extend the Article 50 period and agree a later Brexit date. On 20 March 2019, the then UK Prime Minister wrote to European Council President Donald Tusk requesting an extension until 11pm GMT+1 30 June 2019. Following a European Council meeting the next day, the remaining EU Member States ('EU27') leaders agreed to grant an extension until either: 11pm GMT+1 22 May 2019, should the Withdrawal Agreement be approved by the UK's parliament; or 12 April 2019, should the Withdrawal Agreement not be so approved.
- 2.5 On 02 April 2019, as the Withdrawal Agreement had not been approved, the then Prime Minister announced that she would seek a further extension to the Article 50 period and offered to meet the Leader of the Opposition to attempt to agree a deal that could win the support of MPs. At a meeting of the European Council on 10 April 2019, the UK and the EU27 agreed to extend Article 50 until 11pm GMT on 31 October 2019. A further extension was then sought, in October 2019, and granted by the EU27. Consequently, the UK is now due to leave the EU at 11pm GMT on 31 January 2020.
- 2.6 As the UK and EU have progressed work on the UK's withdrawal from the EU, the States of Guernsey has maintained a high level of engagement with the UK's government and parliament. Although the Bailiwick of Guernsey did not participate in the UK's EU referendum in June 2016, it is and has been seeking to engage with the challenges presented and to maximise the opportunities offered positively and constructively. Appendices 2 and 3 provide further details of some of Guernsey's engagement with external stakeholders.
- 2.7 Throughout the process of the UK preparing to leave the EU, Members of the Policy & Resources Committee ('the Committee') have provided updates⁹ to the States of Deliberation on a range of Brexit-related matters. The most recent statement to the States of Deliberation was delivered by the President of the Committee on 25 September 2019¹⁰.

⁹ <https://www.gov.gg/brexitnews>

¹⁰ [Statement to the States of Deliberation by the President of the Policy & Resources Committee on 'Brexit, the UK political situation and Guernsey's constitutional resilience' - 25 September 2019](#)

2.8 The States of Deliberation has considered Brexit-related matters on a number of occasions since June 2016:

- June 2016¹¹ - High level objectives for Guernsey's relationships with the UK and the EU and the potential for new opportunities following the UK's exit – Policy & Resources Committee.
- March 2017¹² - Acknowledging the triggering of Article 50 of the Treaty on European Union in respect of 'Protocol 3' – Policy & Resources Committee.
- June 2017¹³ & December 2018¹⁴ - Necessary changes required to ensure Bailiwick retained the ability to implement effective and robust sanctions measures after the UK leave the EU and makes various other improvements to the sanctions – Policy & Resources Committee.
- November 2017¹⁵ - Rationale for repealing the European Communities (Bailiwick of Guernsey) Law 1973, for implementing relevant EU measures into domestic law and other legislative provisions to provide continuity and certainty during the Brexit process – Policy & Resources Committee.
- July 2018¹⁶ - Customs Duties and Associated Powers Required in Respect of Brexit – Committee *for* Home Affairs.
- December 2018¹⁷ - Road Transport and Driving Licence Implications for Driving in Europe Post-Brexit and other related matters – Committee *for* the Environment & Infrastructure.
- January 2019¹⁸ – Extension of the Bailiwick of Guernsey's Territorial Seas up to 12 nautical miles – Policy & Resources Committee.
- February 2019¹⁹ - Extension of the United Kingdom's Membership of the World Trade Organization – Policy & Resources Committee.

2.9 Further detail on these matters has been provided in Appendix 4.

2.10 Legislation has been drafted to enable the States of Deliberation to mitigate any adverse impacts of Brexit and benefit from any opportunities that are created. As many of the same challenges and opportunities exist in Guernsey, Alderney and Sark, these mitigation measures are intended to apply to the whole Bailiwick.

¹¹ ['Urgent Proposition' at the States' Meeting of 29 June 2016 \(P.2016/19\)](#) and [the Resolutions](#)

¹² [Billet d'État VI of 2017, Article III \(P.2017/11\)](#) and [Resolutions](#)

¹³ [Billet d'État XI of 2017, Article IV \(P.2017/38\)](#) and the [Resolutions](#)

¹⁴ [Billet d'État XXVII of 2018, Article XXIV \(P.2018/117\)](#) and [Resolutions](#)

¹⁵ [Billet d'État XXI of 2017, Article III \(P.2017/84\)](#) and [Resolutions](#)

¹⁶ [Billet d'État XIX of 2018, Article IV \(P.2018/57\)](#) and [Resolutions](#)

¹⁷ [Billet d'État XXVII of 2018, Article XXVII \(P.2018/135\)](#) and [Resolutions](#)

¹⁸ [Billet d'État II of 2019, Article II \(P.2019/5\)](#) and [Resolutions](#)

¹⁹ [Billet d'État IV of 2019, Article I \(P.2019/19\)](#) and [Resolutions](#)

- 2.11 The approach taken to Brexit thus far has been to ensure that all three parliaments in the Bailiwick are engaged and involved. For example, the Brexit legislation Policy Letter was considered by Chief Pleas of Sark on 07 December 2017 and the States of Alderney on 25 July 2018.
- 2.12 As at the date of this Policy Letter, the WAB is being debated by the UK's parliament to fulfil the requirement for a parliamentary process to agree the Withdrawal Agreement prior to ratification by the UK Government. The UK Government intends the WAB to be approved and brought into effect in time for the UK to exit the EU on 31 January 2020. The WAB is in committee stage in the House of Commons until 09 January 2020 and will be considered by the Lords from 13 January 2020. The European Parliament is due to consider whether to consent to the Withdrawal Agreement during a plenary session on 29-30 January 2020.
- 2.13 Following the extension of the Article 50 period from 31 October 2019 to 31 January 2020, the House of Commons voted to hold a General Election in the UK, which was set for 12 December 2019. In that election, the Conservative Party gained a majority of 80 seats (a total of 365 seats overall). There was a clear Conservative Party manifesto commitment to approve the Withdrawal Agreement and enter into negotiations on the future relationship, with those negotiations to be concluded by 31 December 2020 (with a commitment not to seek any extension of the transition period). The Conservative majority and manifesto commitment provide a clearer mandate to proceed with the UK's exit from the EU and the parliamentary numbers to ratify the Withdrawal Agreement, pass the necessary legislation and proceed to future relationship negotiations.

3. Guernsey's objectives in relation to the UK's withdrawal from the EU

- 3.1 In June 2016, the States of Deliberation agreed the following objectives for Guernsey in relation to Brexit:

"Negotiating considerations - relationship with the UK"

- (i) For trade in **goods**, including agriculture and fisheries products, there is a long-standing historic trading arrangement which provides for tariff-free reciprocal trade.
- (ii) There are no arrangements in place that make reference to trade in **services**, including financial services.
- (iii) For **people**, the Common Travel Area should continue to apply (it predates UK Accession, and is not dependent on EU law).

Negotiating objectives: relationship with the EU

- (i) In order to maintain the status quo for Guernsey, the States of Guernsey will need to maintain the free **trade in goods** with the EU hitherto provided under Protocol 3. In principle, it is possible that this may be replaced by extending the goods provisions of any new UK/EU agreement to Guernsey, subject to the precise terms.
- (ii) The existing work exploring extension of the UK **membership of the WTO** should be given a higher priority. This will provide lower tariffs for any imported goods coming direct from the EU or elsewhere (not via the UK) and will underpin an agreement on free movement of goods as well as other trading relationship.
- (iii) For **trade in services**, the States will seek to maintain its current position of being outside the EU, with market access on a case by case basis as a third country.²⁰
- (iv) For **people**, the States will need to seek to ensure any commitments made by the UK as part of its withdrawal agreement with respect to the grandfathering of rights of EU (non-UK) citizens in the UK and in the Channel Islands and that the legal status 'Channel Islander' (for the purposes of Protocol 3) is considered."

"Main areas for engagement with the UK Government for the States of Guernsey

In order to ensure that Guernsey's interests are best served in the negotiations with the UK it will need to ensure it monitors and engages with the UK Government to:

- (i) Ensure the interests of Guernsey residents are taken into account by the UK / EU exit agreement. This includes ensuring that Guernsey residents/persons with EU rights do not suffer any detriment compared to those resident in the UK;
- (ii) Ensure, where possible, the arrangements for free movement of goods described in Protocol 3 are replicated in some way. This may be through extension of the relevant part of any new UK / EU relationship. The States should also ensure that the best interests of Guernsey residents and businesses are served under that new agreement;
- (iii) Ensure there is no detriment to the existing, and historic, constitutional

²⁰ This may be as third country seeking market access separately to the UK or as a third country taking part in any future UK/EU relationship alongside the UK.

relationship between Guernsey and the UK. Work to mitigate against any risks of unintended consequences; and

- (iv) Seek opportunities for Guernsey in any new UK trading relationship including with the EU and with other countries outside of the EU, including any new free trade agreements and exploring extension of the UK membership of the WTO.”

- 3.2 As a result of continued engagement with the UK since the UK’s June 2016 referendum result, the following objectives have already been achieved:

Extension of the UK’s Membership of the World Trade Organization (‘WTO’)

- 3.3 On 18 October 2019, the UK Secretary of State for International Trade confirmed that the UK’s membership of the WTO would be extended to the Bailiwick of Guernsey when the UK becomes an independently represented member of the WTO in its own right. The extension of the UK’s WTO membership to the Bailiwick is essential for ensuring that Guernsey has access to the international rules and dispute resolution mechanisms relating to market access for goods, services and intellectual property; this is important for some local businesses which currently have, and want to maintain levels of market access to many countries across the world. Being part of the UK’s WTO membership ensures that Bailiwick businesses will be protected from unfairly applied high tariffs or discriminatory measures imposed when trading goods or delivering services across borders. Ensuring that the Bailiwick complies with the WTO’s international trade rules has been a wide-reaching process and included all States of Guernsey Principal Committees, the States of Alderney, Chief Pleas of Sark and industry sectors including financial services and financial services regulation, intellectual property, and the manufacturing/goods sectors. The extension of the UK’s membership of the WTO is relevant in a deal or a no deal scenario.

Immigration and mobility

- 3.4 The UK and the EU agreed early in the Brexit process that the current rights for UK citizens within the EU, and those EU/EEA/Swiss citizens living in the UK, would be protected after the UK had withdrawn from the EU. The UK and Guernsey introduced their respective EU settled status schemes to facilitate this. The Guernsey Border Agency has rolled out a programme throughout the Bailiwick islands to ensure that EU/EEA/Swiss citizens residing in these islands could easily apply for settled status. The scheme ensures that current access to healthcare, work arrangements, and access to benefits and public services for EU/EEA/Swiss citizens and their family members can continue. In addition, a key success of this scheme is that the Guernsey and UK schemes are reciprocal, so that time spent either in the Bailiwick or in the UK can count towards the years required for

settled status.

- 3.5 The UK and the EU have also agreed that the Common Travel Area ('CTA')²¹ will be protected and remain unchanged. The Bailiwick forms part of the CTA and the Committee *for* Home Affairs ('CfHA') continues to ensure the integrity of the CTA. Without the CTA, all islanders travelling to elsewhere in the British Islands or Republic of Ireland, or UK and Irish residents travelling to the islands, would have to clear through the relevant immigration entry channels on every journey. This would have placed a considerable burden on travellers and the relevant border services at both ends of the journey. The CfHA continues to work with the UK's Home Office as the UK develops its future post-Brexit immigration policies, including issuing any new format British passports. This is a complex area of work involving both legislative and operational changes.

Extension of the Bailiwick's territorial seas from 3 to 12 nautical miles

- 3.6 On 23 July 2019, the Bailiwick's territorial seas were extended from 3 nautical miles ('nm') to 12nm. This followed decisions of the States of Deliberation, States of Alderney and Chief Pleas of Sark earlier in 2019. It required cross-Committee support and pan-island working within the Bailiwick to agree a common position. The extension of the territorial seas gives the three jurisdictions of the Bailiwick greater control over activities in the 3-12 nm area as it gives legislative competence and corresponding law enforcement powers in that area.
- 3.7 The possibility of extending the territorial seas had been under consideration in the Bailiwick for decades. Until 2018/19, it had not proved possible for the three Bailiwick jurisdictions to reach a common position in order for the islands to approach the UK collectively to request extension of the territorial sea around the entire Bailiwick. However, there was increased impetus due to the UK's decision to withdraw from the EU and the UK's decision to withdraw from the London Fisheries Convention 1965 ('LFC').
- 3.8 The extension of the territorial seas enables the islands to implement legislation to help protect maritime interests, which is especially important for fisheries management following the UK's decision to withdraw from the LFC (which will take effect on the date when the UK ceases to be a Member State of the EU - regardless of whether the Withdrawal Agreement is approved). The LFC provides rights for other EU Member States' vessels to fish within British waters (and for UK vessels to fish in other EU Member States' waters). In the case of the Bailiwick, this means that French vessels have rights to fish for certain species within the 6-12nm zone of Bailiwick waters. Working through the issues of fisheries access rights after the UK leaves the EU will be complex, partly because

²¹ The CTA was developed to facilitate the principle of free movement for British and Irish citizens between the UK, Ireland, the Channel Islands and Isle of Man. It ensured that British and Irish citizens continued to benefit from a mutual enjoyment of rights.

it involves decisions and actions of the UK, France and the EU and partly because it involves three governments within the Bailiwick. Helpful dialogues with various stakeholders in both the UK and France continue in relation to all maritime matters.

Customs Arrangement signed between the States of Guernsey and HM Treasury

- 3.9 On 18 July 2018, the States agreed a policy letter entitled “Customs Duties and Associated Powers Required in Respect of Brexit”. Subsequently, on 26 November 2018, a Customs Arrangement²² was signed between the Bailiwick and the UK (‘the Customs Arrangement’). The Customs Arrangement provides that the Bailiwick will form part of a single British Islands customs territory and that common customs tariffs applicable to third countries are applied at Bailiwick borders in the same way as at any UK border.
- 3.10 The Customs Arrangement ensures that the flow of goods from the UK to the Bailiwick and *vice versa* is preserved and continues to be as frictionless as possible in respect of customs procedures. Negotiating and implementing the systems and processes requires substantial legislative and operational changes much of which is ongoing and delivered by the CfHA. The Customs Arrangement was a prerequisite for the extension of the UK’s membership of the WTO to Guernsey underpinning any future relationship/partnership (including with the EU and any third country trade agreement that has been ‘rolled over’ – see below at paragraph 3.16) and will be important in case of a no deal scenario at any stage during the Brexit process.

Movement of Live Animals and Products of Animal Origin (‘POAO’)

- 3.11 Any third country wishing to move POAO into the EU must be approved by the EU to be able to undertake this trade. In the event of a no deal, this approval takes the form of a ‘listing’ process. The EU has been prepared to expedite this process in order to ensure that listing can take place in the case of a no deal scenario. In preparation for 31 October 2019 (and as for the earlier dates when the UK was due to leave the EU), Guernsey submitted an application for listed status. The application involved a substantial amount of cross-Committee co-ordination and effort to ensure that the application would stand up to the scrutiny of our legislation and procedures by the EU against its strict POAO requirements. This process was undertaken in preparation for the 29 March/12 April 2019 exit dates and 31 October exit date.

²² [Arrangement between the government of the United Kingdom of Great Britain and Northern Ireland and the States of Guernsey \(the government of Guernsey\) concerning the establishment and operation of the United Kingdom-Crown Dependencies Customs Union](#)

- 3.12 Most recently, in mid-October 2019, Guernsey received confirmation that the EU's Standing Committee on Plants, Animals, Food and Feed ('SCoPAFF') had granted it 'listed' status for various POAO that are currently moved into the UK and wider EU²³. For Guernsey, the successful 'listing' helps enable live animal movements and trade in products of animal origin to continue as at present. The listing status is an important step to mitigate the effects of a no deal scenario. This process may need to be repeated if a potential no deal situation arises again, for example in advance of the end of the transition period if a future relationship has not been agreed or the nature of the future relationship is such that 'listing' for POAO will be required.

