

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

POLICY & RESOURCES COMMITTEE

THE BAILIWICK'S FURTHER PARTICIPATION IN UK FREE TRADE AGREEMENTS

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "The Bailiwick's Further Participation in UK Free Trade Agreements" dated 19th August, 2022, they are of the opinion:-

1. To approve in principle that Guernsey should seek to participate in the Comprehensive and Progressive Agreement on Trans-Pacific Partnership ('CPTPP') in its entirety (including provisions relating to trade in goods and to trade in services).
2. To authorise the Policy & Resources Committee (in respect of Guernsey and, subject to the necessary authorisations from Alderney and Sark, in respect of those islands) to finalise negotiations and agree to the terms of the Bailiwick's participation in the CPTPP (or the relevant provisions of the CPTPP), and to signal such agreement to HM Government in the UK.
3. To agree that the policy baseline in respect of Guernsey's participation in non-goods elements of any UK Free Trade Agreement ('FTA') (or other trade arrangement) shall be participation which is the same as, or is consistent with, that approved by the States of Deliberation in respect of the CPTPP.
4. To endorse the process and approach outlined in this Policy Letter regarding Guernsey's (and the wider Bailiwick's) participation in UK FTAs (or other trade arrangements).
5. To authorise the Policy & Resources Committee (in respect of Guernsey and, subject to the necessary authorisations from Alderney and Sark, in respect of those islands) to negotiate and agree to the Bailiwick's participation in UK FTAs (or other trade arrangements), or relevant provisions of them, in accordance with any policy baselines approved by the States of Deliberation in relation to Guernsey, the States of Alderney in relation to Alderney and the Chief Pleas of Sark in relation to Sark and to signal such agreement to HM Government in the UK.
6. To agree that there shall be implemented such measures (including legislative

measures) as the Policy & Resources Committee thinks fit for the purpose of ensuring that Guernsey may comply and remain in compliance with obligations that arise from participation in any UK FTA (or other trade arrangement).

7. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

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

19th August, 2022

Dear Sir

1 Executive Summary

- 1.1 In September 2021, the States of Deliberation considered a Policy Letter ('the FTA Policy Letter (2021)') entitled 'The Bailiwick's Participation in UK Free Trade Agreements'¹ focusing on Guernsey's (and the wider Bailiwick's) participation in UK Free Trade Agreements ('FTAs') (including other trade arrangements) with other jurisdictions. That Policy Letter set out a baseline for inclusion in the goods elements of FTAs, and referred to possible future inclusion of Guernsey/the Bailiwick in the services, investment and supporting and enabling elements of FTAs.
- 1.2 In the FTA Policy Letter (2021), it was noted that it would be necessary to return to the States in the future to establish a baseline for inclusion in services, investment and supporting and enabling elements of FTAs, delegate authority to the Policy & Resources Committee ('the Committee') in this regard, and to guide the Committee as to the exercise of such delegated authority for Guernsey/ the Bailiwick. This second FTA-related Policy Letter is intended to fulfil those requirements.
- 1.3 Confidential, sensitive and complex negotiations on the UK's proposed accession to the Comprehensive and Progressive Agreement on Trans-Pacific Partnership ('CPTPP') have led to the Committee taking a policy position to seek participation for Guernsey in the full agreement (goods, services, and all supporting chapters)

¹ 'The Bailiwick's Participation in UK Free Trade Agreements', [Billet d'État XVII, 2021](#) and [Resolutions](#) of 10th September, 2021. The same Policy Letter was also considered in [Alderney 4th October 2021](#), and Sark 7th July 2021- available from the [archive of Chief Pleas papers](#).

from the date of the UK's accession to the CPTPP. An explanation of that decision and the likely consequential obligations for Guernsey are set out in Sections 3 and 4.

