XII
2013

BILLET D'ÉTAT

WEDNESDAY 26th JUNE 2013

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BILLET D'ÉTAT

TO
THE MEMBERS OF THE STATES
OF THE ISLAND OF GUERNSEY

I hereby give notice pursuant to Rule (1)(4) of the Rules of Procedure of the States of Deliberation that the items contained in this Billet d'État which have been submitted for debate will be considered at the Meeting of the States of Deliberation already convened for **WEDNESDAY,** the **26th JUNE, 2013**.

R. J. COLLAS
Bailiff and Presiding Officer

The Royal Court House
Guernsey
17th May 2013

PROJET DE LOI

entitled

THE DEBT RELIEF (DEVELOPING COUNTRIES) (GUERNSEY AND ALDERNEY) LAW, 2013

The States are asked to decide:-

I.- Whether they are of the opinion to approve the draft Projet de Loi entitled "The Debt Relief (Developing Countries) (Guernsey and Alderney) Law, 2013", and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

PROJET DE LOI

entitled

THE AVIATION (REGISTRY) (GUERNSEY) LAW, 2013

The States are asked to decide:-

II.- Whether they are of the opinion to approve the draft Projet de Loi entitled "The Aviation (Registry) (Guernsey) Law, 2013," and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

THE INCOME TAX (GUERNSEY) (APPROVAL OF AGREEMENT WITH QATAR) ORDINANCE, 2013

The States are asked to decide:-

III. Whether they are of the opinion to approve the draft Ordinance entitled "The Income Tax (Guernsey) (Approval of Agreement with Qatar) Ordinance, 2013", and to direct that the same shall have effect as an Ordinance of the States.

POLICY COUNCIL

IMPROVING GOVERNANCE IN THE STATES OF GUERNSEY – IMPLEMENTATION PLAN

1. Executive Summary

1.1 The purpose of this report is principally to fulfil a States Resolution arising from the report entitled "Improving Governance in the States of Guernsey" submitted by the Public Accounts Committee, Scrutiny Committee and States Assembly and Constitution Committee and appearing in Billet d'État V of March 2012. This Resolution directed the Policy Council to set out a proposed implementation plan for the many recommendations contained in the Joint Committees' report.

1.2 To a certain extent the forty-seven recommendations, approved in-principle, have been overtaken by events. In particular, the States Review Committee, which began its work in October 2012, is mandated to review the extent to which the structure and functions of the legislature and government are capable of fulfilling expectations of good governance.

1.3 The implementation plan shown in Appendix 1 categorises the recommendations as either completed; in progress, with an indicative timeframe for completion; on hold, with an indicative start date; recommended to rescind; or for referral to the States Review Committee.

1.4 It is proposed that the States Review Committee considers the relative merit and priority of the twelve in-principle recommendations identified and that its review report, due by the end of 2014, should either re-affirm or supersede these recommendations. The States Review Committee has indicated that it supports this approach.

2. Background

2.1 In March 2012 the States of Deliberation considered a report from the Joint Committees (the former Public Accounts, Scrutiny and States Assembly and Constitution Committees) entitled "Improving Governance in the States of Guernsey" (Article 16 of Billet d'Etat V of 2012). Forty-seven recommendations intended to improve governance arrangements in the States of Guernsey were approved in principle. It was further resolved:

"That the Policy Council, after consultation with States Departments and Committees, present to the States of Deliberation by no later than January, 2013 a plan of action for the implementation of the recommendations approved above"

2.2 The main purpose of this report is in fulfilment of that Resolution; to present an action plan for the implementation of the in-principle recommendations having taken into account the practical and resource implications.

2.2 Regrettably the Policy Council has missed the deadline of January 2013, which would have required completion of the report by November 2012 in order to meet submission deadlines for the January Billet d'État. The Policy Council did not have the resources to dedicate to coordinating the implementation plan until late in 2012. In addition, the Policy Council wished to consult with the States Review Committee over how its work may impact on the priority and practicality of many of the recommendations, given the close relationship between good governance and the structure and functions of the legislature and the government, which the Committee will be reviewing over the next two years. The States Review Committee was not in a position to consider this until the end of 2012 following the election of the two independent members at the September States' meeting.

2.3 The Policy Council consulted with Departments and Committees in November 2012 in order to determine a relative priority and timescale for implementation of the recommendations.

2.4 The consultation carried out enabled the Policy Council to draw up the appended implementation plan, which it commends to the Assembly. The Policy Council would like to take this opportunity to thank Departments and Committees for their assistance and contribution in this regard.

3. States Review Committee

3.1 The States Review Committee has advised that, for the most part, the Committee's review of the structure and functions of the legislature and government in Guernsey would not be impeded or duplicated should the States resolve to implement the Joint Committees' recommendations during the period of the Committee's review. However, the Committee believes its review will likely directly engage at least 13 of the recommendations (a, b, g, h, i, j, l, m, n q, t, aa and oo), which, if implemented immediately, may be rendered redundant or subject to change at the conclusion of the Committee's review.

3.2 It should be noted that there is no easy dividing line between those recommendations that will have crossover with the work of the States Review Committee and those that will not. The Joint Committees' recommendations were intended to improve governance arrangements in the current system of government. The potential for these to be duplicated or made redundant is clear from the States Review Committee's mandate to review the extent to which the structure and functions of the legislature and government are capable of fulfilling expectations of good governance.

4. Interpretation of the Core Principles

4.1 The States of Deliberation agreed in March 2011 to adopt the six Core Principles of good governance as determined by the UK Independent Commission on Good Governance in Public Services (Billet d'État IV, March 2011).

4.2 The approved recommendations from the Joint Committees' report are a road map of sorts to how the Core Principles **might** be implemented. However, some of the recommendations are open to interpretation and/or are not clear on the authors' intentions. This was a particular concern raised by some of the Departments in their responses to the Policy Council's consultation on the recommendations relating to their responsibilities.

4.3 Further exploration is required of how good governance might be implemented and measured in practice and this journey is being continued by the States Review Committee. It is expected that consideration of the report of the States Review Committee in 2014 will enable the current States Assembly to better establish how it wishes to improve its observance of good governance going forward.

4.4 In the meantime, the Policy Council has consulted departments on how they would interpret the recommendations and has in good faith sought to progress the spirit with which they were intended.

5. Prioritisation and Implementation

5.1 Members will not be strangers to the fact that there are limited resources at their disposal and a plethora of priority issues making demands on those resources that cannot all be satisfied.

5.2 The fifty recommendations contained in the governance report (of which forty-seven were approved in principle) were in no way prioritised against each other, let alone other competing demands on resources. In effect, the States of Deliberation delegated the prioritisation of these in-principle recommendations to the discretion of the Policy Council in directing it to report back with a suggested implementation plan.

5.3 The Policy Council feels that it would be unwise to dedicate already stretched resources to commit to a set programme of implementation that runs the risk of duplicated or redundant work.

5.4 The appended implementation plan seeks to proceed immediately with those recommendations identified as being enablers to good governance that would not require any significant additional resources at this time and would not be in any danger of duplicating work undertaken by the States Review Committee. In fact some of these have already been completed.

5.5 Some recommendations will be progressed over a longer time-frame in liaison with the States Review Committee and are not timetabled for completion until after that Committee has finished its review. This will allow flexibility to ensure that the work undertaken is compatible with the findings and recommendations of the States Review Committee and work will not be duplicated or made redundant.

5.6 In the Policy Council's view, there may be some 'nice to have' but non-essential recommendations that would not be the best use of resources in the face of bigger priorities. There are other recommendations that may be higher priority but have significant resource implications and/or are particularly contingent on the work of the States Review Committee. Further consideration will need to be given to what priority, if any, should be placed on the completion of these recommendations. The Policy Council has gathered the views of Departments and Committees, but it is proposing to take no further action at this time.

5.7 There are three recommendations that the Policy Council is requesting the Assembly to rescind their in-principle approval (k, q and oo), as it is not considered that these would add sufficient value to implement for the reasons set out in Appendix 1. For the remaining in-principle recommendations identified as not for further action at this time, it is proposed that the States Review Committee considers the relative priority and merit of these and that its review report, due by the end of 2014, should either re-affirm or supersede these recommendations.