Extension of the Vienna Convention on Road Traffic, 1968

- 3.13 On 19 December 2018, the States of Guernsey sought the extension of the Vienna Convention on Road Traffic, 1968. The purpose of the Convention is to facilitate flows of international road traffic and to increase road safety through the adoption of uniform traffic rules, across the European Union and globally. Following extension, the Committee *for the* Environment & Infrastructure ('CfEI') has continued to work towards the implementation of the Convention in a proportionate manner. To date, c.8,000 International Driving Permits ('IDP') have been issued to Guernsey driving licence holders wanting to drive on EU roads post-Brexit. In the coming months, it is intended that road testing of Guernsey-registered vehicles will be developed and other Convention requirements will be delivered.

Legislative programme

- 3.14 The Bailiwick of Guernsey's legislative programme across all States of Guernsey Committees, the States of Alderney and Chief Pleas of Sark has met and continues to meet the varied and extensive legislative requirements that are needed to prepare for the UK's withdrawal from the EU and challenges presented by that withdrawal. Three principal pieces of legislation have been approved and are now in force, namely:
- The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018
 - The European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018
 - The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018

²³ [Official Journal of the European Union - Legislation - English edition - Volume 62 \(24 October 2019\)](#).

The decision in advance of 12 April 2019 is available here: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2019:103:FULL&from=EN>

- 3.15 In addition to the above three key pieces of legislation, other legislation has been prepared, amended or enacted in relation to topics such as customs, immigration, animal health, food safety, medicines, international trade (including for the purposes of international agreements), fisheries and maritime affairs, and road traffic. The Bailiwick's programme of legislative change is extensive, wide reaching and ongoing, particularly if a 'no deal' withdrawal were to take place at any point or once a new UK/EU future relationship is agreed.

Continuity of EU international agreements

- 3.16 Various international agreements currently apply to the UK by virtue of its EU membership. Similarly, a subset of these international agreements extend to the Bailiwick of Guernsey and apply via its Protocol 3 link to the EU. After the UK leaves the EU (or after a transition period, if one applies), the UK's participation in these agreements would ordinarily cease. As the UK makes use of, and benefits from, many of the existing agreements, it has adopted a continuity approach; intending to 'roll over' many of these agreements. This means that the UK will seek to become a party to the international agreements in its own right either bilaterally with partner countries or by acceding to various relevant international agreements.
- 3.17 In March 2019, the Policy & Resources Committee also agreed to adopt a continuity approach in respect of EU international agreements that apply by virtue of, and to the extent provided by, Protocol 3, even though Guernsey is not a party in its own right but under the auspices of the UK. The continuity approach means that the various international agreements will continue to apply post-Brexit insofar as Protocol 3 applied. Alderney and Sark's relevant Committees also adopted a similar approach.
- 3.18 As part of the process for 'rolling over' these international agreements, the States of Guernsey has engaged with relevant UK government departments principally:
- The Department for International Trade ('DIT'), whose programme seeks to roll over approximately 65 EU-third country trade agreements. The programme will help to preserve the existing cross-border trade arrangements (such as market access and the reduction in or elimination of tariffs or trade barriers) for global importers and exporters within the Bailiwick of Guernsey.
 - The Department for Environment, Food and Rural Affairs ('DEFRA'), whose programme has sought to roll over agri-food related agreements, and has taken into account some non-treaty arrangements. That programme will help to maintain regulatory standards and simplify trade or administrative measures.

- Her Majesty's Treasury (including Her Majesty's Revenue and Customs ('HMRC')), whose programme has involved rolling over trade-facilitating and customs cooperation agreements that affect the Bailiwick of Guernsey.

4. The Withdrawal Agreement and the Political Declaration on the future relationship between the UK and the EU

- 4.1 A Withdrawal Agreement and Political Declaration were initially agreed between the UK and the EU in November 2018. However, the UK Parliament declined to give its approval to those documents on three occasions in the run up to 29 March 2019 as 'meaningful votes'. In due course, Boris Johnson replaced Theresa May as UK Prime Minister. Subsequently, a revised Northern Ireland Protocol (with consequential amendments to the rest of the Withdrawal Agreement) and Political Declaration were agreed between the UK Government and the European Council on 17 October 2019 and are awaiting ratification by the UK and EU. The WAB has been laid before the UK Parliament to satisfy the requirement for parliamentary approval of the Withdrawal Agreement before ratification by the UK Government. This replaced the meaningful vote procedure used prior to 29 March 2019 and will mean the Political Declaration is not subject to the same approval process.
- 4.2 Throughout the period during which the UK and the EU have been considering the UK's exit from the EU, the States of Guernsey has sought to be engaged to protect the Bailiwick's interests and to ensure that, wherever necessary, a requisite parliamentary process is followed within this jurisdiction. This should help to prevent any unintended constitutional issues and send a clear message about the Guernsey's autonomy and growing international personality.
- 4.3 This Policy Letter is being laid before the States of Deliberation to ensure that a proper parliamentary process is followed in Guernsey in relation to the Withdrawal Agreement and Political Declaration. The content and timing of this Policy Letter have been affected by the timing and nature of decisions and actions by the UK's government and parliament as well as by the EU. This Policy Letter provides an opportunity for the States of Deliberation to consider and acknowledge the Withdrawal Agreement and the Political Declaration, both of which will affect the Bailiwick. The Political Declaration will form the basis of the formal negotiations on the UK's future relationship with the EU. The UK's Government has committed to continuing to engage with the Channel Islands and the Isle of Man throughout the process of seeking a future relationship with the EU that works for the entire British family (Appendix 2).
- 4.4 The ongoing expectation of the States of Guernsey is that such an agreement for the UK/EU future relationship will, in its extension to and application in the Bailiwick, be relevant proportionate and practical and will, in its entirety, respect

the Bailiwick's autonomy and constitutional relationship with the Crown.

- 4.5 Reassuringly the UK Prime Minister has previously demonstrated the UK Government's support for the special relationship with the Crown Dependencies. He made a commitment to **"further strengthen the relationship after the UK has left the European Union, when the UK Government will be negotiating its own free trade agreement on behalf of the entire British family, including the Crown Dependencies"** (emphasis added). The UK Prime Minister made a further commitment reaffirming an important constitutional principle that **"the UK Government does not intervene in the Crown Dependencies domestic affairs without consent** other than in very limited circumstances and as a matter of last resort" (emphasis added). This was raised in relation to public registers of beneficial ownership and the Prime Minister asserted that **"The UK Government is unambiguous in supporting the constitutional position that the UK Parliament should not legislate on your behalf on these matters without your consent"** (emphasis added) (see Appendix 2 for original correspondence). This respect for the constitutional relationship with the Crown by the UK Government will be an important foundation for the work during and after the negotiations to establish our future partnerships.

The Withdrawal Agreement²⁴

- 4.6 The Withdrawal Agreement is a draft international agreement which requires ratification by the UK and EU before it takes effect. If ratified, the Withdrawal Agreement will effect the orderly withdrawal of the UK from the EU.
- 4.7 The Withdrawal Agreement provides for:
- **a deal on citizens' rights** that protects the rights of EU citizens in the UK and UK nationals in the EU, ensuring they can continue contributing to their communities and live their lives broadly as now;
 - **separation provisions** that wind down certain arrangements (for example cooperation on civil court cases still ongoing at the end of the transition period) under the current EU legal order to ensure an orderly withdrawal and smooth transition to the future relationship, noting that the majority of these provisions could be superseded by the agreement on the future relationship;
 - **a time-limited transition period** that provides certainty to businesses and individuals while the future relationship with the EU is negotiated;
 - **arrangements on the financial settlement** that represent a fair settlement of the UK's rights and obligations as a departing Member State, in accordance with its legal commitments and in the spirit of the UK's continuing partnership with the EU;

²⁴ Withdrawal Agreement (see footnote 4)

- **governance arrangements** that provide legal certainty and clarity to citizens, businesses and organisations and respect the autonomy and integrity of both the UK's and the EU's legal orders;
- **the unique circumstances in Northern Ireland** whereby the whole of the UK will be a single customs territory with control of its independent trade policy, including as regards Northern Ireland. Northern Ireland remains aligned with the EU on goods (including certain laws for VAT on goods), and therefore applies EU tariffs in Northern Ireland, with the exception for movements within the single customs territory of the UK. This position will continue only for as long as Northern Ireland wishes this system to continue as there will be a mechanism to facilitate democratic consent, the first of which is a vote four years after implementation.
- maintaining the UK's international commitments in respect of the **Sovereign Base Areas ('SBA')**, protecting the interests of Cypriots living and working in the SBAs and ensuring the continued effective operation of the SBAs for military purposes; and
- a Protocol on **Gibraltar** which will form part of a wider package of agreements that address issues of importance to citizens and businesses in Spain and Gibraltar and reflect the parties' desire to work together in support of the shared prosperity and security of the area.

4.8 Article 3 of the Withdrawal Agreement (which sets out the 'territorial scope') states that the Agreement will apply to the Channel Islands and the Isle of Man, to the extent that EU law was applicable to them before the date of entry into force of the agreement. Accordingly, the Withdrawal Agreement will apply insofar as the Protocol 3 relationship applied to EU Treaties. During the transition period, the same rights and obligations will apply to the Bailiwick as if Protocol 3 still applied in respect of the UK's membership of the EU.

4.9 The parts of the Withdrawal Agreement that have a most direct impact for the Bailiwick and its residents are the provisions relating to: the transition or implementation period; the customs matters and the movement of goods provisions such as the placing of goods on the market after exit day; and the provisions relating to citizens' rights.

4.10 The States of Deliberation is asked to acknowledge the territorial extent of the Withdrawal Agreement.

The transition period

4.11 The transition period is intended to be a time during which the UK/EU relationship can transition from the existing situation (UK as a member of the EU) to a new relationship underpinned by a free trade agreement. The transition period will last until 31 December 2020 (with the option for extension for a

maximum of two years by agreement between the EU and the UK – which must be exercised before 30 June 2020²⁵). During the transition period, EU rules and regulations will continue to apply to the UK subject to the terms set out in the Withdrawal Agreement. This maintains the supremacy of EU law during the transition period and the role of the Court of Justice of the European Union ('CJEU'). During the transition period, the same rights and obligations will apply to the UK as if it were still a member of the EU.

- 4.12 This arrangement will mean businesses are able to trade during the transition period on the same terms as they do now. The transition period is intended to be of mutual benefit, building a bridge to the UK's future relationship with the EU while giving citizens and businesses in both the UK and the EU the time and confidence to plan for that future relationship. However, it should be noted that the UK will have left the EU in law. This approach will enable the UK to begin trade negotiations with any non-EU country, although any such agreement could not be put in to effect until the end of the transition period.
- 4.13 The transition period will apply to the Bailiwick of Guernsey insofar as Protocol 3 applied the EU Treaties to the Bailiwick during the UK's membership of the EU. This means that the rights and obligations that Protocol 3 provides for will, in effect, continue during the transition period. EU law will continue to apply directly in the Bailiwick only insofar as it applied under the terms of Protocol 3 and Regulation 706/73²⁶. Therefore businesses will be able to trade on the same terms as they do now. The status quo will be maintained for the entirety of the transition period in respect of free movement of goods. As the Bailiwick is outside the EU for the free movement of services, including financial services, there will be no change in these trading relationships during the transition period. As for the UK and the EU, the transition period should give citizens and businesses in the Bailiwick the time and confidence that they need to plan for the future relationships between the Bailiwick, the UK and the EU.
- 4.14 The States of Deliberation is asked to acknowledge that the transition period created by the Withdrawal Agreement will apply to the Bailiwick and that the Bailiwick will remain bound by or otherwise aligned to the applicable EU *acquis* during this period to the same extent as it had done whilst Protocol 3 applied (when the UK was a member of the EU).
- 4.15 The expectation of the UK and the EU is that the status quo will remain during the transition period, insofar as is practicable. This will require the Bailiwick to continue to meet the obligations under its Protocol 3 relationship with the EU.

²⁵ Withdrawal Agreement (see footnote 4), Article 132: The transition period may be extended for a period of up to two years by agreement of the Joint Committee (comprising representatives of the EU and of the UK - co-chaired by the EU and the UK).

²⁶ [Regulation \(EEC\) No 706/73 of the Council of 12 March 1973 concerning the Community arrangements applicable to the Channel Islands and the Isle of Man for trade in agricultural products](#)

It may also require the Bailiwick to take steps to maintain the status quo even in areas where Protocol 3 does not apply, most notably fishing access. French vessels currently have defined fisheries access to the Bailiwick's territorial seas between the 6 and 12 nm limits under the LFC and given effect to by UK legislation extended to the Bailiwick (as in paragraphs 3.6 to 3.8). The UK will cease to be a party to the LFC when it leaves the EU. The EU is likely to expect that the islands would do their part to maintain reciprocal access to Bailiwick and French waters throughout the transition period in order to ensure that the status quo is maintained. This will ensure that any future negotiation with the EU is based on stability in the fisheries relationship. It is worthy of note that fisheries negotiations play a prominent part in the Political Declaration (Appendix 1) in order to secure a new economic partnership²⁷.

Northern Ireland Protocol²⁸

- 4.16 The UK has committed to avoiding a hard border, or any border infrastructure, between Northern Ireland and Ireland and to upholding the 1998 Belfast (Good Friday) Agreement. The Northern Ireland Protocol negotiated in October 2018 was known as the 'backstop' because it provided for a set of arrangements to prevent a hard border on the island of Ireland should no alternative be negotiated. This Protocol was renegotiated by the Boris Johnson administration in October 2019 removing it as a 'backstop' and providing a new basis on which a hard border could be prevented²⁹. The new Northern Ireland Protocol seeks to meet those commitments through a number of measures. The UK will be a single customs territory (including Northern Ireland) with control of its independent trade policy. However, a single regulatory zone will be established on the island of Ireland. Northern Ireland will remain aligned with the EU on goods (including certain laws for VAT on goods) and apply EU tariffs in Northern Ireland except for movements within the single customs territory of the UK. The Protocol sets out rules for Northern Ireland defining its ongoing consent, with the first vote being four years after implementation.
- 4.17 In the new Protocol, Great Britain (being England, Scotland and Wales) is not in any regulatory or customs relationship with the EU. The new Protocol provides that Northern Ireland is in the UK's customs territory. It makes clear that Northern Ireland may be included in the UK's future trade deals with third countries, and that Northern Ireland will be included in the UK's WTO schedules.
- 4.18 The Protocol makes clear that no tariffs are payable on goods moving from Great Britain to Northern Ireland, unless those goods are at risk of subsequently moving into the EU (in which case they will pay the EU tariff). This reflects the

²⁷ Appendix 1 – Political Declaration, Part XII (Fishing opportunities), in particular paragraph 74

²⁸ [Revised Protocol to the Withdrawal Agreement - October 2019](#)

²⁹ Withdrawal Agreement (see footnote 4), Protocols, Protocol on Ireland/Northern Ireland, page 292

principle that tariffs are not payable on movements of goods between different parts of the same customs territory. It similarly sets out that the tariff on goods coming into Northern Ireland from another country outside the EU should be the UK's tariff, again unless the good is at risk of moving into the EU. This latter provision ensures that Northern Ireland businesses can benefit from free trade deals that the UK will strike with third countries after the UK leaves the EU.

- 4.19 As the Bailiwick of Guernsey and Northern Ireland will both be within the UK's customs territory, goods can flow freely between them unless those goods are at risk of moving on into the EU (in which case they will pay the EU tariff).
- 4.20 It should be noted that the new Northern Ireland Protocol has been designed to operate regardless of any free trade agreement between the UK and the EU being in place at the end of the transition period. However, the UK and EU have signalled their commitment to negotiating an ambitious free trade agreement to ensure no tariffs, charges or quantitative restrictions across all sectors with appropriate and modern accompanying rules of origin. Such an arrangement would facilitate trade between Northern Ireland and the Republic of Ireland.
- 4.21 There will be debate about the alignment or divergence from EU rules in terms of regulatory matters such as agri-foods standards. In addition to this the focus will also be on the level of commitments that the EU will seek in certain horizontal standards intended to protect the single market through ensuring open and fair competition. These areas likely to be covered are state aid, competition, social and employment standards, environment, climate change, and relevant tax matters. These standards are known as 'level playing field' commitments.