- 1.4 It is intended that the compliance requirements and comprehensive 'market access offer' (relating to inward market access for services and investment) in respect of the CPTPP would form the policy baseline for Guernsey's participation in non-goods elements of FTAs. The Committee will consider and, if appropriate signal consent to, the negotiated outcome for Guernsey's and (as appropriate) the Bailiwick's participation in CPTPP and any other FTA, using the baselines for goods (as set by decisions made on the FTA Policy Letter (2021)) and for services and all remaining chapters (as in this Policy Letter). The Committee will also have due regard to decisions made about any future international trade-related Policy Letter(s).
- 1.5 A number of other potential FTAs, in which Guernsey/the Bailiwick may participate in the future, are already under discussion between Guernsey and the UK and, where appropriate, being negotiated between the UK and its potential future trading partners.
- 1.6 The timing of this Policy Letter is important as approval of the principles by Guernsey's parliament is required before the UK has concluded negotiations on the CPTPP. In order to protect the constitutional relationship with the UK and provide a clear decision to the UK, it is necessary for the three jurisdictions of the Bailiwick to make decisions on the principles of this agreement. This is in order to avoid a constitutional lacuna. It is important the Committee can react swiftly and confidently to confirm Guernsey's participation in the CPTPP at the appropriate juncture and having the relevant facts and text of the negotiated agreement at its disposal.
- 1.7 This Policy Letter is being shared with the States of Alderney and Chief Pleas of Sark for consideration. The Committee will ensure that the Bailiwick-wide interests are taken forward within international negotiations. Consideration by all three Bailiwick parliaments and coordination amongst their governments can reduce the risk of unintended divergence which could have adverse consequences on intra-Bailiwick matters.

2 Introduction

- 2.1 Since the UK's withdrawal from the EU on 31st January, 2020, the Committee has continued to ensure that the Bailiwick's interests are taken forward in the UK's wider international trade agenda, in particular by seeking to participate in the UK's FTA (including other trade arrangements) negotiations with other countries.
- 2.2 Owing to Guernsey's, and the wider Bailiwick's, historic and special relationship

with the Crown, the UK has constitutional responsibility for the islands' formal international relations and defence. This responsibility exists even where the Bailiwick's interests differ from those of the UK. In 2008, the UK and Guernsey agreed a framework² for the further development of Guernsey's international identity and the role of the UK Government in that context.

- 2.3 Guernsey and Bailiwick participation in FTAs between the UK and international partners would be in addition to the benefits and obligations arising from existing participation in the World Trade Organization ('WTO'). The UK's WTO membership was extended to the Bailiwick on 31st December, 2020³. The UK's Department for International Trade ('DIT') lead on the international trade policy and negotiations on behalf of the UK Government.
- 2.4 On 8th September, 2021, the States of Deliberation considered the Policy Letter entitled 'The Bailiwick's Participation in UK Free Trade Agreements'⁴ ('the FTA Policy Letter (2021)') focusing on Guernsey's (and the wider Bailiwick's) participation in UK's FTAs with other jurisdictions. That FTA Policy Letter (2021) set out a baseline for the Bailiwick's inclusion in the goods-related elements of FTAs and delegated authority to the Committee to act in this regard.
- 2.5 The FTA Policy Letter (2021)⁵ also referred to possible future inclusion in the services and investments elements of FTAs, as well as supporting and enabling provisions. The principles for inclusion, which were approved by the three Bailiwick parliaments in 2021, contained an option for the Committee to negotiate for territorial extension clauses in UK FTAs which would permit one or more of the Bailiwick's three jurisdictions to be included in services-related and other chapters at a later time (i.e., not necessarily on the same date that the FTA between the UK and a partner country came into force).

² [Framework for Developing the International Identity of Guernsey \(signed by UK and Guernsey in December 2008\)](#)

That framework includes the following principles:

- The UK will not act internationally on Guernsey's behalf without prior consultation.
- Guernsey has an international identity which is different from that of the UK.
- The UK has a role to play in assisting the development of Guernsey's international identity. The role is one of support not interference.
- The UK will clearly identify its priorities for delivery of its international obligations and agreements so that these are understood, and can be taken into account, by Guernsey in developing its own position.
- The UK when acting in the international arena should, so far as practicable and appropriate, have regard to Guernsey's international relations, policies and responsibilities.

³ For further information see [WTO Policy Letter](#); [TCA Policy Letter](#); and paragraphs A1.6-A1.8 of the previous [FTA Policy Letter \(2021\)](#).

⁴ 'The Bailiwick's Participation in UK Free Trade Agreements', [Billet d'État XVII, 2021](#) and [Resolutions](#) of 10th September 2021. The same Policy Letter was also considered in [Alderney 4th October 2021](#), and Sark 7th July 2021 - available from the [archive of Chief Pleas papers](#).