5.8 The Policy Council will of course be forwarding the feedback from its consultation and will otherwise assist the States Review Committee as much as it can.

5.9 The Policy Council has therefore categorised the forty-seven 'in-principle' recommendations as follows:

'Completed' or 'In progress'	Progress has already been made on 29 of the recommendations and 11 of these have already been completed. An indicative timeframe for completion has been provided for those still in progress.
'On hold'	There are insufficient resources to dedicate to these 3 recommendations and/or they are pending other actions before being progressed. An indicative start time is recorded.
'NFA'	No further action will be taken on these 15 recommendations. 3 are recommended to be rescinded and it is expected that the States Review Committee report will either re-affirm and prioritise the remaining 12 recommendations or supersede them.

6. Improving Governance

6.1 Significant progress has been made against the six Core Principles of good governance, not only through the twenty-nine recommendations of the Joint Committees that are completed or in progress, but also through the wider context of implementing a change in culture.

6.2 In particular, the top tier of the civil service has been restructured to create clear lines of accountability and provide executive leadership. The process for prioritising projects has been much improved, with the States Strategic Plan providing an overarching direction of travel. This is set to be refined in its next iteration and a Government Service Plan is being developed which, for the first time, will link strategic objectives to delivery and outcomes and clearly allocate resources and responsibilities. Meanwhile, the Financial Transformation Programme has required corporate working across all departments to focus minds on fiscal responsibility and value for money.

7. Future Monitoring of Good Governance

7.1 This States Report principally addresses the Policy Council's commitment following the direction of Resolution 2 of the March 2012 governance report, which is to propose an implementation plan for the forty-seven recommendations approved in principle. However, Resolution 4 of that report also directed the Policy Council to take action as follows: *"That the Policy Council proposes an amendment to the mandates of the Public Accounts Committee and Scrutiny Committee to make them explicitly responsible for "the promotion and monitoring of good governance"*.

7.2 Accordingly, the Policy Council consulted with the Public Accounts and Scrutiny Committees prior to implementing this Resolution.

7.3 The Committees have responded that they believe it would be premature to amend the mandates of the Committees. An independent review of the Scrutiny Committees published in March 2012[1] recommended that: *"A new, overarching scrutiny mandate should be developed which sets out the purpose, aims and objectives of scrutiny to create a framework for formal scrutiny without being too prescriptive about how scrutiny should be conducted."*

7.4 The Committees believe that the suggested responsibility for the promotion and monitoring of good governance should be considered as part of a wider review of the scrutiny mandate and in the light of the March 2012 report.

7.5 The Policy Council agrees and suggests that this should be considered after the conclusion of the States Review Committee's review of the structure and functions of the States of Guernsey so as not to duplicate, or waste, effort.

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[1] *The Scrutiny Committees of the States of Guernsey – An independent review by Belinda Crowe*, March 2012

7.6 For completeness, the Policy Council therefore is recommending, on behalf of the Public Accounts and Scrutiny Committees, this Resolution be rescinded.

7.7 The States of Deliberation further resolved that the Public Accounts Committee and Scrutiny Committee should report to the States of Deliberation *"during 2015 setting out the extent to which by that stage the States is complying with the principles of good governance"*. Given the breadth of the principles, the Committees jointly agree that further work is required to clearly define what criteria the States would wish these principles to be judged against. As noted in 4.3, the report of the States Review Committee may shed light on how the Core Principles are to be progressed.

7.8 It is likely that in 2015 there will need to be consideration of implementing whatever recommendations may emerge from the report of the States Review Committee. It would therefore likely be too soon to make an assessment of the extent to which the States is complying with the principles of good governance. As noted in 7.4, further consideration needs to be given to whether the Public Accounts Committee and Scrutiny Committee are the correct bodies to undertake such an assessment.

7.9 As before, the Policy Council recommends, on behalf of the Public Accounts and Scrutiny Committees, this Resolution be rescinded.

7.11 Resolution 5 arising from the March 2012 report directs *"That in the first six months of the 2016-20 term of government, the Policy Council commissions an independent review of the standards of governance in the States of Guernsey."* If changes are agreed by the States of Deliberation following consideration of the States Review Committee report, it may be too early to undertake a review in the first six months of the 2016 Term before such changes have bedded in. The Policy Council will, towards the end of 2015, consider the appropriateness of the timing of such an independent review.

7.12 Improving governance is a continuous journey and it will be important to take stock following the final report of the States Review Committee and determine the next steps. In 2015 the Policy Council will give further consideration to how compliance with the Core Principles should be implemented and monitored, and who by, as part of the implementation of whatever emerges from the review of the functions and structure of government.

8. Recommendations

8.1 The States are asked:

i. To approve the categorisation of each recommendation in the implementation plan as shown in Appendix 1 to this report;

ii. To direct the States Review Committee to consider the relative merit and priority of 12 in-principle recommendations as identified in Appendix 1 to

this report and that the Committee's review report, due by the end of 2014, should either re-affirm or supersede these recommendations;

iii. To rescind the Resolution of the States to approve in principle recommendations k, dd and xx as set out in Appendix 1 to this report (Resolution 1k, 1dd, 1xx, Billet d'État V, March 2012);

iv. To rescind the Resolution of the States *"That the Policy Council proposes an amendment to the mandates of the Public Accounts Committee and Scrutiny Committee to make them explicitly responsible for "the promotion and monitoring of good governance"* (Resolution 4, Billet d'État V, March 2012);

v. To rescind the Resolution of the States *"That the Public Accounts Committee and Scrutiny Committee report to the States of Deliberation during 2015 setting out the extent to which by that stage the States is complying with the principles of good governance"* (Resolution 3, Billet d'État V, March 2012).

Yours faithfully

P A Harwood
Chief Minister

25th March 2013

J P Le Tocq, Deputy Chief Minister

Deputy G A St Pier Deputy A H Langlois Deputy D B Jones Deputy M H Dorey
Deputy R Domaille Deputy K A Stewart Deputy M G O'Hara Deputy R W Sillars
Deputy P A Luxon

Appendix 1. In-principle Recommendations Implementation Plan

1.	To approve in principle that:	**REPORT**	**IMPLEMENTATION**
a.	The Policy Council and the States Assembly and Constitution Committee should provide a guide to the governance arrangements of the States of Guernsey to serve as an overview of the functions and roles of all aspects of public administration, including explaining the relationship between the activities of the legislature and those of the executive;	A short overview explanation of the government of Guernsey is available on the States of Guernsey website. However, the Policy Council considers any further action on this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA (No Further Action)** **Refer to States Review Committee**
b.	The Policy Council and the States Assembly and Constitution Committee should consider the case for setting out the framework for the organisation of the legislature and the machinery of government in one article of legislation supported by one set of standing orders;	Some preliminary work has commenced drafting a new States of Guernsey Law, which might constitute the "single enactment" envisaged at para 4.11 of the States Report of March 2012. This would replace the Reform (Guernsey) Law, 1948, which is now over 60 years old and has been amended over 30 times. However, the Policy Council considers any further action on	**NFA** **Refer to States Review Committee**

		this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	
c.	The Policy Council and the States Assembly and Constitution Committee should develop proposals to categorise States reports more clearly and have them include a statement of purpose and a statement clarifying the role that the States of Deliberation are being asked to fulfil in debating and approving the propositions;	It is not clear what was intended by this recommendation. The purpose is explained in the Joint Committee's report as enabling the States of Deliberation to *"be clear about the role they are expected to fulfil at every stage of their deliberations."* The Policy Council feels that this should be self-evident from the States Report and the propositions. It will be for the States Review Committee to consider what the role of the States of Deliberation should be and whether States Reports might be better categorised, perhaps by staging debates in a more formal manner, and what decisions might be more appropriately delegated functions.	**NFA** **Refer to States Review Committee**
d.	The States Assembly and Constitution Committee should propose amendments to Rule 9 of the Rules of Procedure of the States of Deliberation to provide for a clearer	The States Assembly and Constitution Committee will review the provisions of this Rule as recommended and is intending to report to the States of Deliberation by the end of 2013.	**IN PROGRESS** By end 2013

	distinction in Billets d'État and at meetings of the States of Deliberation between the functions of the States of Deliberation as parliament, legislature and overarching executive;		
e.	The Policy Council should make an explicit distinction between: a) sub-committees to which it has resolved to delegate particular activities which fall wholly within its mandate, and b) cross-departmental working parties which it has resolved to establish in accordance with its responsibility to co-ordinate the policy development of the States. The Policy Council should ensure that cross-departmental working parties have clear terms of reference, at least an approximate timeframe for completing their work and very clear lines of accountability;	The Policy Council considers that the roles and responsibilities of its sub-groups are already well defined. However, this recommendation indicates there has been insufficient communication to members outside of these sub-groups concerning their nature and purpose. The current constitution and remit of the Policy Council sub-groups are published at http://www.gov.gg/article/104829/Policy-Council-Sub-Groups It is not possible to make such a clear-cut distinction of sub-groups as the recommendation suggests, as those with delegated responsibility for cross-departmental work ARE to carry out work that is wholly within the Policy Council's mandate to coordinate States' business. The Policy Council is responsible for the delivery of the States Strategic Plan and these sub-groups coordinate departments' corporate activities in relation to the delivery of the Plan. All sub-groups are accountable to the Policy Council which in turn is accountable to the States of Deliberation.	**COMPLETED**