Citizens' rights

- 4.22 As stated above, during the transition period EU rules and regulations will continue to apply to the UK subject to the terms set out in the Withdrawal Agreement³⁰. For the purpose of citizens' rights, individuals falling within scope of the Agreement will have broadly the same entitlements to work, study and access public services and benefits as they have currently in as far as these entitlements have derived from the UK's membership of the EU and Protocol 3.
- 4.23 All UK citizens and their family members lawfully resident in the EU at the end of the transition period will be able to stay, as will all EU citizens and their family members lawfully residing in the UK. Once EU citizens have resided in the British Islands continuously and lawfully for five years a person will be able to apply for settled status.

³⁰ Withdrawal Agreement (see footnote 4), Part Two (Citizen's rights)

- 4.24 As set out in paragraph 3.4, the UK and the EU agreed in early 2019 that the current rights for UK citizens within the EU, and those EU/EEA/Swiss citizens living in the UK, would continue after the UK has withdrawn from the EU. The UK and the Bailiwick of Guernsey have already introduced their respective EU settlement schemes to facilitate this.
- 4.25 This confirmation of citizens' rights is in alignment with the States' Resolution from March 2017³¹ following a successful amendment from Deputy Roffey.
- 4.26 The WAB provides for the establishment of the Independent Monitoring Authority ('IMA') for the Citizens' Rights Agreements. This body will be established to monitor the UK's application of the citizens' rights parts of the Withdrawal Agreements and any breaches. It has been stated that the IMA will be operational from the end of the transition period (31 December 2020)³².
- 4.27 The Political Declaration makes clear that the principle of free movement of persons between the EU and the UK will no longer apply in the future. The Declaration makes clear that any future mobility arrangements will be based on non-discrimination between the EU's Member States and also full reciprocity. It will be important to continue to engage with the UK to ensure that the Bailiwick's needs in respect to the movement of people are recognised in any future agreements. Any changes to the Bailiwick's immigration regime should suit the islands' economic and social needs as well as ensuring the maintenance of the CTA.

The UK's European Union (Withdrawal Agreement) Bill

- 4.28 In order to seek parliamentary approval for the Withdrawal Agreement and to enact legislation to give effect to this Agreement, the WAB was given its first reading in the UK's House of Commons on 19 December 2019 and its second reading on 20 December 2019.
- 4.29 The UK's government intends to conclude the remaining stages in the House of Commons and House of Lords in time for the WAB to be approved and brought into effect by 31 January 2020 (as in paragraph 2.12). The European Parliament is due to consider whether to consent to the Withdrawal Agreement during its plenary session on 29-30 January 2020 (being after the UK parliamentary processes and before 31 January 2020).

³¹ [Amendment 2 \(Proposed by Deputy Roffey, Seconded by Deputy Brehaut\) to Proposition P.2017/11 'Acknowledging the triggering of Article 50 of the Treaty on European Union in respect of "Protocol 3" - Billet d'État VI of 2017](#)

³² [Independent Monitoring Authority for the Citizens' Rights Agreements – Withdrawal Agreement Bill Factsheet](#)

4.30 The current WAB differs from an earlier Bill that had been introduced in the UK Parliament in October 2019. The differences are summarised below:

- A provision has been added providing for the power for the UK Government to define when certain UK courts should deviate from EU case law in relation to retained EU law, and sets out the procedure for exercising this power (clause 26). The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 already makes provision in relation to the status of EU law;
- A provision has been added that prohibits the extension of the implementation or transition period (clause 33). This means that an Act of Parliament would be required to repeal this provision to allow the UK Government to seek extension of the transition period;
- Removal of a provision which would have protected some workers' rights by requiring non-regression from rights enshrined in EU law (this was in clause 33 of the WAB as laid before the UK Parliament in October 2019). This was not a direct requirement to implement the Withdrawal Agreement, it is not directly relevant for the Bailiwick of Guernsey relationship with the EU and its removal does not prohibit workers' rights being protected in other legislation;
- A provision removing an obligation in the European Union (Withdrawal) Act 2018 to make an agreement with the EU on the operation of the principle of family reunification for unaccompanied children seeking asylum with the need to make a policy statement (clause 37). This obligation did not apply directly to the Bailiwick but the resultant policy may impact the rights of any refugees that may seek protection in the islands.

4.31 It is proposed that clause 1 of the WAB, read together with clause 42(2)-(3), should extend to the Channel Islands and the Isle of Man. This clause inserts a saving provision into the European Union (Withdrawal) Act 2018, which provides that certain parts of the European Communities Act 1972 will continue to have effect during the transition period despite that Act's repeal on exit day (31 January 2020). The European Communities Act 1972 extends to the Bailiwick of Guernsey for certain, limited purposes as it provides that Bailiwick legislation made to implement the EU treaties is not to be treated as void by reason of any inconsistency with an Act of the UK Parliament. Accordingly, the effect of clause 1 of the WAB being extended to the Channel Islands is to ensure this principle is unaffected during the transition period.

4.32 The Bailiwick of Guernsey, like Jersey and the Isle of Man, has given effect to the EU Treaties with domestic legislation: the European Communities (Bailiwick of Guernsey) Law 1973 ('the 1973 Law'). Rather than repealing and saving the 1973 Law (as is the UK's approach), it is intended that the Bailiwick will defer repeal of

the 1973 Law until the end of the transition period, but amend that Law to reflect the fact that the UK has ceased to be a Member State and entered the transition period (see section 6 below).

- 4.33 Clause 42(4) also provides a permissive extent clause in respect of the immigration provisions contained in clause 10 (retention of existing grounds for deportation)³³, which requires that deportation powers within the Immigration Act 1971 and UK Borders Act 2007 be exercised in a way that is compatible with the Withdrawal Agreement, the separation agreement between the UK and the EEA EFTA countries, and the Swiss Citizens' Rights Agreement. Separately, clause 42(5), together with Schedule 5, makes further consequential provisions in respect of the coming into force of subordinate legislation (which may itself have some effect in the Bailiwick) in the context of the transition period.
- 4.34 Given the proposed direct extension to Guernsey of clause 1 of the WAB, the potential extension of some other UK Acts of Parliament further to Orders in Council and consequential amendments to subordinate legislation (as provided for under clause 42 of the WAB), Article 72A of the Reform (Guernsey) Law, 1948 as amended is engaged and the States of Deliberation are asked to signify their views on the extension of these provisions. In relation to this issue, it would also be prudent for the Committee to have some delegated authority enabling it to agree to extension of UK legislation where it appears to that Committee to be necessary or expedient for the purpose of protecting or promoting the interests of Guernsey during the transition period. If such authority were granted, it would be the intention of the Committee to exercise any powers only where there was insufficient time to bring the matter to the States and, in any event, it would intend to report back to the States if the power were exercised at the earliest opportunity.
- 4.35 Under normal UK parliamentary process, any treaty that the UK Government seeks to ratify needs to be laid before Parliament for 21 sitting days under the Constitutional Reform and Governance Act 2010. The WAB proposes to remove this requirement for the Withdrawal Agreement to ensure that the Agreement can be ratified before 31 January 2020.

The Political Declaration

- 4.36 While the Withdrawal Agreement deals with the issues caused by the UK's exit from the EU, it does not set the basis on which a new relationship with the EU is negotiated. Article 50 of the Treaty on European Union states that "the Union shall negotiate and conclude an agreement with that State, setting out the

³³ [Explanatory notes to the European Union \(Withdrawal Agreement\) Bill as introduced in the House of Commons on 19 December 2019 - Clause 10](#)

arrangements for its withdrawal, **taking account of the framework for its future relationship with the Union**” (emphasis added)³⁴. Such a future relationship, including any economic partnership, can only be negotiated between the UK and the EU when the UK is no longer an EU Member State. In order to address this gap, the UK and the EU have negotiated a revised “Political Declaration setting out the framework for the future relationship between the European Union and the United Kingdom” (‘the Political Declaration’), which was agreed at the European Council meeting held on 17 October 2019³⁵. A full copy of the Political Declaration is available at Appendix 1.

- 4.37 The UK issued an ‘explainer document’ for the new Ireland/Northern Ireland Protocol and the Political Declaration³⁶. The revised Political Declaration provides a framework for the negotiations on the UK’s future relationship with the EU. The explainer document confirms that the future relationship will be negotiated on behalf of the whole of the UK and on behalf of all territories for whose external relations the UK is responsible, which includes the Channel Islands and Isle of Man.
- 4.38 The revised Political Declaration makes clear that the future UK/EU relationship will have a ‘comprehensive and balanced’ Free Trade Agreement at its core³⁷, alongside agreements on security and wider areas of cooperation. All elements of the text from the previous Political Declaration that suggested a customs union-type future relationship have been removed. Alignment on EU law is still possible, but the revised Political Declaration includes no specific commitment to do so.
- 4.39 The revised Political Declaration states that the proposed UK/EU free trade agreement will aim to facilitate trade in goods and services between the UK and EU, including by way of customs arrangements and ambitious goods market access with zero tariffs and no quotas. The FTA will support financial stability, market integrity, and investor and consumer protection. The Political Declaration states that the economic partnership will be underpinned by provisions ensuring open and fair competition commensurate with the scope and depth of the future relationship. It also allows for additional agreements in areas including: aviation, to preserve connectivity; civil nuclear, to safeguard trade in nuclear materials; fisheries, to agree access arrangements to each other’s waters. It makes clear that freedom of movement will end when the transition period ends. The UK will have exclusive control over its immigration system in future.

³⁴ [Article 50, Title VI – Final Provisions, Treaty on European Union](#)

³⁵ [Special meeting of the European Council \(Art. 50\) \(17 October 2019\) - Conclusions](#)

³⁶ [Explainer for the New Ireland and Northern Ireland Protocol and the Political Declaration on the future relationship - 18 October 2019](#)

³⁷ This is in contrast to the Political Declaration agreed between Theresa May’s Government and the EU Council in November 2018, which was based on the concept of an Association Agreement.

- 4.40 The Political Declaration also provides for an ambitious future security relationship, respecting the sovereignty of the UK and the autonomy of the EU, and covering law enforcement and judicial cooperation, with a focus on strong operational capabilities, as well as arrangements on foreign policy, security and defence, and in other specific areas such as cyber security. It paves the way for the negotiation of a security relationship that will enable the UK and the EU to continue to combat jointly the shared threats faced by their citizens. The declaration makes clear that cooperation on security and defence is a sovereign choice for the UK, not an obligation.

Future negotiations for the Bailiwick

- 4.41 The UK Government, as outlined in a letter from the Prime Minister to the Chief Minister of Guernsey (in Appendix 2), will negotiate a future relationship with the EU on behalf of the entire British family. The UK Government is responsible for representing the Bailiwick's interests even where they differ from those of the UK³⁸.
- 4.42 The Committee has been working closely with the UK Government to prepare for the negotiation on a future relationship. The EU will not start to negotiate a future relationship until the UK has left the EU on 31 January 2020. The Political Declaration sets out the agreed political aspirations of the EU and UK, but it is not binding in itself. The shape and scale of the new relationship between the UK and the EU will be subject to negotiation.
- 4.43 The Political Declaration envisages that the UK/EU economic partnership will be underpinned by commitments to ensure a level playing field for open and fair competition. These commitments will apply to areas such as: state aid, competition, social and employment standards, environment, climate change and relevant tax matters. The Political Declaration states that, "The precise nature of commitments should be commensurate with the scope and depth of the future relationship and the economic connectedness of the UK and the EU" (paragraph 77 of the Political Declaration - Appendix 1).
- 4.44 The States of Guernsey will need to consider how Guernsey's interests are best represented and explore to what extent the Bailiwick should seek to take part in any new relationship which the UK negotiates with the EU. Any such participation should be in the Bailiwick's long term interests and commensurate with its economic and other interests.
- 4.45 Any new relationship between the UK and EU must protect the trading relationship between the UK and the Bailiwick. The application of any such

³⁸ [Framework for developing the international identity of Guernsey – signed on 18 December 2008](#)

relationship or partnership to the Bailiwick must also respect the constitutional relationship with the Crown and ensure that the Bailiwick retains its domestic autonomy, in particular in respect of regulatory matters and taxation while enhancing the islands' trading relationships with other jurisdictions.

- 4.46 The participation of the Bailiwick in any such relationship with the EU may require similar political commitment to ensure a level playing field for open and fair competition. The Committee is of the view that any such commitment should be proportionate to any risk of trade distortion that Guernsey would create. Arrangements should also be relevant to the island's economy and practical, taking into account the islands' size and their trading relationships with the UK and the rest of the world.
- 4.47 Ongoing engagement with the relevant Principal Committees and industry stakeholders, in particular the financial services sector, will be a critical part of the management of any negotiation so that current economic needs and aspirations can be taken into account.
- 4.48 The States of Deliberation are asked to direct the Policy & Resources Committee to maintain efforts to ensure that the Bailiwick's interests continue to be represented during any negotiations in relation to the UK's future relationship and future economic partnership with the EU. The Committee should endeavour to ensure that any future economic partnership agreement meets the Bailiwick's needs (including economic needs) while respecting the constitutional relationship with the Crown and the Bailiwick's domestic autonomy. In particular, any agreement or protocol in respect of the application of the UK/EU future relationship agreement to the Bailiwick should be underpinned by the principles of relevance, proportionality and practicality taking into account the island nature of the Bailiwick, its size and population and unique needs.

The governance for Guernsey's response to the UK's negotiations

- 4.49 In June 2016, the States of Deliberation resolved that the Policy & Resources Committee would lead negotiations with the UK on Guernsey's involvement in the UK-EU future relationship/partnership (Policy Letter 'Managing the Implications for Guernsey because of the UK's Changing Relationship with the EU'³⁹). Negotiations between the UK and the EU will need to proceed at an incredibly fast pace if an agreement on the future relationship is to be negotiated and ratified by the end of the 2020 transition period. It will be critical that the Committee is in a position of certainty over what Guernsey and the wider Bailiwick wants to achieve, is able to respond to any queries from the UK or EU

³⁹ [P.2016/19 - Managing the Implications for Guernsey because of the UK's changing relationship with the EU](#)

institutions promptly and is proactive in representing the islands' needs and objectives.

- 4.50 Having arrangements in place to support the Committee as it carries out negotiations with the UK on behalf of the Bailiwick is vital. The many facets of the future relationship negotiations cross all Principal Committee mandates. The Committee is of the view that a collaborative approach is essential to arm it to make its case most effectively to the UK so that the UK, in turn, can carry out the best possible negotiations on the Bailiwick's behalf. The Committee is keen to seek input from all Principal Committees, the other Bailiwick islands and various industry representatives during the period when it is preparing for and involved in those negotiations.
- 4.51 Consequently, the Committee recently considered how to manage its part in the negotiations. It concluded that a cross-Committee Brexit-delivery group would ensure the collaborative approach it seeks, assisting the Committee to prepare and participate in those negotiations with the benefit of advice, experience and expertise on the various topics.
- 4.52 The Committee proposed that two new groups be formed to offer support, advice and guidance during negotiations: the Future Partnership Delivery Group ('FPDG') made up of representatives of each Principal Committee, the States of Alderney, Chief Pleas in Sark and senior civil servants, and the Trade Policy Advisory Panel ('TPAP') to provide engagement with industry and external stakeholders.
- 4.53 It is intended that the FPDG will provide political governance on the negotiations between the Policy & Resources Committee and the UK in relation to the UK/EU negotiations and negotiations the UK may enter into with other countries in the future. The FPDG would replace the Committee's existing Brexit Group, the primary purpose of which has evolved to relate to Brexit with a 'deal' (which is now imminent). Consequently, the Brexit Group will be disbanded in due course.
- 4.54 It is intended that the TPAP will be a technical advisory panel tasked to consider the operational elements of the negotiations and matters directed to it by the FPDG. The Panel will not have any decision-making function. It will act as a sounding board from industry on the impacts of certain strategic decisions and a critical friend to any negotiation strategy.
- 4.55 The outcome of the negotiations – the Bailiwick's proposed involvement in the UK-EU future relationship agreement – would be a matter for consideration by the Bailiwick's legislatures after negotiations have concluded.