⁵ Paragraph 2.32 of the [FTA Policy Letter \(2021\)](#)

- 2.6 It was noted in the FTA Policy Letter (2021)⁶ that it would be necessary to return to the States in the future to establish a baseline for actual (rather than potential) inclusion in services and other elements of FTAs. The Bailiwick's parliaments could also provide approval so that the Committee could exercise its delegated authority so that Guernsey (or, where appropriate, the Bailiwick) could seek to utilise a territorial extension clause or seek to be included in services and other elements of new FTAs from the outset.
- 2.7 Since the FTA Policy Letter (2021), the UK has continued to negotiate FTAs with a number of partners. Guernsey officials have continued to work closely with DIT to ensure that the Bailiwick's interests are understood and advanced.
- 2.8 An FTA of particular focus for the UK and Guernsey is the CPTPP (as set out in Section 4). As an existing, multilateral FTA to which the UK seeks to accede (rather than a new FTA that the UK seeks to negotiate), the CPTPP presents a prime opportunity for Guernsey to consider full participation in an FTA and establish an enhanced baseline for potential inclusion in future FTAs.
- 2.9 As stated above, the parliaments in all three Bailiwick jurisdictions considered the FTA Policy Letter (2021) and approved the principles of their participation in relation to the trade in goods, including both tariff and non-tariff measures.
- 2.10 It is important that the States of Deliberation now has an opportunity to consider the principles of Guernsey's participation in FTAs beyond the previously set goods-only baseline. The Committee can then be confident of the position for Guernsey (and, as appropriate following parliamentary consideration in their own islands, Alderney and Sark) so that the Committee can make further decisions at relevant points in CPTPP and other FTA negotiations.

3. Free Trade Agreements

- 3.1 FTAs are agreements which are created between two or more nations with the aim and purpose of removing or reducing trade restrictions and barriers in order to stimulate, encourage and diversify economic growth.
- 3.2 DIT's negotiations in relation to FTAs are moving at pace as they form a key part of the UK Government's trade policy. Preferential goods market access for the Bailiwick has already been successfully negotiated within the following UK FTAs: EU, EEA EFTA⁷, Japan, Australia⁸ and New Zealand. In addition, the Bailiwick

⁶ Paragraph 2.33 of the [FTA Policy Letter \(2021\)](#)

⁷ As in [FTA Policy Letter \(2021\)](#), section 4.

⁸ [UK-Australia FTA: associated documents - GOV.UK \(www.gov.uk\)](#)

continues to benefit from the UK's 'rolled over' FTAs⁹, which directly succeed EU agreements. Another trade-related agreement concerning digital trade has also been concluded between the UK and Singapore¹⁰.

- 3.3 When these FTAs enter into force, they allow Bailiwick businesses to immediately benefit from the preferential tariffs and reduction in barriers when trading goods as well as providing the other benefits outlined below.
- 3.4 The Bailiwick's participation in the FTAs mentioned above (paragraph 3.2) is presently restricted to the goods baseline as detailed in the FTA Policy Letter (2021). Subject to further negotiations in the future, it may be possible for Guernsey and the other two jurisdictions of the Bailiwick to participate in additional elements of these FTAs (as in paragraph 3.2) to include preferential treatment for cross-border trade in services (including financial services) and investment, as well as other cross-cutting chapters that support the functioning of FTAs. In order to participate, Guernsey, Alderney and Sark will need to satisfy the UK Government that the islands can and will continue to fulfil the compliance requirements; such work is ongoing. The Committee would need to agree formally to that extension in coverage on behalf of Guernsey (and, where appropriate and subject to the appropriate authorisations, Alderney and Sark).
- 3.5 As stated in the FTA Policy Letter (2021), the obligations and commitments for cross-border trade in services, investments and supporting and enabling provisions, "can be wide-reaching and vary according to each agreement. For example, they could include commitments and obligations ensuring fair market access, regarding various areas including environmental standards, labour laws and procurement, and are generally aimed at achieving the full benefits of liberalised trade. The FTA may also include obligations regarding equal access to financial services, digital and e-commerce sectors and others which require oversight and regulatory compliance."¹¹
- 3.6 The Committee is conscious that various States' Committees are responsible for relevant policy areas, operations, legislation and regulation.
- 3.7 The Committee has maintained a dialogue with the Presidents of relevant Principal Committees (including the Committee *for* Economic Development, Committee *for the* Environment & Infrastructure and Committee *for* Home Affairs). Accordingly, those Committees have considered relevant briefing papers on FTAs.

⁹ For more information on the Bailiwick's participation in 'rolled over' FTAs, please see [FTA Policy Letter \(2021\)](#) – particularly paragraphs 1.4, 2.11, 2.20, A1.2, A1.9-1.13, A2.5 and A2.6.