		The proposed Government Service Plan will map out accountabilities and thereby better explain the distinction between the Policy Council's coordinating activities, enacted through its sub-groups and the States Strategic Plan process, and the responsibilities for delivery at department level.	
f.	The Policy Council should consider ways of strengthening its focus on its policy co-ordination function;	The strategic policy planning process is currently a major focus of the Policy Council's attention, which is the principal mechanism for coordinating States' policy development and implementation. States Members have been involved in workshops contributing to the formulation of the new States Strategic Plan, which will contain the higher level objectives for the approval of the States of Deliberation. A Government Service Plan is under development that will allocate resources and responsibilities for the delivery of the strategic objectives. The Policy Council discusses as part of its 'business as usual' how policy and corporate working can be coordinated and it has delegated sub-groups to provide particular focus to key elements of corporate policy coordination. The Policy Council will continue to review how it may strengthen its focus on policy coordination. However, it is not possible to set a timetable to an activity that is, in practice, part	**COMPLETED**

		of 'business as usual', so for the purposes of this Resolution (as opposed to its continued mandated responsibility) the Policy Council considers it fulfilled. Additional ways of strengthening policy development and coordination in the States of Guernsey are likely to be considered by the States Review Committee.	
g.	The Policy Council should consider the case for removing the requirement for the Deputy Chief Minister also to hold a departmental portfolio and the case for dividing external and domestic policy functions between the Chief Minister and the Deputy Chief Minister;	The Policy Council considers any action on this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**
h.	The Policy Council should clarify the roles, responsibilities and lines of accountability of members of the Policy Council, Chief Minister and Deputy Chief Minister, including clarifying the relationship between the role of ministers in heading	The Policy Council considers any action on this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**

	States Departments and their role in sitting as members of the Policy Council;		
i.	The Policy Council, in conjunction with States Departments, should review the layout and content of the mandates of the Policy Council itself and States Departments to ensure that they are as precise, clear and coherent as possible and to ensure that they articulate adequately the relationship between the Policy Council and the Departments;	The Policy Council considers any action on this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**
j.	The Policy Council, in conjunction with States Departments, should examine the case for developing schemes of delegation which would clarify the criteria governing which decisions may be taken without, and which decisions require, the approval of the States of Deliberation;	The Policy Council considers any action on this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**

k.	The Policy Council, in conjunction with States Departments, should publish a schedule of extant legislation and States Resolutions which confer authority upon, or further define and explain the mandates of, the Policy Council and Departments;	The States Archivist has provided an initial assessment of what would be involved in carrying out this recommendation. The different classes of legislation that would need to be researched include royal charters, Orders in Council, Acts of Parliament, Ordinances, Statutory Instruments and States Resolutions. The necessary research would be a major commitment of resources and beyond being a 'housekeeping' process it is likely to be of limited value. Having taken legal advice, the Policy Council is not aware of a single legal or constitutional issue ever having arisen by reason of not having an exhaustive statement of functions. If specific issues arise from time to time about the origin of specific mandated authority then those are investigated as and when necessary.	**NFA** **Recommended to rescind**
l.	The States Assembly and Constitution Committee should make proposals to amend the Rules of Procedure of the States of Deliberation and the Constitution and Operation of States Departments and Committees to provide for a distinction to be made between political Boards of Departments and	The Policy Council considers any action on this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**

	the administrative staff of the Departments;		
m.	The Policy Council, in conjunction with States Departments, should develop operating frameworks for political Boards of Departments, which should include setting out the relationship between the policy and the operation of the Department;	The Policy Council considers any action on this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**
n.	The States Assembly and Constitution Committee, in conjunction with the Policy Council, should consider publishing guidance clearly to identify the different roles which States members may be required to undertake as members of the legislature, members of the executive, members of scrutiny and oversight bodies and representatives of their electorate;	The Policy Council and States Assembly and Constitution Committee consider that this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**

q.	The Policy Council should consider the formation of a joint political/staff level steering group, if necessary having engaged the advice of an external agency with relevant experience, to examine the way in which policy is generated, developed and promulgated across the States of Guernsey with a view to producing guidance for Departments on effective policy-making;	As noted against recommendation 'f', the strategic policy planning process is currently a major focus of the Policy Council's attention, which is the principal mechanism for coordinating States' policy development and implementation. States Members have been involved in workshops contributing to the formulation of the new States Strategic Plan, which will contain the higher level objectives for the approval of the States of Deliberation. A Government Service Plan is being developed that will allocate resources and responsibilities for the delivery of the strategic objectives. The Policy Council therefore considers that the formation of a steering group and engagement of outside agencies would not be an effective use of resources at this time and would not add any value.	**COMPLETED**
r.	The Public Accounts Committee and Scrutiny Committee should encourage the development of processes within the corporate policy planning cycle to assess performance and hold the Policy Council and Departments to account more effectively;	The Public Accounts Committee and Scrutiny Committee have deferred consideration of this recommendation until they have the opportunity to consider the revised States Strategic Plan in 2013.	**ON HOLD** Until late 2013

s.	The Policy Council should report to the States of Deliberation setting out proposals for how in the 2012-16 term the States' corporate policy planning process will address the following challenges, having taken into account in particular the observations and suggestions contained in paragraphs 5.11 to 5.36 of that report: i. The disconnect between policy planning and the allocation of resources; ii. The disconnect between policy making at the corporate and departmental levels; iii. The lack of ownership and 'buy in' to the policy planning process among States members; iv. The lack of public engagement with the government's	The Policy Council will be reporting to the States of Deliberation with a draft States Strategic Plan and Government Service Plan that will seek to address these issues. It will be for the States Assembly to decide, perhaps further to scrutiny review as per recommendation 'r', whether this recommendation has been satisfactorily met.	**IN PROGRESS** By July 2014

	programme;		
t.	The States Assembly and Constitution Committee should report to the States of Deliberation setting out the advantages and disadvantages of requiring major policy proposals from States Departments and Committees to pass through an additional decision-making stage in the States of Deliberation;	The States Assembly and Constitution Committee considers that this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**
u.	The States Assembly and Constitution Committee should bring proposals for the revision of Rule 12 (4) to enable Departments and Committees to obtain a clearer direction from the States in progressing policy matters, whilst retaining flexibility to make adjustments to detailed proposals at a subsequent date;	The States Assembly and Constitution Committee will review the provisions of this Rule as recommended.	**IN PROGRESS** By end 2013

v.	States Departments should publish in a timely and accessible manner a 'decisions list' in respect of policy decisions, explaining each decision and setting out the criteria or guidance against which the decision was made;	This recommendation will prove difficult to implement in isolation of a wider strategy for the publication of information. For example, 'policy decisions' requires definition as to what is suitable or not for publication and in what form. Many decisions will involve the use of sensitive, confidential or contractual information that would not be in the public interest to publish. The necessary framework for delivery of this recommendation will be provided by the Information Strategy and Code of Practice being drawn up by the Policy Council. It is intended to report to the States by the end of 2013. Subject to the approval of the States Assembly at that time, guidelines for what would constitute appropriate 'decisions' for departments to publish should be deliverable by the end of 2014.	**IN PROGRESS** By end 2014
w.	In every States term, the States Assembly and Constitution Committee should publish within nine months of the General Election, after consultation with States members, a report to include;	The States Assembly and Constitution Committee circulated a report, on the lines set out in the recommendation, to all States Members on 1st August 2012.	**COMPLETED**