5. Guernsey's contingency planning ('no deal' planning)

- 5.1 Whilst the UK has been negotiating to achieve a Withdrawal Agreement and an orderly exit from the EU, contingency plans have also been prepared in case the UK ultimately leaves the EU in a 'no deal' scenario (that is if no Withdrawal Agreement had been put in place before the expiry of the Article 50 period). The States of Guernsey, as a responsible government, has also made preparations to ensure that risks are mitigated for the island if such circumstances arise. Guernsey has repeatedly stated (in meetings, in correspondence and in public statements) that a disorderly UK exit from the EU is not in the Bailiwick's interests.
- 5.2 At the time of writing, a no deal exit remains a potential outcome, despite the recent developments in the UK. The default UK and EU legal position remains that the UK will withdraw from the EU on 31 January 2020, unless the Withdrawal Agreement is ratified by the both parties. However, the revised political situation in the UK (as explained in section 2) means that the risk of a no deal scenario at this stage is significantly reduced as it is increasingly likely that the UK Parliament will approve the Withdrawal Agreement (and the associated legislation) before the end of January 2020 (proposed timeline set out in paragraph 4.29). The European Parliament has indicated it would support the Withdrawal Agreement if it is ratified by the UK. The legislation and policy decisions made by the States of Guernsey in relation to Brexit have been designed with flexibility to cope with this possible outcome.
- 5.3 The States of Guernsey will continue to ensure its contingency plans are maintained and reviewed throughout the transition period. Appendix 5 provides an overview of the preparations for a 'no deal' scenario.

6. Legislative requirements

- 6.1 Should the Withdrawal Agreement be approved by the UK and EU parliaments and subsequently ratified, the Policy & Resources Committee is proposing initially to give effect domestically to the provisions of that Withdrawal Agreement by:
- altering the definition of 'exit day' and 'the designated day' in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018, ('the Brexit Law') by regulations so that they align with the end of the transition period;
 - specifying Part 4 of the Withdrawal Agreement as a EC/EU Treaty for the purposes of the European Communities (Bailiwick of Guernsey) Law, 1973, and the Brexit Law, or making equivalent provision (as with the UK), together with consequential changes necessary to give effect to the

transition period;

- making lasting provision for the remaining Parts of the Withdrawal Agreement to the extent that they concern the Bailiwick; and
- making any other necessary change to ensure that the Withdrawal Agreement is given effect in such a manner as to meet the Bailiwick's international obligations.

7. Resource and implementation plan

- 7.1 In November 2018⁴⁰, the States of Deliberation approved the establishment of a Brexit Transition Fund ('the Fund') within General Revenue with an allocation of £3m as part of the 2019 Budget Report. The Fund was established to enable the States to manage the further costs that will be incurred whatever the outcome of the UK's negotiations. As a result of the delay to the UK's exit from the EU (from March 2019 to January 2020), the Fund has also been used to manage the costs of the further work required to prepare for the UK's departure from the EU. It will also be used during the negotiations period for the future UK/EU relationship. At the time of writing, the total amount already used or allocated for use from the Fund is c£1.3m. The Fund does not include figures relating to officers' time covered by existing budgets, where part or all of those officers' working hours have been refocussed to deal with Brexit-related matters as and when needed (often in addition to their 'business as usual' work).

8. Compliance with Rule 4

- 8.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.
- 8.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications. She has advised that there is no reason in law why the Propositions should not be put into effect.
- 8.3 In regard to Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, the Committee continues to monitor the resources dedicated to managing the implications of Brexit and assessing the opportunities that may arise. Significant resources may continue to be required to ensure that the States can act swiftly to mitigate and respond to any uncertain and changing operational, political and legal situations that may arise during the UK's exit, the transition period and any future UK/EU relationship. The use of resources across the organisation will continue to be kept under review as details emerge during the next stages.

⁴⁰ [Billet d'État XXIV of 2018, \(various references within the Budget Report\)](#) and [Resolutions](#)

- 8.4 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the Propositions above have the unanimous support of the Committee.
- 8.5 In accordance with Rule 4(5) of the Rules of Procedure of the States of Deliberation and their Committees, the Propositions relate to the duties of the Committee because its mandate includes responsibilities to, “advise the States and to develop and implement policies and programmes relating to: (a) leadership and co-ordination of the work of the States” and “(c) external relations and international and constitutional affairs, which includes: 2. relations with the United Kingdom and other jurisdictions; 3. relations with the European Union and other supranational organisations; 4. relations with the other islands of the Bailiwick ...; [and] representing, or overseeing the representation of, and negotiating for, the Island; ...” The Committee considers that the measures outlined in this Policy Letter touch on all those aspects of its mandate.
- 8.6 Further it is confirmed that the proposals outlined in this Policy Letter are strategically aligned to the objectives of the States of Guernsey. Phase One of the Policy & Resource Plan⁴¹ set out the vision for Guernsey in 20 years’ time and the priority areas for the next five years. It was approved on 16 November 2016. ‘Our Place in the World’ is one of four key themes and is supported by the measures outlined in this Policy Letter. The underlying priorities of this theme are for Guernsey to maintain its reputation as a “*centre of excellence and innovation*” and to develop further its “*mature international identity*”. The ‘Our Economy’ and ‘Our Quality of Life’ themes are also significant in regard to this Policy Letter.
- 8.7 Phase Two of the Plan⁴², which sets out the Committees’ policy plans, was approved on 30 June 2017. Phase Two focusses on the work that Principal Committees must do to move towards achieving the vision set out in Phase One. In response to the “mature international identity” priority, the Committee’s policy plan recognises that a significant focus of the Committee’s work in the short to medium term will be on the protection of the island’s interests in the aftermath of Brexit. One of the objectives identified within Phase Two is to **“ensure our interests are taken into account in the UK/EU exit agreement and seek new opportunities where possible”**. The Committee considers this work to be one of its top priorities.

⁴¹ [Phase one of the Policy & Resource Plan \(final with amendments following debate on 16 November 2016\)](#)

⁴² [Billet d’État XII of 2017](#) and [Resolutions](#)

8.8 In the most recent update to the Plan in June 2019⁴³, the States reaffirmed that the protection of the island's interests during the UK's withdrawal from the EU and in the aftermath of Brexit remains a priority objective.

8.9 The Committee's consultation with other parties is outlined in section 9, in accordance with Rule 4(5).

9. Engagement and consultation on these proposals

9.1 The Committee leads on co-ordinating policy and draft legislation required as a result of the UK's withdrawal from the EU and helps to co-ordinate the cross-Committee decision-making process. The Committee's Brexit Group and the BTG (Appendix 5) have helped ensure that the Principal Committees which are directly engaged in work relating to Brexit have been well briefed. Individual Committees can also introduce and amend policy and legislation in the usual way for Brexit-related matters which fall within their mandates.

9.2 The Brexit Group helps to co-ordinate the work of the Committee with the CfHA, the Committee *for* Economic Development ('CfED') and the CfEI and to align the work with the States-approved strategy. It also includes a small number of industries representatives. The Brexit Group's primary purpose has evolved to be in relation to Brexit with a 'deal' (for the date of the UK's withdrawal from the EU, 31 January 2020).

9.3 The BTG was established in January 2019 as a response to the emerging UK political situation and 'no deal' risks. The BTG helps to co-ordinate the work of the Committee, the CfHA, the CfED, the CfEI, the Committee *for* Health & Social Care and the States Trading Supervisory Board in regard to no deal planning. Members of the BTG were consulted and advised in October 2019 about the approach suggested in this Policy Letter.

9.4 As outlined in paragraphs 4.53 and 9.2, the Brexit Group has been integral in supporting the Committee in delivering on its responsibilities as the UK has prepared to exit the EU. However, to ensure that the Committee is equally well supported in the next phase of negotiations it has been decided that the Brexit Group should be disbanded and replaced with the FPDG. Principal Committees have been contacted to nominate representatives and it is intended that the FPDG will first meet in January/February 2020.

9.5 The Committee has not conferred or consulted directly with Principal Committees or other committees individually in the preparation of the Propositions because this work relates to an extant States' Resolution and the Committee is responsible for such constitutional and external relations matters.

⁴³ [Billet d'État IX of 2019](#) and [Resolutions](#)

There will need to be close working with the CfED in future in regard to the Bailiwick's involvement in any future economic partnership.

- 9.6 The Law Officers of the Crown have been consulted and have provided legal advice throughout the consideration of the issues described in this Policy Letter.
- 9.7 Discussions have been held with the UK Government in relation to the UK's WAB. The UK Government is aware that the Bailiwick will need to ensure that the Bailiwick has the necessary legislation to meet its commitments under the Withdrawal Agreement.
- 9.8 The Committee continues to work with the States of Alderney and the Chief Pleas of Sark to ensure that both those islands are informed and engaged in the Brexit process. Many Brexit-related issues referred to in this Policy Letter have also been discussed in previous meetings of the Bailiwick Council, the Alderney Liaison Group and the Sark Liaison Group. Senior officers in those islands were advised that this Policy Letter was being composed, and a copy has been shared with them for the information of the lead committees in Alderney and Sark.
- 9.9 The Committee will also continue to work closely with counterparts in Jersey and the Isle of Man. The Channel Islands and the Isle of Man stand to gain more by sharing a unified approach, wherever there are shared interests, during this process.

10. Propositions

The States are asked to decide whether they are of the opinion:-

- 1. To acknowledge the Withdrawal Agreement which will, if ratified, effect the orderly withdrawal of the UK from the EU;
- 2. To acknowledge that, should the UK and the EU both ratify the Withdrawal Agreement –
 - a) the territorial extent of the Withdrawal Agreement includes the Bailiwick of Guernsey and the Withdrawal Agreement will apply to the Bailiwick insofar as Protocol 3 to the UK's Act of Accession to the European Community (1972) currently applies;
 - b) the UK will cease to be a member of the EU on the coming into force of the Withdrawal Agreement and the UK and EU will enter into a transition period;
 - c) during the transition period, which will end on 31 December 2020 (subject to any extension of up to two years), the same rights and obligations will apply to the UK as if it were still a member of the EU;

- d) the same rights and obligations will apply to the Bailiwick during the transition period as if Protocol 3 still applied in respect of the UK's membership of the EU;
- 3. To acknowledge the Political Declaration as a statement of the UK and EU's intentions in regard to their future relationship;
- 4. To direct the Policy & Resources Committee to maintain efforts to ensure that –
 - a) the Bailiwick's interests continue to be represented to the UK during any negotiations in relation to the UK-EU future relationship; and
 - b) any future agreement or protocol should meet the Bailiwick's needs, while respecting the constitutional relationship with the Crown and the Bailiwick's domestic autonomy.
- 5. To agree, in particular, that any agreement or protocol in respect of the Bailiwick should be underpinned by the principles of relevance, proportionality and practicality taking into account the island nature of the Bailiwick, its size and population and unique needs arising out of the same;
- 6. To note, for the purposes of Article 72A of the Reform (Guernsey) Law, 1948 as amended, that pursuant to clause 42 of the European Union (Withdrawal Agreement) Bill –
 - a) clause 1 of that Bill would extend to Guernsey, in order to give effect to the saving for those provisions of the European Communities Act 1972 referred to in that clause;
 - b) the power in section 36 of the Immigration Act 1971 or (as the case may be) the UK Borders Act 2007 Act may be exercised, following consultation with the Policy & Resources Committee and the Committee for Home Affairs, so as to extend (with or without modifications) to Guernsey the modifications made to that Act by clause 10 of that Bill; and
 - c) paragraphs 1 and 2 of Schedule 5 to that Bill would extend to Guernsey, so far as they relate to the modification of any provision in subordinate legislation which extends to Guernsey;

and to signify their approval to the same for those purposes as necessary.

- 7. To agree that such other provisions of the European Union (Withdrawal Agreement) Bill and of any other Act of Parliament, as the Policy & Resources Committee believes to be necessary or expedient for the purpose of protecting or promoting the interests of Guernsey during the transition period, may extend or be extended to Guernsey.

8. To direct the preparation of such legislation as may be necessary to give domestic effect to the Withdrawal Agreement.

Yours faithfully

G A St Pier
President

L S Trott
Vice-President

A H Brouard
J P Le Tocq
T J Stephen

APPENDIX 1

POLITICAL DECLARATION SETTING OUT THE FRAMEWORK FOR THE FUTURE RELATIONSHIP BETWEEN THE EUROPEAN UNION AND THE UNITED KINGDOM

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POLITICAL DECLARATION SETTING OUT THE FRAMEWORK FOR THE FUTURE RELATIONSHIP BETWEEN THE EUROPEAN UNION AND THE UNITED KINGDOM

INTRODUCTION

1. The European Union, hereafter referred to as 'the Union', and the United Kingdom of Great Britain and Northern Ireland, hereafter referred to as 'the United Kingdom', ('the Parties') have agreed this political declaration on their future relationship, on the basis that Article 50(2) of the Treaty on European Union (TEU) provides for the negotiation of an agreement setting out the arrangements for the withdrawal of a departing Member State, taking account of the framework for its future relationship with the Union. In that context, this declaration accompanies the Withdrawal Agreement that has been endorsed by the Parties, subject to ratification.
2. The Union and United Kingdom are determined to work together to safeguard the rules-based international order, the rule of law and promotion of democracy, and high standards of free and fair trade and workers' rights, consumer and environmental protection, and cooperation against internal and external threats to their values and interests.
3. In that spirit, this declaration establishes the parameters of an ambitious, broad, deep and flexible partnership across trade and economic cooperation with a comprehensive and balanced Free Trade Agreement at its core, law enforcement and criminal justice, foreign policy, security and defence and wider areas of cooperation. Where the Parties consider it to be in their mutual interest during the negotiations, the future relationship may encompass areas of cooperation beyond those described in this political declaration. This relationship will be rooted in the values and interests that the Union and the United Kingdom share. These arise from their geography, history and ideals anchored in their common European heritage. The Union and the United Kingdom agree that prosperity and security are enhanced by embracing free and fair trade, defending individual rights and the rule of law, protecting workers, consumers and the environment, and standing together against threats to rights and values from without or within.
4. The future relationship will be based on a balance of rights and obligations, taking into account the principles of each Party. This balance must ensure the autonomy of the Union's decision making and be consistent with the Union's principles, in particular with respect to the integrity of the Single Market and the Customs Union and the indivisibility of the four freedoms. It must also ensure the sovereignty of the United Kingdom and the protection of its internal market, while respecting the result of the 2016 referendum including with regard to the development of its independent trade policy and the ending of free movement of people between the Union and the United Kingdom.
5. The period of the United Kingdom's membership of the Union has resulted in a high level of integration between the Union's and the United Kingdom's economies, and an interwoven past and future of the Union's and the United Kingdom's people and priorities. The future relationship will inevitably need to take account of this unique context. While it cannot

amount to the rights or obligations of membership, the Parties are agreed that the future relationship should be approached with high ambition with regard to its scope and depth, and recognise that this might evolve over time. Above all, it should be a relationship that will work in the interests of citizens of the Union and the United Kingdom, now and in the future.

PART I: INITIAL PROVISIONS

I. BASIS FOR COOPERATION

A. Core values and rights

6. The Parties agree that the future relationship should be underpinned by shared values such as the respect for and safeguarding of human rights and fundamental freedoms, democratic principles, the rule of law and support for non-proliferation. The Parties agree that these values are an essential prerequisite for the cooperation envisaged in this framework. The Parties also reaffirm their commitment to promoting effective multilateralism.
7. The future relationship should incorporate the United Kingdom's continued commitment to respect the framework of the European Convention on Human Rights (ECHR), while the Union and its Member States will remain bound by the Charter of Fundamental Rights of the European Union, which reaffirms the rights as they result in particular from the ECHR.

B. Data protection

8. In view of the importance of data flows and exchanges across the future relationship, the Parties are committed to ensuring a high level of personal data protection to facilitate such flows between them.
9. The Union's data protection rules provide for a framework allowing the European Commission to recognise a third country's data protection standards as providing an adequate level of protection, thereby facilitating transfers of personal data to that third country. On the basis of this framework, the European Commission will start the assessments with respect to the United Kingdom as soon as possible after the United Kingdom's withdrawal, endeavouring to adopt decisions by the end of 2020, if the applicable conditions are met. Noting that the United Kingdom will be establishing its own international transfer regime, the United Kingdom will in the same timeframe take steps to ensure the comparable facilitation of transfers of personal data to the Union, if the applicable conditions are met. The future relationship will not affect the Parties' autonomy over their respective personal data protection rules.
10. In this context, the Parties should also make arrangements for appropriate cooperation between regulators.