A list of 'rolled over' FTAs can be found at: [UK trade agreements with non-EU countries - GOV.UK \(www.gov.uk\)](#)

¹⁰ [UK-Singapore Digital Economy Agreement](#)

¹¹ [FTA Policy Letter \(2021\)](#), paragraph 2.31

- 3.8 The Committee has also benefited from the input of the Trade Policy Forum¹² ('TPF') and from leading business representatives for Guernsey who have had an opportunity to consider how Bailiwick trade interests might best be served with regard to inclusion in potential future FTAs (including the CPTPP).
- 3.9 The TPF supports Guernsey/the Bailiwick's greater inclusion in FTAs (particularly in respect to the CPTPP, as in Section 4). The TPF's view is that it is critical to ensure that the Bailiwick can participate in relevant and appropriate FTAs/trade arrangements for trade security, as well as market opportunity. This will provide stability and predictability in existing markets and give options for Bailiwick-based businesses to expand into future markets and, in the process, allow the islands' business community to diversify. These benefits are also supported by recent detailed analysis undertaken by Frontier Economics¹³ on behalf of the States of Guernsey. Frontier Economics' detailed research concluded that Guernsey's inclusion within FTAs, and the extension to it of the UK's WTO membership, has a number of advantages and benefits to Guernsey (and the wider Bailiwick) which include:
- providing stability and predictability in the rules governing trade between Guernsey and its partners, and conditions of market access in each - this sends a strong signal to businesses and investors;
 - demonstrating Guernsey's compliance and approach to international economic governance and regulation;
 - showing that Guernsey is an integral part of the 'British family' in terms of international profile and trading; and
 - indicating that Guernsey is willing to collaborate and participate within internationally recognised trade rules. This is increasingly important at a time of international economic fragmentation and increased sensitivity and selectivity by countries as to which jurisdictions they choose as partners for

¹² The TPF comprises political representatives from the Policy & Resources Committee, Committee *for* Economic Development and the Committee *for* Home Affairs, representatives from industry and external stakeholders. Other representatives are invited to attend as necessary. The group's purpose is to support discussions/negotiations with the UK in relation to such trade agreements by providing advice on the following:

- i. Trade continuity agreements
- ii. Global Free Trade Agreements
- iii. UK – EU Best in Class
- iv. Investment/BITs
- v. Competition
- vi. State aid
- vii. Intellectual property
- viii. Goods regulation
- ix. Digital/e-commerce

¹³ The States of Guernsey commissioned a report in late 2021 which analysed the potential benefits of FTAs to Guernsey and assessed parts of the local economy. The report contains sensitive data (including commercial data) and, therefore, has not been published.

comprehensive economic relations.

- 3.10 In addition to the benefits already identified by stakeholders (via the TPF) and by Frontier Economics, which focus on outward trade opportunities, there is also the significant added benefit of being able to attract business into the Bailiwick from trading partner countries who, on a reciprocal basis, will be assured that the islands are stable and predictable jurisdictions to facilitate inward trade. Trade security is becoming increasingly important for businesses in the current economic environment.
- 3.11 The UK's forthcoming multilateral or bilateral trade agreements (or revisions to existing agreements) are likely to be all-encompassing and include trade in goods and services and investment provisions. FTAs currently under negotiation are listed on the UK Government website¹⁴.
- 3.12 The UK is also in the process of agreeing Memorandums of Understanding ('MoUs') with individual states within the USA. These MoUs are aimed at developing UK-US trade relations at state level with the first being signed with Indiana in May 2022¹⁵. Officers continue to work with DIT officers to ensure that Guernsey's interests are taken forward within future USA state-level MoU negotiations where possible.

4 Comprehensive and Progressive Agreement on Trans-Pacific Partnership (CPTPP)

- 4.1 The CPTPP¹⁶ is an FTA which encompasses various countries within the Pacific region. Signatories to the CPTPP include Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam¹⁷. The UK is seeking to accede to the CPTPP. The potential inclusion in the CPTPP is therefore one negotiation but with the benefit of being an FTA with multiple countries. Other countries intending to accede include China, South Korea, Taiwan and Ecuador.
- 4.2 The combined economies of the CPTPP's current members mean that it is one

¹⁴ [The UK's Trade Agreements](#)

¹⁵ [UK Signs first US State-Level Agreement with Indiana](#)

¹⁶ The CPTPP text is available on websites of the countries which have signed up to the agreement (the UK has not yet signed) – e.g. New Zealand – see [Comprehensive and Progressive Agreement for Trans-Pacific Partnership text and resources | New Zealand Ministry of Foreign Affairs and Trade \(mfat.govt.nz\)](#)

¹⁷ The CPTPP evolved from the Trans-Pacific Partnership which had originally included the USA; that earlier agreement never entered into force due to the withdrawal of the USA. As in footnote 33 of '[UK Accession to CPTPP: The UK's Strategic Approach](#)' published by the Department for International Trade in April 2021.

of the world's largest free trade areas by Gross Domestic Product (GDP)¹⁸. It was worth an estimated £9tn in 2019. The region is also growing in geopolitical importance with the so-called 'tilt to the Indo-Pacific'.