	i. A review of the induction programme incorporating an analysis of the success or otherwise of each part of that programme and any changes to the programme which it would be considered desirable to put into effect for the following States term; and ii. Details of a programme of ongoing training which shall be offered to all States members during that States term;		
x.	A reasonable period of time before each General Election, the States Assembly and Constitution Committee, in conjunction with the Policy Council, should publish for the assistance of potential candidates for election a guide to the States to include an explanation of: the General Election process; the various roles and responsibilities of a States	The States Assembly and Constitution Committee considers that this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort. As the States Review Committee is due to have finished its final report by the end of 2014, there will be a reasonable period to publish such a guide for candidates for election in 2016.	**ON HOLD** Until 2015

	member, such as the constituency, parliamentary, executive and scrutiny functions; the internal election process; and the functions of the different layers of the legislature and the government. If considered necessary, the Policy Council should propose a minor extension to the mandate of the States Assembly and Constitution Committee to incorporate this matter;		
y.	The States Assembly and Constitution Committee should make proposals to ensure that States members have a right to obtain information and assistance, equivalent to that provided for in 15(2) of the Rules of Procedure of the States of Deliberation, whether or not that member is seeking it in the preparation of a formal proposition which may increase expenditure. The States Assembly and Constitution Committee should take into account	The implementation of this recommendation would have an impact on staff resources so the States Assembly and Constitution Committee will be consulting with Departments and Committees before formulating proposals.	**IN PROGRESS** By end 2013

	the need to have in place safeguards to prevent requests which would place excessive or disproportionate demands on the resources of Departments and Committees;		
z.	The States Assembly and Constitution Committee should give consideration to assessing the need for research and administrative assistance for States members to enable them to discharge their parliamentary and constituency duties as effectively as possible. The States Assembly and Constitution Committee should also review and, if considered necessary, make recommendations to improve the facilities available to States members in the discharge of their parliamentary and constituency duties;	The States Assembly and Constitution Committee will consider this matter but it is clear that the provision of research and administrative assistance would require the allocation of new resources. The Committee's recommendations will need to be finalised with reference to the outcome of the States Review Committee's report so will not be completed until late in this term.	**IN PROGRESS** By Dec 2015

aa.	The States Assembly and Constitution Committee, in conjunction with the Presiding Officer and HM Greffier, should examine the case to establish a distinct Parliamentary Secretariat, which would be concerned exclusively with supporting Parliamentary Committees and the activities of the States of Deliberation, including the publication of agendas, motions and Resolutions etc.;	This recommendation should be considered in conjunction with recommendation 'z' and is dependent on the outcome of the States Review Committee's report.	**IN PROGRESS** By Dec 2015
bb.	The Policy Council and States Departments should consider a corporate approach to ensuring that People's Deputies are adequately informed about significant government initiatives and media interest. When Departments know it is likely that announcements concerning policy will appear in the media, they should provide an	It would not be possible to have a 'one size fits all' policy on information sharing with the level of detail suggested in the recommendation. Inevitably there has to be a judgement call made by departments on what constitutes 'significant government initiatives' or matters of 'policy' that may appear in the media. Some States Members have expressed that they do not want all releases – and certainly not to be copied in on all general media queries which are departmental specific. All departments already keep States Members as fully informed	**COMPLETED**

	explanatory note to States members. Furthermore, when Departments reply to media queries they should copy responses to all States members;	about significant developments as is practically and sensibly possible. As general practice, States Members are usually advised of major reports at least 48 hours in advance of general release. However, it is recognised that there is a need for increased consistency in communications, in line with the spirit of this recommendation. Feedback has been very positive since the Policy Council began to provide a central 'press office' service and most departments already work closely with the 'press office' to coordinate the timely release of strategic information to States members. A standard format has been adopted for announcements, which led to an award being granted by the Plain English Society. From June 2013 there will be a corporate communications manager based within the Policy Council staff team so stakeholders will see continued improvement in this area. It is not possible to set a timetable to an activity that is 'business as usual', so for the purposes of this Resolution (as opposed to its continued responsibility) the Policy Council considers it fulfilled.	

cc.	The Policy Council, in conjunction with States Departments, should review the capacity of the States as an organisation to develop policy in response to the needs of the community and the objectives of government;	The process of looking at capacity versus priorities is being undertaken through the strategic planning process and will be expressed in the States Strategic Plan and Government Service Plan and in departmental plans. Resources can then be more accurately assigned to priority areas. In the meantime, the Treasury and Resources Department has published proposals as part of the 2013 Budget that recognise the difficulties that Departments can have in progressing strategic developments which need investment and which cannot be met from routine funding. The budget included a proposal accepted by the States for the establishment of a Strategic Development Fund that could be used for funding significant strategic policy developments that have been approved by the States and which are either in line with the agreed States Strategic Plan objectives and which lead to significant long term transformation in the delivery of services and/or which produce substantial new or enhanced growth for the economy and revenue for the States.	**IN PROGRESS** By end 2014
dd.	The Policy Council should review what measures could be put in place to ensure that there is greater uniformity and consistency of	The Policy Council is not clear what information and evidence is referred to here and is not aware of a need having arisen for greater uniformity and consistency of presentation. For the most part, the information that would be useful to one area of	**NFA** **Recommended to rescind**

	approach across all parts of government in respect of how information and evidence is presented to policy-makers and decision-makers;	government will differ to another and one individual will have different preferences on how information should be presented to another.	
ee.	The Policy Council should ensure that best practice in the briefing of politicians and the writing of policy options and recommendations for the consideration of politicians is included as an integral part of the professional development offered to senior staff across government;	The Policy Council Talent and Performance team, which includes responsibility for learning and development across the organisation, responds to business needs in the provision of training courses. Professional training that is currently offered that deals with making policy recommendations and briefing political members includes a course on producing States Reports, a course providing guidance on preparing business cases, and elements of the numerous leadership and management training courses available. The business needs and training available are continually reassessed to meet any changes in demand, either led by the States Strategic Plan process as it develops or by common themes emerging from departments. It is not possible to set a timetable to an activity that is 'business as usual', so for the purposes of this Resolution (as opposed to its continued responsibility) the Policy Council considers it fulfilled.	**COMPLETED**

ff.	The Policy Council should demonstrate that there is adequate capacity and capability in the availability of performance information to support decision-making;	The performance information that is required will differ according to the nature of the decision being made. The Policy Council is responsible for the provision of corporate research programmes and the maintenance of corporate statistics including responsibility for population data. The 2012 States Strategic Monitoring Report demonstrates there is currently adequate capacity and capability to provide supporting performance information for 2012 against 53 of the 64 KPIs assessing performance of the 34 policy objectives identified in the States Strategic Plan. Specific KPIs could not be defined for just 3 of the 34 policy objectives, but work to identify the most appropriate indicator or means of data collection is ongoing. As the States Strategic Plan is revised and the Government Service Plan evolves, the KPIs will need to be adapted to meet the new objectives. The Policy Council is confident that it can demonstrate that, at this point in time, there is adequate capacity and capability in the availability of performance information to support **corporate** decision-making. Where gaps in data collection and performance information have been identified they are being actively addressed.	**IN PROGRESS** By end 2015