II. AREAS OF SHARED INTEREST

A. Participation in Union programmes

11. Noting the intended breadth and depth of the future relationship and the close bond between their citizens, the Parties will establish general principles, terms and conditions for the United Kingdom's participation in Union programmes, subject to the conditions set out in the corresponding Union instruments, in areas such as science and innovation, youth, culture

and education, overseas development and external action, defence capabilities, civil protection and space. These should include a fair and appropriate financial contribution, provisions allowing for sound financial management by both Parties, fair treatment of participants, and management and consultation appropriate to the nature of the cooperation between the Parties.

12. The Parties will also explore the participation of the United Kingdom to the European Research Infrastructure Consortia (ERICs), subject to the conditions of the Union legal instruments and individual ERIC statutes, and taking into account the level of participation of the United Kingdom in Union programmes on science and innovation.
13. The Parties recall their shared commitment to delivering a future PEACE PLUS programme to sustain work on reconciliation and a shared future in Northern Ireland, maintaining the current funding proportions for the future programme.

B. Dialogues

14. The Parties should engage in dialogue and exchanges in areas of shared interest, with the view to identifying opportunities to cooperate, share best practice and expertise, and act together, including in areas such as culture, education, science and innovation. In these areas, the Parties recognise the importance of mobility and temporary movement of objects and equipment in enabling cooperation. The Parties will also explore ongoing cooperation between culture and education related groups.
15. In addition, the Parties note the United Kingdom's intention to explore options for a future relationship with the European Investment Bank (EIB) Group.

PART II: ECONOMIC PARTNERSHIP

I. OBJECTIVES AND PRINCIPLES

16. The Parties recognise that they have a particularly important trading and investment relationship, reflecting more than 45 years of economic integration during the United Kingdom's membership of the Union, the sizes of the two economies and their geographic proximity, which have led to complex and integrated supply chains.
17. Against this backdrop, the Parties agree to develop an ambitious, wide-ranging and balanced economic partnership. This partnership will be comprehensive, encompassing a Free Trade Agreement, as well as wider sectoral cooperation where it is in the mutual interest of both Parties. It will be underpinned by provisions ensuring a level playing field for open and fair competition, as set out in Section XIV of this Part. It should facilitate trade and investment between the Parties to the extent possible, while respecting the integrity of the Union's Single Market and the Customs Union as well as the United Kingdom's internal market, and recognising the development of an independent trade policy by the United Kingdom.
18. The Parties will retain their autonomy and the ability to regulate economic activity according to the levels of protection each deems appropriate in order to achieve legitimate public policy objectives such as public health, animal health and welfare, social services, public education, safety, the environment including climate change, public morals, social or consumer protection, privacy and data protection, and promotion and protection of cultural diversity. The economic partnership will recognise that sustainable development is an overarching objective of the Parties. The economic partnership will also provide for appropriate general exceptions, including in relation to security.

II. GOODS

A. Objectives and principles

19. The Parties envisage having an ambitious trading relationship on goods on the basis of a Free Trade Agreement, with a view to facilitating the ease of legitimate trade.
20. These arrangements will take account of the fact that following the United Kingdom's withdrawal from the Union, the Parties will form separate markets and distinct legal orders. Moving goods across borders can pose risks to the integrity and proper functioning of these markets, which are managed through customs procedures and checks.
21. However, with a view to facilitating the movement of goods across borders, the Parties envisage comprehensive arrangements that will create a free trade area, combining deep regulatory and customs cooperation, underpinned by provisions ensuring a level playing field for open and fair competition, as set out in Section XIV of this Part.

B. Tariffs

22. The economic partnership should through a Free Trade Agreement ensure no tariffs, fees, charges or quantitative restrictions across all sectors with appropriate and modern accompanying rules of origin, and with ambitious customs arrangements that are in line with the Parties' objectives and principles above.

C. Regulatory aspects

23. While preserving regulatory autonomy, the Parties will put in place provisions to promote regulatory approaches that are transparent, efficient, promote avoidance of unnecessary barriers to trade in goods and are compatible to the extent possible. Disciplines on technical barriers to trade (TBT) and sanitary and phytosanitary measures (SPS) should build on and go beyond the respective WTO agreements. Specifically, the TBT disciplines should set out common principles in the fields of standardisation, technical regulations, conformity assessment, accreditation, market surveillance, metrology and labelling. The Parties should treat one another as single entities as regards SPS measures, including for certification purposes, and recognise regionalisation on the basis of appropriate epidemiological information provided by the exporting party. The Parties will also explore the possibility of cooperation of United Kingdom authorities with Union agencies such as the European Medicines Agency (EMA), the European Chemicals Agency (ECHA), and the European Aviation Safety Agency (EASA).

D. Customs

24. The Parties will put in place ambitious customs arrangements, in pursuit of their overall objectives. In doing so, the Parties envisage making use of all available facilitative arrangements and technologies, in full respect of their legal orders and ensuring that customs authorities are able to protect the Parties' respective financial interests and enforce public policies. To this end, they intend to consider mutual recognition of trusted traders' programmes, administrative cooperation in customs and value added tax (VAT) matters and mutual assistance, including for the recovery of claims related to taxes and duties, and through the exchange of information to combat customs and VAT fraud and other illegal activity.
25. Such facilitative arrangements and technologies will also be considered in alternative arrangements for ensuring the absence of a hard border on the island of Ireland.

E. Implications for checks and controls

26. The Parties envisage that the extent of the United Kingdom's commitments on customs and regulatory cooperation would be taken into account in the application of related checks and controls, considering this as a factor in reducing risk. This, combined with the use of all available facilitative arrangements as described above, may allow for the facilitation of administrative processes as well as checks and controls, and the Parties note in this context

their wish to be as ambitious as possible, while respecting the integrity of their respective markets and legal orders.

III. SERVICES AND INVESTMENT

A. Objectives and principles

27. The Parties should conclude ambitious, comprehensive and balanced arrangements on trade in services and investment in services and non-services sectors, respecting each Party's right to regulate. The Parties should aim to deliver a level of liberalisation in trade in services well beyond the Parties' World Trade Organization (WTO) commitments and building on recent Union Free Trade Agreements (FTAs).
28. In line with Article V of the General Agreement on Trade in Services, the Parties should aim at substantial sectoral coverage, covering all modes of supply and providing for the absence of substantially all discrimination in the covered sectors, with exceptions and limitations as appropriate. The arrangements should therefore cover sectors including professional and business services, telecommunications services, courier and postal services, distribution services, environmental services, financial services, transport services and other services of mutual interest.

B. Market access and non-discrimination

29. The arrangements should include provisions on market access and national treatment under host state rules for the Parties' service providers and investors, as well as address performance requirements imposed on investors. This would ensure that the Parties' services providers and investors are treated in a non-discriminatory manner, including with regard to establishment.
30. The arrangements should allow for the temporary entry and stay of natural persons for business purposes in defined areas.

C. Regulatory aspects

31. While preserving regulatory autonomy, the arrangements should include provisions to promote regulatory approaches that are transparent, efficient, compatible to the extent possible, and which promote avoidance of unnecessary regulatory requirements.
32. In this context, the Parties should agree disciplines on domestic regulation. These should include horizontal provisions such as on licensing procedures, and specific regulatory provisions in sectors of mutual interest such as telecommunication services, financial services, delivery services, and international maritime transport services. There should also be provisions on the development and adoption of domestic regulation that reflect good regulatory practices.

33. In this context, the Parties should establish a framework for voluntary regulatory cooperation in areas of mutual interest, including exchange of information and sharing of best practice.
34. The Parties should also develop appropriate arrangements on those professional qualifications which are necessary to the pursuit of regulated professions, where in the Parties' mutual interest.

IV. FINANCIAL SERVICES

35. The Parties are committed to preserving financial stability, market integrity, investor and consumer protection and fair competition, while respecting the Parties' regulatory and decision-making autonomy, and their ability to take equivalence decisions in their own interest. This is without prejudice to the Parties' ability to adopt or maintain any measure where necessary for prudential reasons. The Parties agree to engage in close cooperation on regulatory and supervisory matters in international bodies.
36. Noting that both Parties will have equivalence frameworks in place that allow them to declare a third country's regulatory and supervisory regimes equivalent for relevant purposes, the Parties should start assessing equivalence with respect to each other under these frameworks as soon as possible after the United Kingdom's withdrawal from the Union, endeavouring to conclude these assessments before the end of June 2020. The Parties will keep their respective equivalence frameworks under review.
37. The Parties agree that close and structured cooperation on regulatory and supervisory matters is in their mutual interest. This cooperation should be grounded in the economic partnership and based on the principles of regulatory autonomy, transparency and stability. It should include transparency and appropriate consultation in the process of adoption, suspension and withdrawal of equivalence decisions, information exchange and consultation on regulatory initiatives and other issues of mutual interest, at both political and technical levels.

V. DIGITAL

38. In the context of the increasing digitalisation of trade covering both services and goods, the Parties should establish provisions to facilitate electronic commerce, address unjustified barriers to trade by electronic means, and ensure an open, secure and trustworthy online environment for businesses and consumers, such as on electronic trust and authentication services or on not requiring prior authorisation solely on the grounds that the service is provided by electronic means. These provisions should also facilitate cross-border data flows and address unjustified data localisation requirements, noting that this facilitation will not affect the Parties' personal data protection rules.

39. The Parties should provide, through sectoral provisions in telecommunication services, for fair and equal access to public telecommunication networks and services to each other's services suppliers and address anticompetitive practices.
40. The Parties should work together through multilateral and multi-stakeholder fora, and establish a dialogue to exchange information, experience and best practice relating to emerging technologies.

VI. CAPITAL MOVEMENTS AND PAYMENTS

41. The Parties should include provisions to enable free movement of capital and payments related to transactions liberalised under the economic partnership, subject to relevant exceptions.

VII. INTELLECTUAL PROPERTY

42. The Parties should provide for the protection and enforcement of intellectual property rights to stimulate innovation, creativity and economic activity, going beyond the standards of the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights and the World Intellectual Property Organisation conventions where relevant.
43. This should preserve the Parties' current high levels of protection, inter alia, of certain rights under copyright law, such as the sui generis right on databases and the artists' resale right. Noting the protection afforded to existing geographical indications in the Withdrawal Agreement, the Parties should seek to put in place arrangements to provide appropriate protection for their geographical indications.
44. The Parties should maintain the freedom to establish their own regimes for the exhaustion of intellectual property rights.
45. The Parties should establish a mechanism for cooperation and exchange of information on intellectual property issues of mutual interest, such as respective approaches and processes regarding trademarks, designs and patents.

VIII. PUBLIC PROCUREMENT

46. Noting the United Kingdom's intention to accede to the WTO Government Procurement Agreement (GPA), the Parties should provide for mutual opportunities in the Parties' respective public procurement markets beyond their commitments under the GPA in areas of mutual interest, without prejudice to their domestic rules to protect their essential security interests.
47. The Parties should also commit to standards based on those of the GPA ensuring transparency of market opportunities, public procurement rules, procedures and practices. Building on these standards, the Parties should address the risk of arbitrary

behaviour when awarding contracts, and make available remedies and review procedures, including before judicial authorities.

IX. MOBILITY

48. Noting that the United Kingdom has decided that the principle of free movement of persons between the Union and the United Kingdom will no longer apply, the Parties should establish mobility arrangements, as set out below.
49. The mobility arrangements will be based on non-discrimination between the Union's Member States and full reciprocity.
50. In this context, the Parties aim to provide, through their domestic laws, for visa-free travel for short-term visits.
51. The Parties agree to consider conditions for entry and stay for purposes such as research, study, training and youth exchanges.
52. The Parties also agree to consider addressing social security coordination in the light of future movement of persons.
53. In line with their applicable laws, the Parties will explore the possibility to facilitate the crossing of their respective borders for legitimate travel.
54. Any provisions will be without prejudice to the Common Travel Area (CTA) arrangements as they apply between the United Kingdom and Ireland.
55. To support mobility, the Parties confirm their commitment to the effective application of the existing international family law instruments to which they are parties. The Union notes the United Kingdom's intention to accede to the 2007 Hague Maintenance Convention to which it is currently bound through its Union membership.
56. The Parties will explore options for judicial cooperation in matrimonial, parental responsibility and other related matters.
57. These arrangements would be in addition to commitments on temporary entry and stay of natural persons for business purposes in defined areas as referred to in Section III of this Part. Those commitments should not be nullified by the right of either Party to apply their respective laws, regulations and requirements regarding entry, stay and work.

X. TRANSPORT

A. Aviation

- 58.** The Parties should ensure passenger and cargo air connectivity through a Comprehensive Air Transport Agreement (CATA). The CATA should cover market access and investment, aviation safety and security, air traffic management, and provisions to ensure open and fair competition, including appropriate and relevant consumer protection requirements and social standards.
- 59.** The Parties should make further arrangements to enable cooperation with a view to high standards of aviation safety and security, including through close cooperation between EASA and the United Kingdom's Civil Aviation Authority (CAA).

B. Road transport

- 60.** The Parties should ensure comparable market access for freight and passenger road transport operators, underpinned by appropriate and relevant consumer protection requirements and social standards for international road transport, and obligations deriving from international agreements in the field of road transport to which both the United Kingdom and the Union and/or its Member States are signatories, notably concerning conditions to pursue the occupation of a road transport operator, certain conditions of employment in international road transport, rules of the road, passenger carriage by road and carriage of dangerous goods by road. In addition, the Parties should consider complementary arrangements to address travel by private motorists.

C. Rail transport

- 61.** The Parties agree that bilateral arrangements should be established, as appropriate, for cross-border rail services, including to facilitate the continued smooth functioning and operation of rail services, such as the Belfast-Dublin Enterprise Line and services through the Channel Tunnel.

D. Maritime transport

- 62.** The Parties note that passenger and cargo connectivity in the maritime transport sector will be underpinned by the international legal framework. The Parties should also make appropriate arrangements on market access for international maritime transport services.
- 63.** The future relationship should facilitate cooperation on maritime safety and security, including exchange of information between the European Maritime Safety Agency (EMSA) and the United Kingdom Maritime and Coastguard Agency (MCA), consistent with the United Kingdom's status as a third country.

XI. ENERGY

A. Electricity and Gas

- 64. The Parties should cooperate to support the delivery of cost efficient, clean and secure supplies of electricity and gas, based on competitive markets and non-discriminatory access to networks.
- 65. The Parties should establish a framework to facilitate technical cooperation between electricity and gas networks operators and organisations, such as the European Networks of Transmission System Operators for Electricity and Gas, in the planning and use of energy infrastructure connecting their systems. The framework should also include mechanisms to ensure as far as possible security of supply and efficient trade over interconnectors over different timeframes.

B. Civil Nuclear

- 66. Recognising the importance of nuclear safety and non-proliferation, the future relationship should include a wide-ranging Nuclear Cooperation Agreement between the European Atomic Energy Community (Euratom) and the United Kingdom on peaceful uses of nuclear energy, underpinned by commitments to their existing high standards of nuclear safety. The agreement should enable cooperation between Euratom and the United Kingdom and its national authorities. This should include exchange of information in areas of mutual interest such as safeguards, safety and cooperation with the International Atomic Energy Agency (IAEA). It should facilitate trade in nuclear materials and equipment, and provide for the participation of the United Kingdom as a third country in Union systems for monitoring and exchanging information on levels of radioactivity in the environment, namely the European Community Urgent Radiological Information Exchange and the European Radiological Data Exchange Platform.
- 67. The Parties note the United Kingdom's intention to be associated with the Euratom research and training programmes as provided for in Section II of Part I.
- 68. The Parties note that the Euratom Supply Agency intends to reassess in a timely manner the authorisations and approvals of contracts for the supply of nuclear material between Union and United Kingdom undertakings which it has co-signed.
- 69. The Parties will also cooperate through the exchange of information on the supply of medical radioisotopes.

C. Carbon pricing

- 70. The Parties should consider cooperation on carbon pricing by linking a United Kingdom national greenhouse gas emissions trading system with the Union's Emissions Trading System.

XII. FISHING OPPORTUNITIES

71. The Parties should cooperate bilaterally and internationally to ensure fishing at sustainable levels, promote resource conservation, and foster a clean, healthy and productive marine environment, noting that the United Kingdom will be an independent coastal state.
72. While preserving regulatory autonomy, the Parties should cooperate on the development of measures for the conservation, rational management and regulation of fisheries, in a non-discriminatory manner. They will work closely with other coastal states and in international fora, including to manage shared stocks.
73. Within the context of the overall economic partnership the Parties should establish a new fisheries agreement on, inter alia, access to waters and quota shares.
74. The Parties will use their best endeavours to conclude and ratify their new fisheries agreement by 1 July 2020 in order for it to be in place in time to be used for determining fishing opportunities for the first year after the transition period.