- 4.3 The CPTPP is an all-encompassing agreement for trade purposes. It contains chapters covering many direct and indirect aspects of trade, such as: temporary entry and stay of natural persons, competition policy, regulatory coherence, customs facilitation, environment, intellectual property, states owned enterprises, digital, financial services, investment, business professional services, procurement, and labour standards.
- 4.4 Following engagement with DIT's Chief Negotiator for the UK's accession to the CPTPP, it became clear that the best achievable outcome for Guernsey was to seek full coverage of goods, services and all supporting chapters. That means that Guernsey will need to comply with the obligations included in all chapters of the agreement. The CPTPP agreement remains an important agreement for Guernsey as it would cement relationships with several countries (as in paragraph 4.1) through one agreement.
- 4.5 Since September 2021, confidential, sensitive and complex negotiations on the CPTPP accession have been ongoing. Guernsey has requested that participation in the full agreement (including trade in goods and services and supporting and enabling provisions) be negotiated, which, if agreed, would take effect from the date of the UK's accession to the CPTPP and its entry into force. This is subject to approval of the relevant principles by the States of Deliberation. The Committee considered and made that decision regarding participation in the full CPTPP using the Committee's mandated responsibilities, and in accordance with States' Resolutions on international agreements¹⁹ and the States' Resolutions on participation in FTAs²⁰. It is intended that the compliance obligations and market access offer in respect of the CPTPP would be used as a policy baseline for Guernsey's/the Bailiwick's participation in the services elements (and other supporting elements) of other FTAs (where appropriate and where agreed with DIT).
- 4.6 The Committee concluded that full extension of the UK's participation to the CPTPP to Guernsey would be in Guernsey's best interests. This would require the States of Guernsey to use its best endeavours to confirm or address any

¹⁸ [UK approach to joining the Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#)

¹⁹ An earlier States' Resolution on international agreements from 1987 (which was referred to in the previous FTA Policy Letter (2021)) was replaced by States' Resolutions on international agreements in December 2021. '[Consideration of Guernsey's participation in international agreements](#)' (Billet d'État XXV, 2021) and [Resolutions](#) of 16th December, 2021

²⁰ [FTA Policy Letter \(2021\)](#) – as noted in other footnotes, this Policy Letter was considered by Sark in July, Guernsey in September and Alderney in October 2021.

compliance and implementation issues in line with the UK and in time for the UK's accession to take effect.

4.7 The CPTPP negotiations are concluded in two phases: the first is to ensure that Guernsey can comply with the core provisions of the trade agreement; and the second phase is to develop and agree respective market access positions which detail the conditions and commitments agreed by parties for the entry of specific goods and services into their markets.

4.8 The CPTPP agreement requires a high level of compliance, ensuring that all parties comply with the same high regulatory and transparency standards, which limits the scope for trade distortion. Officers have been working with the relevant Committees on ensuring Guernsey meets all the standards contained within all thirty chapters of the agreement. Below is an indicative list of some of the chapter topics which are not already included in the Bailiwick's existing goods-only policy baseline:

- **Investment:** designed to liberalise and protect investments between contracting parties.
- **Cross-Border Trade in Services ('CBTS'):** designed to liberalise trade in services relating to Mode 1 (cross-border), Mode 2 (consumption abroad) and Mode 4 (temporary entry).
- **Financial Services:** topic-specific chapter that builds on the Investment & CBTS chapters and makes further specific provision.
- **Temporary Entry for Business Persons:** complements the substantive chapters relating to Investments & CBTS and makes more specific provision in relation to Mode 4.
- **Telecommunications:** another topic-specific, services-related chapter.
- **Electronic Commerce:** concerns 'digital' trade and related matters.
- **Government Procurement:** concerns how government and other public bodies purchase goods and services and seeks to liberalise such trade.
- **Competition Policy:** cross-cutting chapter, which includes consumer protection, and is designed to prevent anticompetitive practices so as to promote economic efficiency and consumer welfare.
- **State-Owned Enterprises and Designated Monopolies:** designed to avoid trade distortion created by State-Owned Enterprises or Designated Monopolies.
- **Intellectual Property:** another cross-cutting chapter that underpins the CPTPP and liberalised trade under it by requiring a high level of protection for IP protection.
- **Labour & Environment:** also cross-cutting and create a minimum level of labour and environmental protections.