		Performance information must be adapted to meet objectives as they evolve so the assessment of the adequacy and availability of supporting information has to be a continuing exercise.	
gg.	The Treasury and Resources Department should publish guidance criteria to enable States Departments and Committees and States Members to understand better when it might be appropriate to engage the private or third sector and alternatively when it might be better to develop capacity internally to assist in the development of policy or the delivery of services;	The Treasury and Resources Department can provide high level guidance on when it might be more appropriate to engage the private or third sector and when it might be better to deliver capacity internally. In general terms, the Department's view is that the presumption should be in favour of delivering services using the private or third sector if this represents better value for money, but it acknowledges that there may be occasions when this is still not appropriate. Detailed guidance will be more difficult to develop, as the merits of individual cases are likely to vary significantly. The Department is developing a "checklist" of issues and questions that would need to be answered and addressed in determining whether or not use of the private or third sectors should be considered. For example, this might include whether private sector delivery of a service has been tested elsewhere or whether there is sufficient robustness in the number of service providers available etc. The Department acknowledges that the use of consultants to	**IN PROGRESS** By end 2014

		assist in the development of policy is sometimes appropriate. However, it feels that an appropriate "checklist" should also be put in place to consider if and when the use of consultants should be confirmed. This might include an assessment of: whether the necessary skills, knowledge and/or capacity required to undertake the policy development are available within the Department itself or the wider States; and, an assessment of the different options for progressing the work (in-house, temporary staff; consultants, professional advisors etc).	
hh.	When considering the findings of the review of the scrutiny function it has commissioned, the Policy Council should also take account of the observations made in this report in paragraphs 7.2 to 7.29;	The scrutiny committees have indicated to the Policy Council that they consider it too soon in this term of office to judge whether the scrutiny function as it stands is effective or whether significant changes are required. The Policy Council will reconsider the findings of the review report it commissioned in the light of the findings of the States Review Committee when it reports and with the benefit of experience of how the scrutiny committees perform. It will at that time take into account the observations made by the Joint Committees as directed.	**ON HOLD** By end 2015
jj.	The Scrutiny Committee should make proposals for the introduction of mechanisms which would enable	The Scrutiny Committee is working to introduce mechanisms which would allow the monitoring of progress against States Resolutions.	**IN PROGRESS** By mid 2014

	the States of Deliberation, their scrutiny committees and the public to monitor more easily progress against States Resolutions;		
kk.	The Public Accounts Committee should consider, where appropriate, holding its review hearings in a public forum;	It is the intention of this Committee to conduct its review hearings in a public forum when appropriate to do so.	**COMPLETED**
ll.	The States Assembly and Constitution Committee should make proposals for the publication of Rule 5 and 6 questions on the States website and on the notice board at the Royal Court;	The States Assembly and Constitution Committee has concluded that it is not necessary to publish questions and answers given pursuant to either Rule 5 or Rule 6 on the notice board in the Royal Court. The Committee has made arrangements for all Rule 6 (written) questions and answers from 1st May 2012 onwards to be published on the States website with effect from January 2013. Insofar as Rule 5 (oral) questions and answers are concerned these, together with any supplementary questions and answers, are reported in extenso in the States Hansard which is published on the States website.	**COMPLETED**

mm.	The States Assembly and Constitution Committee should propose amendments to the Rules of Procedure of the States of Deliberation to provide that proposals to enact, amend or repeal legislation which are put before the States of Deliberation should be accompanied by an explanatory memorandum which sets out in clear and simple terms the effect of the legislation;	The States Assembly and Constitution Committee agrees in principle with this recommendation and intends to discuss the implications of implementing it with the Law Officers and the Legislation Select Committee.	**IN PROGRESS** By Apr 2016
nn.	The States Assembly and Constitution Committee should discuss with the Presiding Officer the desirability of legislation being put to the States of Deliberation in sections rather than en bloc, other than perhaps in the case of the most minor proposals to change legislation;	The States Assembly and Constitution Committee is prepared to discuss the matter with the Presiding Officer but considers there will be no benefit in taking legislation in sections if such provision does not stimulate debate.	**IN PROGRESS** By Dec 2013

oo.	The Policy Council and the States Assembly and Constitution Committee, in consultation with the Legislation Select Committee, should give consideration to the introduction of a series of reading debates, possibly authorising the Legislation Select Committee to carry out a stage, and should give consideration to affording States members an opportunity to make representations to, and attend meetings of, the Legislation Select Committee when it is considering legislation;	The Policy Council and States Assembly and Constitution Committee consider that this recommendation should await the outcome of the deliberations of the States Review Committee for the avoidance of duplication, or waste, of effort.	**NFA** **Refer to States Review Committee**
pp.	The States Assembly and Constitution Committee, as part of its review of the Code of Conduct, should consider: i. How the Code of Conduct might better be promoted to ensure that it is easily accessible and transparent;	The States Assembly and Constitution Committee intends to review the Code of Conduct during this term.	**IN PROGRESS** By Apr 2016

	ii. Whether the Code of Conduct Panel should report to the Committee on all complaints referred to the Panel, including those dismissed by the Chairman or not upheld by the Panel, and for such reports to be made a matter of public record;		
qq.	The Policy Council should take into account the findings and recommendations of this report, and the report from the Scrutiny Committee on Public Engagement, in taking forward the development and implementation of an Information Strategy for the States of Guernsey;	The Policy Council is progressing with an Information Strategy and Code of Practice. It is intended to report to the States by the end of 2013.	**IN PROGRESS** By end 2013
rr.	The Policy Council should redouble its efforts to present proposals for the establishment of appropriate processes for hearing complaints and appeals against States Departments	Appeals processes have been developed on an ad hoc basis as needs arise in specific service areas. The Policy Council recognises that there is a need for review of the provisions of the Administrative Decisions (Review) (Guernsey) Law, 1986 and consideration of alternative remedies for handling	**IN PROGRESS** By end 2014

	and Committees, having set out the merits or otherwise of a Centralised Tribunal Service and an Ombudsman;	complaints once other available routes are exhausted. The delay in carrying out this review has been purely one of resources and other issues taking priority. The Policy Council has undertaken to complete this review by the end of 2014.	
ss.	The Policy Council should develop a Code of Operational Governance, under the leadership of the Chief Executive of the States of Guernsey, which would outline what is expected across the public sector. The Code should sit beneath the States Strategic Plan and enable the public sector to achieve the objectives and policies determined by elected politicians. The Code, taken in its entirety, would be expected to address the shortcomings identified in this report and other weaknesses identified elsewhere as well as being flexible enough to adapt as the expectations and demands of good governance evolve;	The Chief Executive intends to oversee the development of a Code of Operational Governance that will include summary coverage of: • The role and accountability of the Chief Executive • The role, accountability and composition of the Executive Leadership Team • The role and accountability of Chief Officers • Expectations in respect of compliance with key elements of the corporate policy framework – rules, directives and guidance and other policy expectations • Roles and expectations in respect of corporate risk management • Roles and expectations in respect of the assurance framework and supporting governance statement process Some initial work can commence on this but there are limited resources available and other priorities at the current time. The Code of Operational Governance will be developed as the States Strategic Plan matures and in the light of the States	**IN PROGRESS** By end 2014

		Review Committee's recommendations, which may have a particular bearing on accountabilities. It is likely that, at that point, this will require a specific resource allocation to take this forward as routine business, potentially within the Assurance team.	
tt.	The Policy Council should centrally co-ordinate corporate directives and guidance in line with achieving the objectives of the Governance Code. Consideration should be given to establishing a dedicated resource with corporate governance expertise to co-ordinate and oversee the development, delivery and monitoring of corporate governance initiatives including, among other things, developing corporate guidance on the retention of data, minute-taking, and risk management;	Work is underway to update key elements of the corporate policy framework – rules, directives and guidance – including: • HR Policies – a new resource is in place and updating and/or drafting new HR policies. • Finance Rules and Directives – work is commencing to update the existing Rules and to commence drafting of supporting Directives. • Procurement Rules and Directives - work is commencing to turn the existing Procurement Handbook into a coherent set of Rules and Directives. • IT Security Directives – these were updated in August 2012 and are subject to an annual review and update regime. • Health and Safety Management System – a tender exercise is well underway to select a preferred supplier to help us develop a Health and Safety Framework for the States. • Corporate Risk Management Framework – a tender	**IN PROGRESS** By end 2014

		exercise is well underway to select a preferred supplier to help us develop a Corporate Risk Management Framework for the States. • Data retention – a draft policy has been developed and is being progressed by States Archives and External Relations Other 'missing' elements of the corporate policy framework will need to be identified and owners appointed. Employees are responsible for complying with the corporate policy framework. The Heads of Profession are responsible for the development, promulgation and ensuing compliance with the Rules, Directives and Guidelines relating to their area and form a 'second line of defence'. They ensure that the appropriate controls and checks are imbedded in the business operations. Oversight and a 'third line of defence' is provided by the States Head of Assurance and his team, as well as the external auditors. While initial work on this is underway and with existing or identified external resources, it is likely that additional specific resource allocations may be needed to take elements of this forward in the future.	