XIII. GLOBAL COOPERATION

75. The Parties recognise the importance of global cooperation to address issues of shared economic, environmental and social interest. As such, while preserving their decision-making autonomy, the Parties should cooperate in international fora, such as the G7 and the G20, where it is in their mutual interest, including in the areas of:
 - a) climate change;
 - b) sustainable development;
 - c) cross-border pollution;
 - d) public health and consumer protection;
 - e) financial stability; and
 - f) the fight against trade protectionism.
76. The future relationship should reaffirm the Parties' commitments to international agreements to tackle climate change, including those which implement the United Nations Framework Conventions on Climate Change, such as the Paris Agreement.

XIV. LEVEL PLAYING FIELD FOR OPEN AND FAIR COMPETITION

77. Given the Union and the United Kingdom's geographic proximity and economic interdependence, the future relationship must ensure open and fair competition, encompassing robust commitments to ensure a level playing field. The precise nature of commitments should be commensurate with the scope and depth of the future relationship and the economic connectedness of the Parties. These commitments should prevent distortions of trade and unfair competitive advantages. To that end, the Parties should uphold the common high standards applicable in the Union and the United Kingdom at the end of the transition period in the areas of state aid, competition, social and employment

standards, environment, climate change, and relevant tax matters. The Parties should in particular maintain a robust and comprehensive framework for competition and state aid control that prevents undue distortion of trade and competition; commit to the principles of good governance in the area of taxation and to the curbing of harmful tax practices; and maintain environmental, social and employment standards at the current high levels provided by the existing common standards. In so doing, they should rely on appropriate and relevant Union and international standards, and include appropriate mechanisms to ensure effective implementation domestically, enforcement and dispute settlement. The future relationship should also promote adherence to and effective implementation of relevant internationally agreed principles and rules in these domains, including the Paris Agreement.

PART III: SECURITY PARTNERSHIP

I. OBJECTIVES AND PRINCIPLES

78. With a view to Europe's security and the safety of their respective citizens, the Parties should establish a broad, comprehensive and balanced security partnership. This partnership will take into account geographic proximity and evolving threats, including serious international crime, terrorism, cyber-attacks, disinformation campaigns, hybrid-threats, the erosion of the rules-based international order and the resurgence of state-based threats. The partnership will respect the sovereignty of the United Kingdom and the autonomy of the Union.
79. The Parties will promote global security, prosperity and effective multilateralism, underpinned by their shared principles, values and interests. The security partnership should comprise law enforcement and judicial cooperation in criminal matters, foreign policy, security and defence, as well as thematic cooperation in areas of common interest.

II. LAW ENFORCEMENT AND JUDICIAL COOPERATION IN CRIMINAL MATTERS

80. The future relationship will provide for comprehensive, close, balanced and reciprocal law enforcement and judicial cooperation in criminal matters, with the view to delivering strong operational capabilities for the purposes of the prevention, investigation, detection and prosecution of criminal offences, taking into account the geographic proximity, shared and evolving threats the Parties face, the mutual benefits to the safety and security of their citizens, and the fact that the United Kingdom will be a non-Schengen third country that does not provide for the free movement of persons.
81. The Parties agree that the scale and scope of future arrangements should achieve an appropriate balance between rights and obligations – the closer and deeper the partnership the stronger the accompanying obligations. It should reflect the commitments the United Kingdom is willing to make that respect the integrity of the Union's legal order, such as with regard to alignment of rules and the mechanisms for disputes and enforcement provided for in paragraphs 129 to 132. It should also be underpinned by long-standing commitments to the fundamental rights of individuals, including continued adherence and giving effect to the ECHR, and adequate protection of personal data, which are both essential prerequisites for enabling the cooperation envisaged by the Parties, and to the transnational *ne bis in idem* principle and procedural rights. It should also reflect the Union's and its Member States' commitment to the Charter of Fundamental Rights of the European Union.
82. Noting these commitments, the future relationship should cover arrangements across three areas of cooperation: data exchange; operational cooperation between law enforcement authorities and judicial cooperation in criminal matters; and anti-money laundering and counter terrorism financing.

A. Data exchange

- 83. Recognising that effective and swift data sharing and analysis is vital for modern law enforcement, the Parties agree to put in place arrangements that reflect this, in order to respond to evolving threats, disrupt terrorism and serious criminality, facilitate investigations and prosecutions, and ensure the security of the public.
- 84. The Parties should establish reciprocal arrangements for timely, effective and efficient exchanges of Passenger Name Record (PNR) data and the results of processing such data stored in respective national PNR processing systems, and of DNA, fingerprints and vehicle registration data (Prüm).
- 85. The Parties should consider further arrangements appropriate to the United Kingdom's future status for data exchange, such as exchange of information on wanted or missing persons and objects and of criminal records, with the view to delivering capabilities that, in so far as is technically and legally possible, and considered necessary and in both Parties' interests, approximate those enabled by relevant Union mechanisms.

B. Operational cooperation between law enforcement authorities and judicial cooperation in criminal matters

- 86. The Parties recognise the value in facilitating operational cooperation between the United Kingdom's and Member States' law enforcement and judicial authorities, and will therefore work together to identify the terms for the United Kingdom's cooperation via Europol and Eurojust.
- 87. The Parties should establish effective arrangements based on streamlined procedures and time limits enabling the United Kingdom and Member States to surrender suspected and convicted persons efficiently and expeditiously, with the possibilities to waive the requirement of double criminality, and to determine the applicability of these arrangements to own nationals and for political offences.
- 88. The Parties should consider further arrangements appropriate to the United Kingdom's future status for practical cooperation between law enforcement authorities, and between judicial authorities in criminal matters, such as joint investigation teams, with the view to delivering capabilities that, in so far as is technically and legally possible, and considered necessary and in both Parties' interests, approximate those enabled by relevant Union mechanisms.

C. Anti-money laundering and counter-terrorism financing

- 89. The Parties agree to support international efforts to prevent and fight against money laundering and terrorist financing, particularly through compliance with Financial Action Task Force (FATF) standards and associated cooperation. The Parties agree to go beyond the FATF standards with regard to beneficial ownership transparency and ending the

anonymity associated with the use of virtual currencies, including through obliging virtual currency exchanges and custodian wallet providers to apply customer due diligence controls.

III. FOREIGN POLICY, SECURITY AND DEFENCE

- 90.** The Parties support ambitious, close and lasting cooperation on external action to protect citizens from external threats, including new emerging threats, prevent conflicts, strengthen international peace and security, including through the United Nations and NATO, and address the root causes of global challenges such as terrorism or illegal migration. They will champion a rules-based international order and project their common values worldwide.
- 91.** The Parties will promote sustainable development and the eradication of poverty. In this regard, they will continue to support the implementation of the United Nations Sustainable Development Goals and the European Consensus on Development.
- 92.** The Parties will shape and pursue their foreign policies according to their respective strategic and security interests, and their respective legal orders. When and where these interests are shared, the Parties should cooperate closely at the bilateral level and within international organisations. The Parties should design flexible and scalable cooperation that would ensure that the United Kingdom can combine efforts with the Union to the greatest effect, including in times of crisis or when serious incidents occur.
- 93.** To this end, the future relationship should provide for appropriate dialogue, consultation, coordination, exchange of information and cooperation mechanisms. It should also allow for secondment of experts where appropriate and in the Parties' mutual interest.

A. Consultation and cooperation

- 94.** The Parties should establish structured consultation and regular thematic dialogues identifying areas and activities where close cooperation could contribute to the attainment of common objectives.
- 95.** In this regard, the Political Dialogue on Common Foreign and Security Policy (CFSP) and Common Security and Defence Policy (CSDP) as well as sectoral dialogues would enable flexible consultation between the Parties at different levels (ministerial, senior official, working). The High Representative may, where appropriate, invite the United Kingdom to informal Ministerial meetings of the Member States of the Union.
- 96.** The Parties should seek to cooperate closely in third countries, including on security, consular provision and protection, and development projects, as well as in international organisations and fora, notably in the United Nations. This should allow the Parties, where relevant, to support each other's positions, deliver external action and manage global challenges in a coherent manner, including through agreed statements, demarches and shared positions.

B. Sanctions

97. While pursuing independent sanctions policies driven by their respective foreign policies, the Parties recognise sanctions as a multilateral foreign policy tool and the benefits of close consultation and cooperation.
98. Consultation on sanctions should include the exchange of information on listings and their justification, development, implementation and enforcement, as well as technical support, and dialogue on future designations and regimes. Where foreign policy objectives that underpin a specific future sanction regime are aligned between the Parties, intensified exchange of information at appropriate stages of the policy cycle of this sanctions regime will take place, with the possibility of adopting sanctions that are mutually reinforcing.

C. Operations and missions

99. The Parties welcome close cooperation in Union-led crisis management missions and operations, both civilian and military. The future relationship should therefore enable the United Kingdom to participate on a case by case basis in CSDP missions and operations through a Framework Participation Agreement. Such an agreement would be without prejudice to the decision-making autonomy of the Union or the sovereignty of the United Kingdom, and the United Kingdom will maintain the right to determine how it would respond to any invitation or option to participate in operations or missions.
100. Where, following early consultation and exchange of information through the Political Dialogue, the United Kingdom indicates its intention to contribute to a planned CSDP mission or operation open to third countries, the Parties should intensify interaction and exchange of information at relevant stages of the planning process and proportionately to the level of United Kingdom's contribution. This would allow the United Kingdom to best tailor its contribution and provide timely expertise.
101. As a contributor to a specific CSDP mission or operation, the United Kingdom would participate in the Force Generation conference, Call for Contributions, and the Committee of Contributors meeting to enable sharing of information about the implementation of the mission or operation. It should also have the possibility, in case of CSDP military operations, to second staff to the designated Operations Headquarters proportionate to the level of its contribution.

D. Defence capabilities development

102. The future relationship should benefit from research and industrial cooperation between the Parties' entities in specific European collaborative projects to facilitate interoperability and to promote joint effectiveness of Armed Forces. In this regard, while both Parties should preserve their respective strategic autonomy and freedom of action underpinned by their respective robust domestic defence industrial bases, the Parties agree to consider the following to the extent possible under the conditions of Union law:

- a) the United Kingdom's collaboration in relevant existing and future projects of the European Defence Agency (EDA) through an Administrative Arrangement;
- b) the participation of eligible United Kingdom entities in collaborative defence projects bringing together Union entities supported by the European Defence Fund (EDF); and
- c) the United Kingdom's collaboration in projects in the framework of Permanent Structured Cooperation (PESCO), where invited to participate on an exceptional basis by the Council of the European Union in PESCO format.

E. Intelligence exchanges

103. The Parties should exchange intelligence on a timely and voluntary basis as appropriate, in particular in the field of counter-terrorism, hybrid threats and cyber-threats, and in support of those CSDP missions and operations to which the United Kingdom will be contributing. While the Parties will produce intelligence products autonomously, such intelligence exchange should contribute to a shared understanding of Europe's security environment.

104. The future relationship should allow for timely exchanges of intelligence and sensitive information between the relevant Union bodies and the United Kingdom authorities. The European Union Satellite Centre (EUSC) and the United Kingdom should cooperate in the field of space-based imagery.

F. Space

105. The Parties should consider appropriate arrangements for cooperation on space.

G. Development cooperation

106. The Parties should establish a dialogue to enable strategies in the programming and delivery of development that are mutually reinforcing.

107. On the basis of their mutual interest, the Parties should consider how the United Kingdom could contribute to the Union's instruments and mechanisms, including coordination with the Union's delegations in third countries.

IV. THEMATIC COOPERATION

A. Cyber security

108. The Parties reaffirm their commitment to promote security and stability in cyberspace through increased international cooperation. The Parties agree to exchange information on a voluntary, timely and reciprocal basis, including on cyber-incidents, techniques and origin of the attackers, threat-analysis, and best practices to help protect the United Kingdom and the Union from common threats.

109. In particular, the United Kingdom should cooperate closely with the Computer Emergency Response Team – European Union (CERT-EU) and, subject to the conclusion of an

agreement as provided for in Union law, participate in certain activities of the Cooperation Group established under the Union's Directive on Security of Network and Information Systems and of the European Union Agency for Network and Information Security (ENISA).

110.The Parties should cooperate to promote effective global practices on cyber security in relevant international bodies.

111.The United Kingdom and the Union will establish a cyber dialogue to promote cooperation and identify opportunities for future cooperation as new threats, opportunities and partnerships emerge.

B. Civil protection

112.The Parties should cooperate in the field of civil protection in respect of natural or man-made disasters. This cooperation would be enabled by the United Kingdom's participation in the Union's Civil Protection Mechanism as a Participating State.

C. Health security

113.The Parties should cooperate in matters of health security in line with existing Union arrangements with third countries. The Parties will aim to cooperate in international fora on prevention, detection, preparation for and response to established and emerging threats to health security in a consistent manner.

D. Illegal migration

114.The Parties will cooperate to tackle illegal migration, including its drivers and its consequences, whilst recognising the need to protect the most vulnerable. This cooperation will cover:

- a) operational cooperation with Europol to combat organised immigration crime;
- b) working with the European Border and Coastguard Agency to strengthen the Union's external border; and
- c) dialogue on shared objectives and cooperation, including in third countries and international fora, to tackle illegal migration upstream.

E. Counter-terrorism and countering violent extremism

115.The Parties should cooperate on counter-terrorism, countering violent extremism and emerging threats to advance their common security and shared interests. Recognising the mutual advantage of collective dialogue and operational cooperation, the partnership should support:

- a) sharing best practice and expertise on key issues and themes
- b) cooperating with the appropriate intelligence analysis bodies to ensure effective assessment sharing between the Parties, including on counter-terrorism; and
- c) a close dialogue on emerging threats and new capabilities.

V. CLASSIFIED AND SENSITIVE NON-CLASSIFIED INFORMATION

- 116.**The Parties agree to conclude a Security of Information Agreement, along with Implementing Arrangements, that would provide for reciprocal guarantees for the handling and protection of the Parties' classified information.
- 117.**Where necessary, the Parties should set out the terms for the protection of sensitive non-classified information provided and exchanged between them

PART IV: INSTITUTIONAL AND OTHER HORIZONTAL ARRANGEMENTS

I. STRUCTURE

118. The future relationship should be based on an overarching institutional framework covering chapters and linked agreements relating to specific areas of cooperation, while recognising that the precise legal form of this future relationship will be determined as part of the formal negotiations. Where appropriate, the Parties may establish specific governance arrangements in individual areas.

119. The Parties may also decide that an agreement should sit outside of the overarching institutional framework, and in those cases should provide for appropriate governance arrangements.

120. The Parties note that the overarching institutional framework could take the form of an Association Agreement.

121. The Parties should provide for the possibility to review the future relationship.

II. GOVERNANCE

122. In order to ensure the proper functioning of the future relationship, the Parties commit to engage in regular dialogue and to establish robust, efficient and effective arrangements for its management, supervision, implementation, review and development over time, and for the resolution of disputes and enforcement, in full respect of the autonomy of their legal orders.

A. Strategic direction and dialogue

123. The future relationship should include dialogue between the Parties at appropriate levels so as to provide strategic direction and discuss opportunities for cooperation in areas of mutual interest.

124. There should also be specific thematic dialogues at appropriate level, established as part of the economic and security partnerships, which should take place as often as is necessary for the effective operation of the future relationship.

125. The Parties support the establishment of a dialogue between the European Parliament and the Parliament of the United Kingdom, where they see fit, in order for the legislatures to share views and expertise on issues related to the future relationship. The Parties should encourage civil society dialogue.

B. Management, administration and supervision

126. The Parties should establish a Joint Committee responsible for managing and supervising the implementation and operation of the future relationship, facilitating the resolution of disputes as set out below, and making recommendations concerning its evolution.

127. The Joint Committee should comprise the Parties' representatives at an appropriate level, establish its own rules of procedures, reach decisions by mutual consent, and meet as often as required to fulfil its tasks. As necessary, it could establish specialised sub-committees to assist it in the performance of its tasks.