- **Cooperation and Capacity Building & Competitiveness and Business Facilitation:** make high-level commitments to closer working for mutual benefit.
- **Development:** makes high-level commitments in relation to the use of trade and investment to promote development.
- **Small and Medium-Sized Enterprises:** makes additional commitments designed to assist SMEs in benefitting from the CPTPP.
- **Regulatory Coherence:** sets down best practice requirements when new regulatory measures are planned, created, or implemented.
- **Transparency and Anti-Corruption:** sets out cross-cutting commitments relating to transparency of regulatory information and, linked to this, measures to combat corrupt practices.

- 4.9 As well as working through and completing the compliance phase of the negotiations with DIT, officers have also been working on developing Guernsey's market access negotiation phase, which forms a critical part of the negotiations. As with the compliance phase, the market access negotiation phase is extremely sensitive, and the market access offer forms the basis of Guernsey's position in the negotiations. The market access offer relates to the conditions, including tariff and non-tariff measures, which Guernsey wants to apply for the entry of specific goods and services into the Island. Guernsey's market access offer will define the conditions under which businesses can trade in or into the Islands and any regulatory restrictions which may apply. Following consideration of this Policy Letter in the Bailiwick's three parliaments, the final outcome of the market access negotiations will be referred in due course to the Committee for approval and will become the future policy baseline for coverage in other FTAs/international trade arrangements.
- 4.10 The UK's negotiations towards acceding to the CPTPP continue with further negotiation rounds ahead. Officers continue to work with DIT to ensure that negotiators have the relevant compliance documents and information so that Guernsey's interests can be taken forward.
- 4.11 The timing of this Policy Letter is important as approval of the principles by Guernsey's parliament is required before the UK has concluded negotiations on the CPTPP. In order to protect the constitutional relationship with the UK and provide a clear decision to the UK, it is necessary for the three jurisdictions of the Bailiwick to make decisions now on the principles of participation in this agreement. This is to avoid a constitutional lacuna.
- 4.12 It is anticipated that the UK will seek Guernsey's final consent to participate in any negotiated accession within the next year, subject to negotiation timetables. This is to ensure that any participation by Guernsey/the Bailiwick can then be included in the final drafting of the accession agreement and before formal

ratification. These negotiations are strictly confidential, and Guernsey officers cannot influence the pace or the timetables. After negotiations are concluded and the basis of inclusion for Guernsey and the wider Bailiwick, together with any legal text relating to accession, has been (or is almost) finalised, the Committee will need to decide whether or not to approve Guernsey's and the wider Bailiwick's participation within the CPTPP. There may be an expedited process for the UK once negotiations have concluded with the other members of the CPTPP. It is important the Committee can react swiftly and confidently to confirm Guernsey's participation in the CPTPP at the appropriate juncture and having the relevant facts and text of the negotiated agreement at its disposal. Should the Committee conclude that it is not preferable for Guernsey to join the CPTPP, then this will need to be communicated as a matter of urgency to DIT negotiators.

- 4.13 As negotiations are confidential and as timescales are likely to continue to be very tight, asking the States to approve detailed final outcomes at that time is unlikely to be possible. This scenario had been anticipated and was also the reason that the FTA Policy Letter (2021) asked for the Committee to be given delegated authority to agree participation in the FTAs in respect of goods-related chapters without having to return for parliamentary approval (as long as participation in those FTAs did not significantly deviate from the existing established baselines).