uu.	The Policy Council should give consideration to the introduction of a more formal mechanism to review the performance of the States Chief Executive;	In June 2012 the Policy Council decided, as part of the ongoing process of clarifying the lines of accountability between the Chief Executive and Chief Officers and the Policy Council as employer and the Chief Executive, it should form a small group tasked specifically with holding the Chief Executive to account on behalf of the Policy Council. That Panel comprises the Chief Minister, the Deputy Chief Minister and the Social Security Minister. The Panel meets with the Chief Executive from time to time but convenes formally at least once a year for the purposes of undertaking a performance appraisal. The Policy Council agreed that the Panel should be actively involved in setting ongoing objectives for the Chief Executive and that his or her subsequent performance relating to the delivery of such objectives should be reported on, by the Panel, to the Policy Council on at least an annual basis.	**COMPLETED**
vv.	The Policy Council should clarify lines of accountability between Chief Officers of States Departments and Boards and the States Chief Executive;	The Chief Minister made a statement at the January 2013 States meeting in fulfilment of this recommendation which is now a matter of public record in the Hansard transcripts available on www.gov.gg	**COMPLETED**

		In early 2011, contractual arrangements for Chief Officers were amended to the effect that Chief Officers are **accountable** to the Chief Executive who acts as line manager to each Chief Officer but, each Chief Officer remains **responsible** for the provision of advice and delivery of services covered by the Department's mandate to that Department Board but on behalf of the Chief Executive.	
ww.	In its statement appended to each States report from Departments, the Policy Council should assess as necessary the extent to which the report does not conform to the six Core Principles of good governance;	The Policy Council will include in its comments an "exception report" when it considers a States Report is in breach of the Six Core Principles. It should be appreciated that it is not always possible to make a hard and fast objective assessment about compliance with the Principles, rather in some cases this is a subjective matter where some will believe a Principle has been breached and others believe it is fully compliant.	**COMPLETED**
xx.	The Policy Council should provide Departments with guidance on how States reports will be judged to comply or otherwise with the Core Principles.	As noted above, it should be appreciated that it is not always possible to make a hard and fast objective assessment about compliance with the Principles, rather in some cases this is a subjective matter where some will believe a Principle has been breached and others believe it is fully compliant. The Policy Council does not feel that it should legislate for how	**NFA** **Recommended to rescind**

		departmental boards interpret the application of the Core Principles. Where the Policy Council considers there to be a possible or actual breach of a Core Principle in proposals being put forward, then it would discuss this with the department sponsoring the report ahead of it being submitted in the Billet d'État. If the Report remains unchanged and the Policy Council still holds the view that the Report is not compliant, then this will be reflected in the Policy Council's comments appended to the Report and it will be for the States Assembly to determine.	

(N.B In the absence of any priority being afforded by the Joint Committees to their recommendations, the Treasury and Resources Department feels that a pragmatic approach has been taken by the Policy Council in taking forward at this time only those recommendations that do not have significant resource implications and would not be at risk of duplicating work being undertaken by the States Review Committee. However, it should be acknowledged that, if approval is given to the categorisation of each recommendation in the implementation plan, those with more significant resource implications will need further investigation. Once such investigations are complete, any resources that are required will need to be considered in the light of any other competing priorities.)

The States are asked:-

IV.- Whether after consideration of the Report dated 25th March, 2013, of the Policy Council, they are of the opinion:

1. To approve the categorisation of each recommendation in the implementation plan as shown in Appendix 1 to that report.

2. To direct the States Review Committee to consider the relative merit and priority of 12 in-principle recommendations as identified in Appendix 1 to that report and that the Committee's review report, due by the end of 2014, should either re-affirm or supersede these recommendations.

3. To rescind the Resolution of the States to approve in principle recommendations k, dd and xx as set out in Appendix 1 to that report (Resolution 1k, 1dd, 1xx, Billet d'État V, March 2012).

4. To rescind the Resolution of the States *"That the Policy Council proposes an amendment to the mandates of the Public Accounts Committee and Scrutiny Committee to make them explicitly responsible for 'the promotion and monitoring of good governance'"* (Resolution 4, Billet d'État V, March 2012).

5. To rescind the Resolution of the States *"That the Public Accounts Committee and Scrutiny Committee report to the States of Deliberation during 2015 setting out the extent to which by that stage the States is complying with the principles of good governance"* (Resolution 3, Billet d'État V, March 2012).

TREASURY & RESOURCES DEPARTMENT

DOUBLE TAXATION ARRANGEMENTS WITH THE REPUBLIC OF SINGAPORE AND THE GOVERNMENT OF THE STATE OF QATAR

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

2nd April 2013

Dear Sir

1. Executive Summary

This Report proposes that the States declare, by Resolution, that Double Taxation Arrangements ("DTAs") entered into with the Republic of Singapore (on 6 February 2013) and the Government of the State of Qatar (on 22 February 2013) should have effect, with the consequence that the Arrangements shall also have effect in relation to income tax, notwithstanding anything contained in the Income Tax (Guernsey) Law, 1975, as amended ("the Income Tax Law").

2. Report

2.1. The principal purpose of a DTA is for two governments to agree procedures for the prevention of double taxation – that is, taxation under the laws of both territories in respect of the same income.

2.2. Prior to 2008, Guernsey had only two DTAs – one with the United Kingdom (which came into force in 1952) and one with Jersey (which came into force in 1955). Since 2008, several DTAs, albeit restricted in nature, have been signed with other countries, such as Australia, Ireland and New Zealand. In addition, further comprehensive DTAs have been signed, starting with Malta, in March 2012, and more recently, in January 2013, with both Jersey (a revision of the 1955 agreement) and the Isle of Man.

2.3. Since 2001, Guernsey has been negotiating with a number of countries in relation to Tax Information Exchange Agreements ("TIEAs"). Part of the negotiation process is to discuss, with the country concerned, ways of preventing certain types of double taxation and related issues.

2.4. During the course of discussions with Qatar and Singapore, the preference was expressed for a full DTA rather than a TIEA, albeit one that contained an exchange of information article to the equivalent standard of Article 26 of the OECD's Model Tax Convention on Income and on Capital. A DTA that contains such an article is recognised as meeting international standards on exchange of information for tax purposes and is thus equivalent to a TIEA.

2.5. There are thousands of DTAs in existence, on a global basis. It is almost inevitable, therefore, that some countries and organisations would group together in order to try and agree a common template for use in negotiations. The two most commonly used templates are the OECD Model Tax Convention on Income and on Capital, and the United Nations Model Double Taxation Convention Between Developed and Developing Countries.

2.6. The main purpose of the OECD Model is to provide a means of settling, on a uniform basis, the most common problems that arise in the field of international juridical double taxation. The Council of the OECD recommends OECD Member Countries, when concluding or revising bilateral conventions, to conform to the Model (as interpreted by the comprehensive commentaries attached to the Model) whilst having regard to the (significant number of) reservations which OECD Members have lodged in respect of the Model (such reservations reflecting OECD Member Countries' specific preferences, taking into account their domestic tax provisions, their stance on addressing the issue of double taxation, in particular situations, etc).

The influence of the OECD Model Tax Convention has extended far beyond OECD Member Countries. As a consequence, a number of non-OECD jurisdictions have set out their position in relation to particular parts of the OECD Model (so that, in effect, the OECD Model reflects the reservations and observations of both OECD Members and some other jurisdictions which wish for their positions on the Model to be, officially, recorded).

2.7. The United Nations Model Double Taxation Convention, whilst similar to the OECD Model, in many respects, addresses issues of particular interest when a developed country negotiates an agreement with a developing country, where the desirability of promoting inflows of foreign investment increased international trade and the transfer of technology, have to be balanced against the protection of taxpayers against double taxation and the protection of the tax bases of the bilateral treaty partners.

2.8. Broadly, the OECD Model Convention, which was, essentially, formulated for treaties between developed economies, tends towards the general concept of taxation according to the place of residence of a taxpayer, whereas the UN Model gives more weight to the principle of taxation on the basis of source of the income concerned.