C. Interpretation

128. In full respect of the autonomy of the Parties' legal orders, the Union and the United Kingdom will seek to ensure the consistent interpretation and application of the future relationship.

D. Dispute settlement

129. The Parties should first make every attempt to resolve any matter concerning the operation of the future relationship through discussion and consultation, including through the Joint Committee, if necessary for formal resolution. The Agreement should include appropriate arrangements for dispute settlement and enforcement, including provisions for expedient problem-solving such as, in certain areas, a flexible mediation mechanism. Such a mediation mechanism would be without prejudice to the Parties' rights and obligations or to dispute settlement provided for under the Agreement.

130. Unless otherwise provided, the Joint Committee may agree to refer the dispute to an independent arbitration panel at any time, and either Party should be able to do so where the Joint Committee has not arrived at a mutually satisfactory resolution within a defined period of time. The decisions of the independent arbitration panel will be binding on the Parties.

131. The Parties indicate that should a dispute raise a question of interpretation of provisions or concepts of Union law, which may also be indicated by either Party, the arbitration panel should refer the question to the Court of Justice of the European Union (CJEU) as the sole arbiter of Union law, for a binding ruling as regards the interpretation of Union law. Conversely, there should be no reference to the CJEU where a dispute does not raise such a question.

132. The future relationship will also set out the conditions under which temporary remedies in case of non compliance can be taken, in particular obligations arising from parts of any agreement between the Union and the United Kingdom may be suspended in response to a breach by the other Party, including as foreseen in Articles 178 and 179 of the Withdrawal Agreement.

III. EXCEPTIONS AND SAFEGUARDS

- 133.**The future relationship should provide for appropriate exceptions regarding security; national security is the sole responsibility of the Member States of the Union and the United Kingdom respectively.
- 134.**The future relationship should address the possibility for a Party to activate temporary safeguard measures that would otherwise be in breach of its commitments in case of circumstances of significant economic, societal or environmental difficulties. This should be subject to strict conditions and include the right for the other Party to rebalancing measures. The proportionality of measures taken will be subject to independent arbitration.

PART V: FORWARD PROCESS

- 135.**In setting out the framework of the future relationship between the Union and the United Kingdom, this declaration confirms, as set out in the Withdrawal Agreement, that it is the clear intent of both Parties to develop in good faith agreements giving effect to this relationship and to begin the formal process of negotiations as soon as possible after the United Kingdom's withdrawal from the Union, such that they can come into force by the end of 2020.
- 136.**Both Parties affirm that the achievements, benefits and commitments of the peace process in Northern Ireland will remain of paramount importance to peace, stability and reconciliation. They agree that the Good Friday or Belfast Agreement reached on 10 April 1998 by the United Kingdom Government, the Irish Government and the other participants in the multi-party negotiations (the '1998 Agreement') must be protected in all its parts, and that this extends to the practical application of the 1998 Agreement on the island of Ireland and to the totality of the relationships set out in the 1998 Agreement.
- 137.**After the Union has taken the steps necessary to begin formal negotiations under Article 218 of the Treaty on the Functioning of the European Union (TFEU), it is envisaged that the Parties will negotiate in parallel the agreements needed to give the future relationship legal form.
- 138.**Immediately following the United Kingdom's withdrawal, and based on their preparatory work, the Parties will agree a programme including:
- a) the structure and format of the negotiation rounds, including with respect to parallel tracks; and
 - b) a formal schedule of negotiating rounds.
- 139.**This programme will be designed to deliver the Parties' shared intention to conclude agreements giving effect to the future relationship by the end of 2020 as set out in paragraph 135. The European Commission is ready to propose applying on a provisional basis relevant aspects of the future relationship, in line with the applicable legal frameworks and existing practice.
- 140.**With a view to providing a sound foundation for the talks on the future relationship between the United Kingdom and the Union, both Parties will expeditiously:
- a) identify those areas that are likely to require the greatest consideration and the associated legal and technical issues that will need to be addressed, in order that the necessary technical preparations can be made on both sides;
 - b) draw-up a full schedule for the negotiations, taking into account relevant internal processes; and
 - c) consider the logistical requirements of the formal negotiations.

141.Following the United Kingdom's withdrawal from the Union, the Parties will convene to take stock of progress with the aim of agreeing actions to move forward in negotiations on the future relationship. In particular, the Parties will convene at a high level in June 2020 for this purpose.

**RECENT CORRESPONDENCE WITH THE UK PRIME MINISTER ABOUT THE UK'S
WITHDRAWAL FROM THE EU**

**Letter (September 2018) from Deputy Gavin St Pier on behalf of the States of
Guernsey to the UK Prime Minister, Theresa May**

25 September 2018

Dear Prime Minister

BREXIT 'NO DEAL' CONTINGENCY PLANNING - GUERNSEY

Since I last wrote to you on Brexit matters in March 2017, before the triggering of Article 50, the government of Guernsey has further strengthened the working relationship at both official and political level with your Government, particularly over the last few months. The engagement between the Chief Ministers of the Crown Dependencies with Robin Walker MP is highly valued and provides a governance structure within which our concerns can be raised and discussed frankly. We also value the commitment from the dedicated staff of the Cabinet Office, the Ministry of Justice and the Department for Exiting the EU, in particular the Contact Group chaired by Colin Roberts.

As you would expect, we continue to plan for the prospect of a new partnership between the UK and the EU. It is vitally important that our interests continue to be taken into account in the UK-EU negotiations and to ensure that our ancient and historic constitutional relationship with the Crown is upheld and respected. We hope too that there is now an opportunity to iron out some of the anomalies that have crept up in recent years as regards the way in which British nationals resident in the Crown Dependencies are treated (and might in future be treated) and intend to discuss this further with relevant members of your Government. By way of example, Bailiwick residents are currently treated less favourably in some cases than EU nationals (for example as regards healthcare, education, and even some banking services) despite being British nationals and despite the long established constitutional relationship which exists between us.

As you know, the Bailiwick of Guernsey was not involved in the UK's referendum about leaving the EU, but we must deal with the consequences (both financial and political). It is our view that a deal which provides an orderly exit and a strong economic outlook for the UK is in Guernsey's interests. However, we are also mindful that we need to plan for all eventualities, including a 'no deal' scenario. The formation of a new UK and Crown Dependencies' customs arrangement, something that is currently under negotiation, is critical to our current planning. Tied to this is the extension of the UK's Membership of the World Trade Organisation (WTO). Whilst preparatory work has progressed well, there are still steps to be taken if this is to be achieved in the necessary timescales. A lack of access to the WTO's internationally agreed rules and principles, would create future trading uncertainty for Guernsey. We, therefore, would welcome your Government's ongoing support as we consider and seek to achieve extension of the WTO membership to Guernsey.

We are undertaking 'no deal' planning and have engaged our civil contingencies authority accordingly. Due to our geographical proximity and constitutional links, it is inevitable that our plans will need to adapt in response to the UK's own planning assumptions and will be impacted by decisions made by the UK government. Many of our supply chains are dependent on or linked to the UK's and operate on a 'just in time' basis. The supply lines are dependent on good access to ports on the UK's south coast, reliable transport links, free-flowing borders and the relevant information we share. It will be essential to set up operational frameworks to modify or maintain these current links and practices as necessary post-Brexit.

I would welcome your continued commitment to building on the strong relationships we have and ensuring that the Bailiwick of Guernsey's interests are properly represented. It would be extremely helpful to have even greater co-operation and dialogue between our governments for all scenarios, particularly contingency planning.

I appreciate that your Government is presently subject to many competing interests and views as it faces the hugely challenging task of negotiating a deal with the remaining 27 EU Member States. However, I am cognisant that HM Government also recognises and does take seriously its responsibilities on behalf of the Crown to represent our interests, even where those differ from the UK's. Therefore I ask you to note that a no deal outcome would not be in the Bailiwick of Guernsey's interests.

In light of the public interest in this matter I intend to publish this letter for the benefit of Guernsey's community.

Yours sincerely

Deputy Gavin St Pier
Chief Minister of Guernsey/ *Le Prumier de Giernes*

cc: Robin Walker MP, Parliamentary Under Secretary of State, Department for Exiting the European Union
The Rt Hon the Lord Keen of Elie QC, Ministry of Justice
James Dent, Chairman, Policy and Finance Committee, Alderney
Conseiller Stephen Taylor, Chairman, Policy & Performance Committee, Sark

Letter (October 2018) from the UK Prime Minister, Theresa May, to Deputy Gavin St Pier

22 October 2018

Dear Chief Minister

Thank you for your letter of 25th September and for your recognition of the strong working relationship which Ministers and officials from our respective governments have built up.

This relationship reflects the United Kingdom's commitment to engaging the Bailiwick of Guernsey and the other Crown Dependencies as we leave the EU. I and the rest of the UK Government will continue to work closely with you and the Bailiwick to ensure that we get a deal that works for the whole British family.

I acknowledge your points regarding differences in arrangements for British citizens who are Bailiwick residents when using some services in the UK, such as university education and healthcare. I want to assure you that, in the spirit of the close relationship that our governments have fostered, the UK is always ready to engage in constructive dialogue on issues which are of concern. I welcome the fact that officials have already discussed some of your concerns relating to healthcare.

I want to be clear that the long-standing constitutional relationships between the UK and the Crown Dependencies will not change as a result of the UK's decision to leave the EU. I have given assurances publically to that effect, and the Government has reiterated this in the White Paper on the UK's future relationship with the EU.

Regarding our negotiations with the EU, we do not want or expect a 'no deal' scenario. Given the significant progress made in negotiations we remain confident that we will agree a mutually advantageous deal with the EU. However, it is only right that we continue to prepare for a range of potential outcomes including the unlikely event of 'no deal'. We will ensure that you have the support and information you need to develop robust contingency plans.

Negotiations on the new customs arrangements between the UK and the Crown Dependencies, which will reaffirm our long-standing, close trading relationships, are also making good progress. We share your view on the importance of having these arrangements in place ahead of our exit from the EU to ensure goods can continue to move between the UK and Guernsey as they do now.

I have always said that our negotiations with the EU would be tough – and they were always bound to be toughest in the final straight. I share your belief that a negotiated outcome, with an implementation period following our exit, is in everyone's best interests. I am grateful for your co-operation as we work together towards a successful exit and a constructive future relationship with the European Union.

Yours sincerely

Theresa May

Letter (July 2019) from Deputy Gavin St Pier on behalf of the States of Guernsey to the UK Prime Minister, Boris Johnson

24 July 2019

Dear Prime Minister

GUERNSEY – CONSTITUTIONAL RELATIONSHIP

On behalf of the government of Guernsey, I wish to congratulate you on your successful election as leader of the Conservative and Unionist Party and subsequently on becoming the United Kingdom's Prime Minister.

As you may know, the Bailiwick of Guernsey comprises three jurisdictions, each of which are territories in Her Majesty's realm. The islands of the Bailiwick (namely Guernsey, Alderney and Sark) each have their own autonomous legislatures, executives and judiciaries. Our constitutional relationship with the Crown, which has stood for more than 800 years, includes the constitutional rule that the UK Parliament does not legislate for the islands on domestic matters without their consent.

The Bailiwick is neither part of, nor a former colony of, the UK. However, due to our historic and special relationship with the Crown, the UK Government is responsible for our formal international relations and defence. This responsibility exists even where the Bailiwick's interests differ from those of the UK. Previous governments have taken this responsibility very seriously, in accordance with the international identity framework agreed more than 10 years ago between Guernsey and the UK.

I know that you will already be aware from your previous role as Foreign Secretary that there are important differences between our relationship with the UK (through the constitutional link with the Crown) and those which exist between the Overseas Territories and the UK.

The Bailiwick's strong working relationships with UK departments, particularly during Brexit

The Bailiwick of Guernsey has had a very positive relationship with the UK Government during the Brexit process to date, including assurances from the previous Prime Minister that at each milestone our interests have been taken into account. We welcomed your predecessor's pledge and actions taken, to engage with Guernsey. We hope this engagement will continue through regular meetings between officials and ministers as the Brexit process enters the next phase and would welcome your commitment in that regard.

Guernsey has a significant economic relationship with the UK, particularly in respect of financial services which provide a net benefit to the City of London. Guernsey was the fastest growing market for UK imports of goods and services between 2010 and 2017, with increases of 456% to £2.4bn (*ONS Pink Book 2018*). The Brexit process has provided an excellent opportunity to further strengthen those relationships. In 2018, as part of the Brexit planning process, we concluded a new customs arrangement between our jurisdictions to enable the maintenance of an important historical right under our Royal Charters to the free movement of goods with the UK. We are in ongoing discussions to conclude the governance arrangements to agree the extension of the UK's membership of the WTO to Guernsey. This remains a key strategic priority

to ensure our interests are protected when the UK leaves the EU. We would welcome your commitment to ensure that this is concluded as soon as possible and no later than 31 October.

We continue to work hard to plan for all possible outcomes of the Brexit process and to ensure our domestic contingency plans are aligned to the UK's own planning. I would like to take the opportunity to reaffirm Guernsey's position that a disorderly UK exit from the EU would not be in Guernsey's interests.

Recent constitutional threat posed by proposed amendment to a UK Bill

Guernsey has been disappointed by the recent moves by some backbench MPs to attempt to legislate directly for the Channel Islands and the Isle of Man on the topic of registers of beneficial ownership of companies, most recently by way of an amendment to the Financial Services (Implementation of Legislation) Bill. Any such purported legislation would be contrary to the centuries-old relationship between Guernsey and the Crown I referred to earlier. There is irony in that, at a time when the UK is considering how best to implement the Brexit referendum result to 'take back control' from the EU, some UK parliamentarians are attempting to take control away from Guernsey's democratically elected government. It is incumbent on me to impress upon you that Guernsey is absolutely resolute in its determination to protect our constitutional interests robustly against threats from any source. Your predecessor's government defended the Bailiwick's position and I would be grateful to receive your assurances that your government will also strongly resist any further attempts by Parliament to legislate for these islands without consent.

On the policy issue at hand, Guernsey has an exemplary, longstanding and independently assessed record of tackling financial crime (including money laundering and tax avoidance). Our existing central register of beneficial ownership of companies contains accurate, up-to-date, verified data. This contrasts with the unverified data which appears on the UK's public register. The Home Office review of the Exchange of Notes (May 2018⁴⁴ and June 2019⁴⁵) between the UK and Guernsey and recent comments made by the FBI in a Senate hearing (May 2019⁴⁶) has validated our approach, acknowledging the effectiveness and usefulness of the high quality data on our central register which can be accessed by tax and law enforcement authorities.

We have repeatedly stated that we would move to a public register when that became the international norm. On 19 June 2019, in a joint announcement with Jersey and the Isle of Man, we confirmed our commitment to move to public registers of beneficial ownership through a published step-by-step action plan in line with the EU's 5th Anti-Money Laundering Directive. We have exactly the same policy objectives as the UK to root out financial crime, and it is crucial that the approach we take on this matter is robust, practical and deliverable. We are confident that our clear action plan will reassure all that Guernsey is determined to remain a global leader

⁴⁴ [Written statement by the Minister of State for Security on 1 May 2018 - The six-month review of the implementation of the Exchange of Notes on Beneficial Ownership between the UK, Crown Dependencies and relevant Overseas Territories](#)

⁴⁵ [Written statement by the Secretary of State for the Home Department on 27 June 2019 - Statutory review: law enforcement sharing of company beneficial ownership information with the Crown Dependencies and Overseas Territories](#)

⁴⁶ <https://www.fbi.gov/news/testimony/combating-illicit-financing-by-anonymous-shell-companies>

in developing international standards, in cooperation with other jurisdictions, to fight financial crime and tax transparency.

Request for brief meeting in the near future

While understanding that you will have many demands on your time, particularly at the moment, I would greatly value the opportunity to meet briefly with you to discuss how our strategic and economic relationship with the UK can develop as part of the British Family once the UK has left the EU.

Yours sincerely

Deputy Gavin St Pier
Chief Minister of Guernsey/*Le Prumier de Giernes*

cc: James Dent, Chairman, Policy & Finance Committee, Alderney
Conseiller Peter La Trobe-Bateman, Chairman, Policy & Finance Committee, Sark

Letter (September 2019) from the UK Prime Minister, Boris Johnson, to Deputy Gavin St Pier

9 September 2019

Dear Gavin

Thank you for your letter of 24 July and for your kind words regarding my appointment by Her Majesty as Prime Minister of the United Kingdom.