5 Alderney and Sark

- 5.1 It is intended that this Policy Letter can be used by all three parliaments in the Bailiwick, with appropriately tailored Propositions for each island. This approach has been agreed by representatives for Alderney and Sark.
- 5.2 As in Sections 2 and 4, it was noted in the FTA Policy Letter (2021) that, if negotiations were to progress beyond the original baselines (for trade in goods, together with an extension mechanism to effect enhanced participation, such as for future inclusion in trade in services), then it would be necessary to revert to the States of Deliberation, the States of Alderney and Chief Pleas of Sark. This Policy Letter is intended to address that progress beyond participation in goods elements of FTAs.
- 5.3 The Committee will ensure that the Bailiwick-wide interests are taken forward within international negotiations. Consideration by all three Bailiwick parliaments and coordination amongst their governments can reduce the risk of unintended divergence which could have adverse consequences on intra-Bailiwick matters.
- 5.4 It is unlikely that Alderney and Sark will be in a position to be able to participate in the services and investment elements of UK FTAs, as well as the supporting

chapters, at the present time (including the CPTPP) given their current legislative and regulatory frameworks, as well as other compliance requirements. However, both Alderney and Sark will continue to benefit from the protections of WTO membership, together with the goods baseline and extension mechanism in FTAs if these can be negotiated. In addition, Alderney and Sark will indirectly benefit from Guernsey's participation and the developing international identity of the Bailiwick that will flow from this. Officers will continue to work with counterparts in Alderney and Sark to develop their international trade position to consider whether further participation in UK FTAs would be in the interests of those islands and whether they can achieve compliance with the corresponding obligations. Lastly, even if not participating in additional aspects of UK FTAs, Alderney and Sark's interests can still be represented to the UK by Guernsey and, in turn, to FTA partners via the governance architecture arising under FTAs.

6 Legislation

- 6.1 In order to participate in any FTA, the island(s) are required to demonstrate full compliance with the relevant provisions of that FTA to the UK Government and, sometimes, with treaty partners before an FTA can come into force in respect of the island(s). Compliance with the terms of an FTA may be demonstrated by existing international commitments, legislative provision, regulatory regimes, or administrative measures. This can be relayed through compliance matrices or narratives, papers & non-papers, or discussion. Every FTA is different and, therefore, the details of the compliance requirements are specific to each FTA. Likewise, FTAs are agreements that can evolve over time, such that measures may be required in future to ensure continuing compliance. Lastly, despite exhaustive compliance-related analysis, a dispute under an FTA may still arise and result in remedial action to correct a measure that is judged to be non-compliant.
- 6.2 Guernsey already complies with many areas (beyond the goods-related baseline) of the FTAs currently being negotiated with the UK's potential trading partners (including the CPTPP). However, there are some limited areas which have been identified where new legislation or other measures are required, or need to be amended, so that the island(s) fulfil the obligations of the CPTPP. Further, as noted above, additional legislative or other changes may be required in future for various reasons.
- 6.3 Topics which have already been identified for further consideration in respect of the CPTPP include: consumer protection, IP, environmental, protection of workers' rights, and temporary entry and stay of natural persons. Participation in the CPTPP is already included within the Government Work Plan²¹, and there

²¹ Government Work Plan 2022, [Billet d'État X Volume 1, 2022](#) and [Resolutions](#) of 1st July, 2022.

are existing States' Resolutions or Committee plans which incorporate elements which will be required for compliance to be achieved. The Committee will act in its coordinating capacity and the relevant Principal Committees will be involved in bringing forward any legislative or other changes. Alderney and Sark's parliaments would also need to consider any relevant legislative or other changes, as required. Achieving such compliance to enable participation in the CPTPP will then provide the best possible foundation for broad participation in future UK FTAs.

- 6.4 Future compliance work – whether related to new FTAs, amendments to FTAs, or FTA-related disputes - will be assessed and coordinated by the Committee in a like capacity, undertaken in consultation with relevant Principal Committees.

7 Next Steps

- 7.1 The Committee and Guernsey officers continue to ensure that Guernsey and the wider Bailiwick's interests are fully represented to the UK Government to ensure that the best negotiated outcomes are achieved. This is in accordance with the States' Resolutions about participation in FTAs²² and about international agreements more generally²³, priorities within the Government Work Plan as considered in 2021²⁴, and the Government Work Plan²⁵ updated in 2022 which specifies that managing the effects of Brexit and seeking participation in UK FTAs is a priority (Priority 2).
- 7.2 The Committee will consider and, if appropriate signal consent to, the negotiated outcome for Guernsey's and (as appropriate) the Bailiwick's participation in CPTPP and any other FTA, using the baselines for goods (as set by decisions made on the FTA Policy Letter (2021)) and for services and all remaining chapters (as in this Policy Letter). The Committee will also have due regard to decisions made about any future international trade-related Policy Letter(s).
- 7.3 Once negotiations on the UK's (and Guernsey's/the Bailiwick's) participation in CPTPP have concluded, the Committee and the Committee *for* Economic Development and other Principal Committees will need to continue to consider and respond appropriately to ensure continued compliance with the provisions contained within the agreement across the Bailiwick. This may include future trade policy reviews.
- 7.4 It is important that effective governance arrangements continue to be in place

²² The FTA Policy Letter (2021) (with tailored Propositions) was considered in Alderney on 4th October 2021, and Sark 7th July 2021.