2.9. It would be expected, therefore, that if Guernsey was to commence discussions in relation to a DTA with an OECD Member State, that State's Model DTA would bear significant similarities to the OECD Model Tax Convention (albeit reflecting its reservations and observations on the OECD Model). By contrast, if Guernsey was to commence negotiations with a non-OECD Member, and depending on that particular jurisdiction's preference that country's Model may follow:

- the OECD Model Convention,
- the UN Model Convention,
- a mixture of the OECD and UN Model Conventions, or
- possibly some other Model. (For example, there is a COMESA Double Taxation Model, agreed early in 2012, by the Common Market for Eastern and Southern Africa. There are a number of other such regional Models in existence).

2.10. On 6 February 2012, Guernsey signed an Agreement with Singapore entitled "Agreement between the States of Guernsey and the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income" and, on 22 February 2013, an Agreement with Qatar entitled "Agreement between the Government of Guernsey and the Government of the State of Qatar for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income". A copy of each Agreement is appended to this Report.

2.11. Particular points of note, in relation to the Agreements, are:

(i) In both Agreements, Article 7 ("Business Profits") broadly follows the text concluded in the Agreement with Malta, Jersey and the Isle of Man. In July 2010, Article 7 of the OECD Model Tax Convention was updated. At the time of the negotiations with Singapore and Qatar, those jurisdictions expressed a wish to follow the pre-July 2010 text (albeit that Guernsey's preference is now to negotiate on the basis of the July 2010 revised OECD Model text). It is not considered that there is any significant fiscal implication arising from this, however.

(ii) Articles 10 ("Dividends"), 11 ("Interest") and 12 ("Royalties"), of both Agreements, prescribe that the general principle is that those sources of income are taxed in the place of residence of the recipient. This accords with Guernsey's domestic tax regime under which dividends, interest and royalties, paid to a non-resident of Guernsey, do not suffer deduction of Guernsey tax.

In the case of Singapore, it retains the right to tax interest arising in Singapore, but at a rate no higher than 12%. It should be noted, however, that Singapore provides an exemption from withholding tax, in any event, for payments made by banks, finance companies and certain other approved entities, and so the impact of this retained taxing right is considered to be limited.

Both Singapore and Qatar retain the right to tax royalties arising in their jurisdictions, at 8% and 5% respectively.

(iii) Article 17 ("Pensions") of the Agreement with Singapore, prescribes that the territory of source of a pension retains the right to tax, notwithstanding that the pensioner resides in the other territory.

In the Agreement with Qatar, such sources of income may be taxable in the jurisdiction in which the pension arises (source basis) as well as in the territory in which the pensioner resides (although, in such a case, double taxation may be avoided or reduced under Article 23, by the residence territory giving a credit for tax paid in the source territory).

It is not considered that the effects of the pensions Article in these Agreements will have a material effect on Guernsey's revenues.

The remainder of the Agreements broadly follow the OECD Model.

2.12. Section 172(1) of the Income Tax Law provides:

"If the States by Resolution declare that arrangements specified in the Resolution have been made with the government of any other territory with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect in relation to income tax notwithstanding anything in any enactment."

3. Principles of Good Governance

In preparing this Report, the Department has been mindful of the States Resolution to adopt the six core principles of good governance defined by the UK Independent Commission on Good Governance in Public Services (Billet IV of 2011).

4. Resource Implications

4.1. Whilst the Agreements with Singapore and Qatar set out measures for the avoidance of double taxation, as those obligations extend to both parties to each Agreement, it is not anticipated that the Agreements will give rise to any overall significant loss of, or increase to, the revenues of the States.

4.2. Whilst the provisions of the Agreements, relating to the prevention of fiscal evasion, do place obligations on the Parties to obtain and exchange information, the resource implications for Guernsey in complying with those obligations is not expected to be significant and can be managed within the existing resources available to the Director of Income Tax.

5. Recommendation

The Treasury & Resources Department recommends that the States should ratify the Agreements made with the Republic of Singapore and the Government of the State of Qatar, as appended to this Report, so that they have effect in accordance with section 172(1) of the Income Tax Law.

Yours faithfully

G A St Pier
Minister

J Kuttelwascher (Deputy Minister)

G Collins R Perrot T Spruce

AGREEMENT

BETWEEN THE GOVERNMENT OF GUERNSEY AND THE GOVERNMENT OF THE STATE OF QATAR FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

AGREEMENT

BETWEEN THE GOVERNMENT OF GUERNSEY

AND

THE GOVERNMENT OF THE STATE OF QATAR

FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of Guernsey and the Government of the State of Qatar

Desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income,

Have agreed as follows:

ARTICLE 1
PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Parties.

ARTICLE 2
TAXES COVERED

1. This Agreement shall apply to taxes on income imposed on behalf of a Party or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income, all taxes imposed on total income or on elements of income.

3. The existing taxes to which the Agreement shall apply are:

   (a) in the case of Guernsey:

      (i) Income tax;

      (ii) Dwellings profits tax;
      (Hereinafter referred to as "Guernsey tax"); and

   (b) in the case of the State of Qatar:

      (i) Taxes on income or profits;
      (Hereinafter referred to as "Qatari tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of the existing taxes. The competent authorities of the Parties shall notify each other of any significant changes that have been made in their respective tax laws which may affect matters covered by the Agreement.

ARTICLE 3
GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term "Guernsey" means the States of Guernsey and, when used in a geographical sense, means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;

(b) the term "Qatar" means the State of Qatar and, when used in a geographical sense, the State of Qatar's lands, internal waters, territorial sea including its bed and subsoil, the air space over them, the exclusive economic zone and the continental shelf, over which the State of Qatar exercises sovereign rights and jurisdiction in accordance with the provisions of international law and Qatar's national laws and regulations;

(c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(d) the term "competent authority" means;

(i) in the case of Guernsey, the Director of Income Tax, or his delegate; and

(ii) in the case of Qatar, the Ministry of Economy and Finance, or its authorized representative,

(e) the terms "enterprise of a Party" and "enterprise of the other Party" mean respectively an enterprise carried on by a resident of a Party and an enterprise carried on by a resident of the other Party;

(f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Party, except when the ship or aircraft is operated solely between places in the other Party;

(g) the term "national", in relation to a Party, means:

(i) in the case of Guernsey;

(a) any individual who is a resident of Guernsey and possesses British citizenship;

(b) any legal person, partnership or association deriving its status as such from the laws in force in Guernsey;

(ii) in the case of Qatar:

(a) any individual possessing the nationality of Qatar;

(b) any legal person, partnership or association deriving its status as such from the laws in force in Qatar;

(h) the term "a Party" and "the other Party" means Guernsey or Qatar, as the context requires;

(i) the term "person" includes an individual, a company and any other body of persons.

2. When implementing the provisions of this Agreement at any time by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the laws of that Party concerning the taxes to which the Agreement applies, such meaning prevailing over a meaning given to the term under the other laws of that Party.

ARTICLE 4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Party" means:

   (a) in the case of Guernsey, any person who, under the laws of Guernsey, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes Guernsey and any political subdivision or local authority thereof, any pension fund or pension scheme recognised by Guernsey and any collective investment scheme which is incorporated or constituted under the laws of Guernsey. This term, however, does not include any person who is liable to tax in Guernsey in respect only of income from sources in Guernsey;

   (b) in the case of Qatar, any individual who has a permanent home, his centre of vital interest, or habitual abode in Qatar, and a company incorporated or having its place of effective management in Qatar. The term also includes the State of Qatar and any political subdivision, local authority or statutory body thereof, any pension fund or pension scheme recognised by the State of Qatar and any collective investment scheme which is incorporated or constituted under the laws of the State of Qatar.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Parties, then his status shall be determined as follows:

   (a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party in which his personal and economic relations are closer (centre of vital interests);

   (b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national;

(d) if the residence status of an individual cannot be determined in accordance with the provisions of subparagraphs (a), (b) and (c) above, then the competent authorities of the Parties shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

ARTICLE 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

   (a) a place of management;

   (b) a branch;

   (c) an office;

   (d) a factory;

   (e) a workshop;

   (f) premises used as a sales outlet;

   (g) a farm or plantation; and

   (h) a mine, an oil or gas well, a quarry or any other place of exploration, extraction or exploitation of natural resources.