I want to be clear that the UK Government appreciates the special relationship that the UK has with the Crown Dependencies. This is a deep historical relationship in which we work collaboratively together on matters of mutual interest, and where the UK Government does not intervene in the Crown Dependencies' domestic affairs without consent other than in very limited circumstances and as a matter of last resort.

I am pleased to note that you share my view that the Bailiwick has very strong working relationships with UK Government Departments, it is clear that the UK and the Crown Dependencies have developed a closer relationship during our substantive preparations for Brexit. I am keen to further strengthen this relationship after the UK has left the European Union, when the UK Government will be negotiating its own free trade agreements on behalf of the entire British family, including the Crown Dependencies. The UK Government will continue to engage the Crown Dependencies Governments throughout this process as we seek a future relationship with the EU that works for the entire British family.

I acknowledge that you are continuing your engagement with Parliamentarians regarding the subject of public registers of beneficial ownership. The UK Government is unambiguous in supporting the constitutional position that the UK Parliament should not legislate on your behalf on these matters without your consent. The recent joint announcement by the Crown Dependencies that you will implement your own publicly accessible registers of company beneficial ownership underlines your commitment to the fight against financial crime.

I would like to thank you for the offer of a meeting to discuss how the Bailiwick can work with the UK to develop a strategy for the British family after Brexit. Regrettably, my diary does not currently allow for this, but I hope to have the opportunity to meet you in the future.

I look forward to working with you and strengthening the United Kingdom's relationship with the Bailiwick of Guernsey and the other Crown Dependencies.

Sincerely

Boris Johnson

PROGRESS REPORT ON ENGAGEMENT BETWEEN GUERNSEY AND THE REST OF THE BAILIWICK, JERSEY AND THE ISLE OF MAN, THE UK AND THE EU

- A3.1 Since the November 2017 States' debate, there has been continued regular engagement with external partners. At the Bailiwick level this has involved regular consultation with Alderney and Sark on matters of mutual concern, such as fishing and territorial seas. Brexit updates have been a standing item on the agenda for meetings of the Bailiwick Council, held quarterly. Legislation has been drafted to be applicable to the whole Bailiwick to enable all its islands to be prepared for Brexit.
- A3.2 Guernsey continues to work alongside Jersey and the Isle of Man, where relevant, to engage with a wide range of UK government departments and policy areas. Joint meetings with the UK government occur regularly at political and officer level, particularly via the Ministry of Justice which holds overall policy responsibility for the Channel Islands and the Isle of Man.
- A3.3 James Duddridge MP, Parliamentary Under Secretary of State at the Department for Exiting the European Union⁴⁷, has continued to meet representatives of the Channel Islands and the Isle of Man in formal quarterly meetings, supplemented by Ministerial level telephone conversations when needed. Mr Duddridge visited Guernsey on 19 August 2019. This engagement has helped to deepen Guernsey's strong and direct political link with the UK Government department responsible for negotiating the UK's exit from the EU.
- A3.4 The President of the Committee wrote to the UK's Prime Minister Theresa May on 25 September 2018 and 01 April 2019 and to Prime Minister Boris Johnson on 24 July 2019 and 13 December 2019. The President of the Committee took the opportunity to reiterate the importance of taking the island's interests into account in the Brexit process as well as ensuring that the constitutional relationship between the Bailiwick and the Crown was upheld. He asked the Prime Minister to note that a no deal outcome would not be in the Bailiwick of Guernsey's interests. The response from the Prime Minister (9 September 2019) stated that UK Government is "unambiguous in supporting the constitutional position that the UK Parliament should not legislate on your behalf." He also reconfirmed the UK's commitment to engage with the Bailiwick throughout and beyond the Brexit process.

⁴⁷ Robin Walker MP was the Parliamentary Under Secretary of State at the Department for Exiting the European Union with responsibilities in regard to Channel Island and Isle of Man matters from July 2016 to July 2019. James Duddridge MP became the Parliamentary Under Secretary of State in July 2019, following a UK Cabinet reshuffle.

- A3.5 Guernsey has also sought to engage on the topic of Brexit within other forums as opportunities arise. British-Irish Council ('BIC') summits have been attended bi-annually (including one in Guernsey in June 2018). The All Party Parliamentary Group on the Channel Islands generally meets three times a year, most recently on 24 June 2019. There has also been engagement through a wide network of contacts in the UK, including contact days (sequence of meetings) with UK parliamentarians of various political parties and attendance at the main UK political party conferences.
- A3.6 The Channel Islands have joint offices in Brussels and in Caen to ensure continuity of relations between the islands and the EU and French authorities. Guernsey representatives continue to build and maintain relationships with contacts within the EU (both the EU as a whole and its individual nations), providing opportunities to raise awareness of the implications of Brexit for the Bailiwick. For example, in September 2019, the Ministers for External Affairs⁴⁸ for each of Guernsey and Jersey visited Brussels and met with Permanent Representatives to the EU (ambassadors) of Croatia, Hungary, Lithuania, Portugal and Sweden; senior officials from the Permanent Representations of the Czech Republic and the UK; the chief of staff of the UK's EU Commissioner Sir Julian King and the Ambassador of Monaco to the EU.
- A3.7 The Bailiwick also hosts occasional visits from Ambassadors (from EU Member States) to the UK, which provide further opportunities to strengthen relations. In 2018, the Latvian Ambassador and Portuguese Ambassador visited Guernsey, as well as the President of La Manche. In 2019, the Czech Ambassador visited Guernsey.
- A3.8 Engagement with France has also been important, and has been undertaken at a regional level (with Normandy and Brittany) to underpin relationships at a national level. The Minister for External Affairs visited Paris in January 2019 to talk with key ministries of the French national government. More recently, he visited Cherbourg for the annual political summit with Normandy and La Manche (October 2019) which provided the latest opportunity at political level to discuss regional concerns relating to the impact of Brexit, for example relating to fishing and territorial seas.

⁴⁸ The member of the Policy & Resources Committee with responsibility for external relations, who has been authorised by the Committee for ease of understanding by other jurisdictions to be known outside the island as the Minister for External Affairs. Similarly, the President, Policy & Resources Committee, uses the title Chief Minister when outside the island.

**SUMMARY OF POLICY LETTERS CONSIDERED BY THE STATES OF DELIBERATION IN
RELATION TO BREXIT**

- A4.1 In June 2016, the States of Deliberation considered the Policy & Resources Committee's first Brexit Policy Letter entitled "Managing the implications for Guernsey because of the UK's changing relationship with the EU"⁴⁹. That Policy Letter set the high level objectives for Guernsey (as in paragraph 3.1).
- A4.2 The second Brexit Policy Letter entitled "Acknowledging the triggering of Article 50 of the Treaty on European Union in respect of 'Protocol 3'" was considered by the States of Deliberation in March 2017⁵⁰. The similarities between the Guernsey and UK sets of objectives were summarised in that Policy Letter.
- A4.3 In November 2017, the States of Deliberation considered the third Brexit Policy Letter entitled "Protecting the interests of the Bailiwick of Guernsey as the UK leaves the EU"⁵¹ ('the Brexit Legislation Policy Letter'). The States agreed that legislation should be prepared to repeal the European Communities (Bailiwick of Guernsey) Law 1973 and in accordance with paragraphs 6.4 and 7.1 of that Policy Letter. The Law Officers of the Crown prepared the relevant legislation – three Projets de Loi entitled The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018⁵² ('the Brexit Projet'); The European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018⁵³ ('the Amendment of Legislation Projet'); and The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018⁵⁴ ('the International Agreements Projet'). All three Projets have been approved by all three Bailiwick parliaments and been granted Royal Sanction.
- A4.4 The Committee *for* Home Affairs submitted a Policy Letter, "Customs Duties and

⁴⁹: [Considered as an 'Urgent Proposition' at the States' Meeting of 29 June 2016 \(P.2016/19\)](#) and [Resolutions](#) A statement recognising the UK's decision to leave the EU was made by the President of the States of Alderney at its meeting on 20 July 2016.

⁵⁰ [Billet d'État VI of 2017, Article III \(P 2017/11\)](#) and [Resolutions](#)

⁵¹ [Billet d'État XXI of 2017, Article III \(P 2017/84\)](#) and [Resolutions](#)

⁵² The European Union (Brexit) (Bailiwick of Guernsey) Law, 2018 - approved by the States of Deliberation at its meeting of 06 June 2018; approved by the Chief Pleas of Sark at its meeting of 04 July 2018; approved by the States of Alderney at its meeting of 12 September 2018 (after having been deferred from its meeting of 25 July 2018).

⁵³ The European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018 - approved by the States of Deliberation at its meeting of 24 October 2018; approved by the States of Alderney at its meeting of 12 September 2018; it was considered by the Chief Pleas of Sark at a meeting of 11 January 2019.

⁵⁴ The International Trade Agreements (Implementation) (Bailiwick of Guernsey) Law, 2018 - approved by the States of Deliberation at its meeting of 06 June 2018; approved by the Chief Pleas of Sark at its meeting of 04 July 2018; approved by the States of Alderney at its meeting of 25 July 2018.

Associated Powers Required in Respect of Brexit” which was considered by the States of Deliberation in July 2018⁵⁵. That Policy Letter sought a flexible framework of primary legislation to facilitate the imposition of customs requirements on imported and exported goods. Subsequently, the Customs and Cross-Border Trade (General and Enabling Provisions) (Bailiwick of Guernsey) Law, 2018 was prepared by the Law Officers of the Crown. It was approved by the States of Deliberation on 12 December 2018, the States of Alderney on 09 January 2019 and Chief Pleas of Sark on 11 January 2019.

- A4.5 The Committee *for the Environment & Infrastructure* submitted a Policy Letter, “Road Transport and Driving Licence Implications for Driving in Europe Post-Brexit and other related matters”, which was considered by the States in December 2018⁵⁶. That Policy Letter covered the extension of the UN Convention on Road Traffic, 1968, to Guernsey with effect from 29 March 2019 or as soon as possible thereafter, to ensure that Bailiwick residents would be able to legally drive in certain EU/EEA Member States in the event of no deal being reached between the UK and EU on road traffic matters. Relevant legislation was put in place so that the Convention could be extended by 29 March 2019.
- A4.6 In January 2019, the States debated a Policy Letter on the extension of the Bailiwick of Guernsey’s territorial seas from 3 nautical miles to 12 nautical miles to give the three jurisdictions of the Bailiwick of Guernsey greater control over activities in the 3-12 nm area⁵⁷. The matter was also considered and approved by the States of Alderney and the Chief Pleas of Sark. The possibility of extending the territorial seas had been under consideration in the Bailiwick for decades. Until 2018/19, it had not proved possible for the three Bailiwick jurisdictions to reach a common position in order for the islands to approach the UK collectively to request extension of the territorial sea around the entire Bailiwick. However, there was increased impetus due to the UK’s decision to withdraw from the EU and the UK’s decision to withdraw from the London Fisheries Convention 1965 (‘LFC’). As a result of the collaborative work by the Bailiwick islands, the territorial seas were extended on 23 July 2019.
- A4.7 The Committee submitted a Policy Letter entitled “Extending the United Kingdom’s Membership of the World Trade Organization” which was debated on 27 February 2019⁵⁸. The Policy Letter covered the extension of the UK’s Membership of the WTO, including the obligations that extension would confer on the Bailiwick and dispute resolution mechanisms. The Policy Letter was approved by the States of Deliberation on 28 February 2019, the Policy & Finance

⁵⁵ [Billet d’État XIX of 2018, Article IV \(P.2018/57\)](#) and [Resolutions](#)

⁵⁶ [Billet d’État XXVII of 2018, Article XXVIII \(P.2018/135\)](#) and [Resolutions](#)

⁵⁷ [Billet d’État II of 2019, Article II \(P.2019/5\)](#) and [Resolutions](#)

⁵⁸ [Billet d’État IV of 2019, Article I \(P.2019/19\)](#) and [Resolutions](#)

Committee of Alderney on 16 April 2019 and the Chief Pleas of Sark on 27 March 2019.

- A4.8 The Committee submitted a Policy Letter entitled “Implementation of International Sanctions Measures” which was debated on 7 June 2017 and an additional Policy Letter was considered on 12 December 2018⁵⁹. The Policy Letters described the necessary changes required to ensure that the Bailiwick retained the ability to implement effective and robust sanctions measures after the UK leaves the EU and makes various other improvements to the sanctions framework. The subsequent Projet, the Sanctions (Bailiwick of Guernsey) Law 2018, was approved by the States of Deliberation on 12 December 2018, the States of Alderney on 09 January 2019 and the Chief Pleas of Sark on 11 January 2019.

⁵⁹ [Billet d’État XXVII of 2018, Article XXIV \(P.2018/117\)](#) and [Resolutions](#)

OVERVIEW OF NO DEAL PLANNING

- A5.1 If the Withdrawal Agreement is approved and ratified in both the UK and EU prior to the date that the UK withdraws from the EU (31 January 2020), negotiations will then be required on the future relationship/ partnership between the UK and the EU during the transition period (as outlined in paragraphs 4.41 to 4.48 of the Policy Letter). Should these negotiations be unsuccessful or result in continued border checks between the UK and EU, there remains the risk of a ‘no deal’ scenario at the end of that transition period on 31 December 2020 (or later if the transition period were to be extended).
- A5.2 A no deal scenario could lead to significant disruption and delays for goods crossing the borders into and out of the UK, principally due to juxtaposed customs arrangements between the UK and EU leading to additional checks imposed by the EU as a result of the UK becoming a third country to the EU. This could cause disruption at major UK ports. There may well be a secondary (or knock-on) impact for goods being imported to the Bailiwick from, or via, the UK, particularly in relation to any goods that derive from the EU. The UK and the EU have both prepared plans to try to manage and limit the potential disruption. The States of Guernsey has done likewise, as securing continued supply and access to logistical chains for essential goods is crucial for the Bailiwick.
- A5.3 The Bailiwick’s contingency planning has been focussed on the continued supply of essential commodities such as food, medicines and medical supplies, fuels and chemicals to the Bailiwick. This includes maintaining uninterrupted time sensitive deliveries from the UK. The plans have also considered the islands’ energy provision and consumption and reliance on transport links to move people and goods.
- A5.4 The States of Guernsey continues to work to ensure that its contingency planning is closely aligned to the UK Government’s planning. This is particularly significant in areas outside the Bailiwick’s control and/or where the Bailiwick has an interdependence with the UK. In some cases, the Bailiwick will need to rely on the UK’s minimisation of any disruption to the flow of goods and services that are essential to the economy and the functionality of the islands.
- A5.5 The Brexit Transition Group (‘BTG’) was established in January 2019 (on the initiative of the Civil Contingencies Authority) to have oversight of the Brexit contingency planning workstream. Its purpose is to enable quick strategic decisions to be taken on cross-cutting Brexit issues and to avoid significant decisions on such issues being taken by individual Committees in isolation. It also provides opportunities for greater cross-Committee communication and ownership of contingency planning issues and possible mitigations. It is a forum

in which to raise concerns and gain endorsement for any proposed mitigations for significant Brexit issues for which Committees are responsible. It is intended that the BTG shall remain in existence until its objectives have been achieved or the participating Committees resolve to dissolve it.

- A5.6 In addition to the political structures and governance put in place to manage the States of Guernsey's Brexit contingency planning, an operational Command, Control and Communication structure was established in January 2019 in conjunction with Emergency Planning, Law Enforcement and the Guernsey Local Resilience Forum. An officer level Strategic Coordinating Group was established to coordinate the operational response to a no deal scenario. An operational Tactical Coordinating Group has been monitoring Brexit-related issues, responding to new information and emerging issues and reporting into the Strategic Coordinating Group. Those two groups are underpinned by a Multi-Agency Information Cell which co-ordinates information sharing and operational planning.
- A5.7 The activity of the aforementioned groups is likely to decrease as the risk of a no deal Brexit decreases. However, plans will be maintained and reviewed as necessary and the groups' activities can be increased again as required. This will continue until the risk of a no deal scenario, at any phase of the UK's withdrawal from the EU, has been eliminated.