²³ As in footnote 19 of this Policy Letter.

²⁴ Government Work Plan – Stage 1, [Billet d'État VI, 2021](#) and [Resolutions](#) of 26th March, 2021.

²⁵ Government Work Plan – Stage 2, [Billet d'État XV, 2021](#) and [Resolutions](#) of 23rd July, 2021.

for Guernsey, Alderney and Sark, for their particular participation in UK FTAs. The Committee will be guided by the baselines set by decisions made on the FTA Policy Letter (2021), this Policy Letter, and any future international trade-related Policy Letter(s). The Committee will continue to be supported by the States of Guernsey's international trade and external relations teams so that negotiations can be undertaken effectively to gain the best achievable outcomes and so that ongoing implementation and compliance work is undertaken.

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)(a), this Policy Letter and its Propositions are in line with States' objectives and policy plans. The outcomes following the UK's withdrawal from the EU and related matters, which include international trade, remain key external influences and policies for the Bailiwick. The States has confirmed, through its approval of the Government Work Plan in 2021 and as included in subsequent iterations of the Plan, that managing the effects of Brexit remains one of the four key strategic priorities for the States of Guernsey²⁶.
- 8.3 In regard to Rule 4(1)(b), the Committee has undertaken consultation with the Committee *for* Economic Development, the Committee *for* Home Affairs and the Committee *for the* Environment & Infrastructure in the preparation of this Policy Letter and Propositions. Extensive joint working and consultation has taken place with stakeholders, including those Principal Committees, the TPF and trade experts in the Bailiwick during the development of Guernsey's approach to international trade and (when appropriate) in preparation for negotiations with the UK (and onward to the UK's potential trading partners). Close cross-Committee work at officer level, led by the international trade team, has been essential to progress this work throughout the consideration of Guernsey's possible participation in UK FTAs and other international trade arrangements and during the negotiations period to date. Cross-Committee work will need to continue to ensure that the island(s) can continue to benefit from participation in relevant and appropriate FTAs.
- 8.4 The Committee, other relevant Principal Committees and officers have worked closely and continue to work closely with various UK Government Departments

²⁶ The main priorities identified within Stage 1 of the Government Work Plan include, "Managing the effects of Brexit and our international obligations" which includes the continuing development of Guernsey's international identity and meeting international standards.

Government Work Plan – Stage 1, [Billet d'État VI, 2021](#) and [Resolutions](#) of 26th March, 2021.

Government Work Plan – Stage 2, [Billet d'État XV, 2021](#) and [Resolutions](#) of 23rd July, 2021.

Government Work Plan 2022, [Billet d'État X Volume 1, 2022](#) and [Resolutions](#) of 1st July, 2022.

and alongside the Crown Dependencies of Jersey and the Isle of Man in relation to FTAs as required. This Policy Letter cannot, however, reference the position of the other Crown Dependencies in relation to international trade agreements due to the sensitivity and confidentiality of negotiations. The Committee has kept the Policy & Finance Committees in Alderney and Sark apprised of developments where relevant and appropriate (as in Section 5).

- 8.5 In accordance with Rule 4(1)(c), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 8.6 In regard to Rule 4(1)(d), the Policy & Resources Committee and the Committee *for* Economic Development have monitored, and continue to monitor, the resources (including financial and human) used for FTA work. That will include work to help to mitigate and respond to any uncertain and changing operational, political and legal situations that may arise. This has meant and may continue to mean reviewing and changing legislation and assessing any opportunities or challenges that have arisen (or may arise) and for ensuring compliance with new requirements. Additional financial and human resources may continue to be required to ensure that the States can act swiftly to respond to new negotiations and implement any new arrangements. The use and need for additional resources to support this work, from across the organisation, will continue to be monitored and kept under review. The Committee may need to increase financial and human resources to take full advantage of the FTA work in a timely manner.
- 8.7 In accordance with Rule 4(2)(a), the Propositions relate to the Policy & Resources Committee's purpose and policy responsibilities 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.
- 8.8 In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee.

Yours faithfully

P T R Ferbrache
President

H J R Soulsby MBE

Vice-President

M A J Helyar

J P Le Tocq

D J Mahoney