3. The term "permanent establishment" also encompasses:

   (a) a building site, a construction, assembly or installation project or any supervisory activity in connection with such site or project, but only where such site, project or activity continues for a period or periods aggregating more than six months within any twelve month period; and

   (b) the furnishing of services, including consultancy services, by an enterprise of a Party through employees or other personnel engaged by the enterprise for such purpose, but only if the activities of that nature continue (for the same or a connected project) within a Party for a period or periods aggregating more than six months within any twelve month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; or

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 7 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Party shall, except in regard to reinsurance, be deemed to have a permanent establishment in the other Party if it collects premiums in the territory of that other Party or insures risks situated therein through a person, other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Party controls or is controlled by a company which is a resident of the other Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6
INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Party from immovable property (including income from agriculture or forestry) situated in the other Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufructs of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7
BUSINESS PROFITS

1. The profits of an enterprise of a Party shall be taxable only in that Party unless the enterprise carries on business in the other Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Party carries on business in the other Party through a permanent establishment situated therein, there shall in each Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Party in which the permanent establishment is situated or elsewhere, which are allowed under the provisions of the domestic law of the Party in which the permanent establishment is situated.

4. In so far as it has been customary in a Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by

the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8
SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

2. For the purposes of this Article, profits derived from the operation in international traffic of ships and aircraft include profits:

   (a) derived from the rental of ships and aircraft if such ships or aircraft are operated in international traffic; and

   (b) derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods and merchandise,

   where such rental profits or profits from such use, maintenance or rental, as the case may be, are incidental to the profits described in paragraph 1.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Party in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Party of which the operator of the ship is a resident.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9
ASSOCIATED ENTERPRISES

1. Where:

   (a) an enterprise of a Party participates directly or indirectly in the management, control or capital of an enterprise of the other Party; or

   (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Party and an enterprise of the other Party,

   and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Party includes in the profits of an enterprise of that Party – and taxes accordingly – profits on which an enterprise of the other Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party, if it agrees that the adjustment made by the first-mentioned Party is justified both in principle and as regards the amount, shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Parties shall if necessary consult each other.

ARTICLE 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Party to a resident of the other Party shall be taxable only in that other Party.

2. Paragraph 1 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends' as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.

4. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Party, carries on business in the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Party derives profits or income from the other Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Party, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

ARTICLE 11
INTEREST

1. Interest arising in a Party and paid to a resident of the other Party shall be taxable only in that other Party.

2. The term ”interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Party, carries on business in the other Party in which the interest arises, through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner of the interest or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

ARTICLE 12
ROYALTIES

1. Royalties arising in a Party and paid to a resident of the other Party may be taxed in that other Party.

2. However, such royalties may also be taxed in the Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Party, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films, tapes or discs for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Party, carries on business in the other Party in which the royalties arise, through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Party or not, has in a Party a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Party in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right

or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Party, due regard being had to the other provisions of this Agreement.

ARTICLE 13
CAPITAL GAINS

1. Gains derived by a resident of a Party from the alienation of immovable property referred to in Article 6 and situated in the other Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Party has in the other Party or of movable property pertaining to a fixed base available to a resident of a Party in the other Party for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other Party.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Party of which the alienator is a resident.

ARTICLE 14
INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Party in respect of professional services or other activities of an independent character shall be taxable only in that Party except in the following circumstances, when such income may also be taxed in the other Party:

   (a) if he has a fixed base regularly available to him in the other Party for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Party; or

   (b) if his stay in the other Party is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the tax year concerned; in that case, only so much of the income as is derived from his activities performed in that other Party may be taxed in that other Party.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Party in respect of an employment exercised in the other Party shall be taxable only in the first-mentioned Party if:

   (a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable year concerned; and

   (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and

   (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived from an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Party in which the place of effective management of the enterprise is situated.

4. Notwithstanding the preceding provisions of this Article, salaries, wages, allowances and other remuneration, paid from a Party, to an employee in a top-level managerial position in an airline or shipping enterprise of that Party, who is stationed in the other Party, shall be taxable only in the Party in which the place of effective management of the enterprise is situated.

ARTICLE 16
DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Party in his capacity as a member of the board of directors of a company which is a resident of the other Party may be taxed in that other Party.

ARTICLE 17
ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Party as an entertainer such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Party, may be taxed in that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Party in which the activities of the entertainer or sportsperson are exercised.

3. Notwithstanding paragraphs 1 and 2, income derived by a resident of a Party from activities exercised in the other Party as envisaged in paragraphs 1 and 2 of this Article, shall be exempted from tax in that other Party if the visit to that other Party is supported wholly or substantially by funds of either Party, a political subdivision or a local authority thereof, or takes place under a cultural agreement or arrangement between the Parties.

ARTICLE 18
PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration (including lump sum payments) arising in a Party and paid to a resident of the other Party in consideration of past employment or self-employment may be taxed in the first-mentioned Party.

2. Annuities paid to a resident of a Party shall be taxable only in that Party.

3. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19
GOVERNMENT SERVICE

1. (a) Salaries, wages and other similar remuneration, paid by a Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Party.

   (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Party if the services are rendered in that other Party and the individual is a resident of that other Party who:

      (i) is a national of that other Party; or

      (ii) did not become a resident of that other Party solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Party or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Party or subdivision or authority shall be taxable only in that Party.

   (b) However, such pension shall be taxable only in the other Party if the individual is a resident of, and a national of, that Party.

3. The provisions of Articles 15, 16, 17, and 18 of this Agreement shall apply to salaries, wages and similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by a Party or a political subdivision or a local authority thereof.

ARTICLE 20
TEACHERS AND RESEARCHERS

1. An individual who is or was immediately before visiting a Party a resident of the other Party and who, at the invitation of the first-mentioned Party or of a university, college, school, museum or other cultural institution in that first mentioned Party or under an official program of cultural exchange, is present in that Party for a period not exceeding three consecutive years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that Party on his remuneration for such activity.

2. The provisions of paragraph 1 of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 21
STUDENTS, BUSINESS APPRENTICES AND TRAINEES

1. Payments which a student, business apprentice or trainee who is or was immediately before visiting a Party a resident of the other Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

2. In respect of grants, scholarships and remuneration from employment not covered by paragraph 1, a student, business apprentice or trainee described in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, relief or reductions in respect of taxes available to residents of the Party which he is visiting.

ARTICLE 22
OTHER INCOME

1. Items of income of a resident of a Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property, as defined in paragraph 2 of Article 6, derived by a resident of a Party, if the recipient of such income carries on business in the other Party through a permanent establishment situated therein, or performs in the other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 23
ELIMINATION OF DOUBLE TAXATION

1. In the case of Guernsey, double taxation shall be eliminated as follows:

   Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof):

   (a) subject to the provisions of sub-paragraph c), where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement, may be taxed in Qatar, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in Qatar;

   (b) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in Qatar;

   (c) where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement shall be taxable only in Qatar, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

2. In the case of Qatar, double taxation shall be eliminated as follows:

   Where a resident of Qatar derives income which, in accordance with the provisions of this Agreement, is taxable in Guernsey, then Qatar shall allow as a deduction from the tax on income of that resident an amount equal to the tax paid in Guernsey provided that such deduction shall not exceed that part of the tax, as computed before the deduction is given, which is attributable to the income derived from Guernsey.

ARTICLE 24
NON-DISCRIMINATION

1. Nationals of a Party shall not be subjected in the other Party to any taxation or any requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Parties.

2. The taxation on a permanent establishment which an enterprise of a Party has in the other Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities. This provision shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Party to a resident of the other Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Party.

4. Enterprises of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Party, shall not be subjected in the first-mentioned Party to any taxation or any requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.

5. The non taxation of Qatari nationals under Qatari tax law shall not be regarded as a discrimination under the provisions of this Article.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 25
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Parties result or will result for him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Party of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Party of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Parties.

3. The competent authorities of the Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Parties shall exchange such information as is necessary for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws of the Parties concerning taxes of every kind and description imposed on behalf of the Parties, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2 of this Agreement.

2. Any information received under paragraph 1 by a Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph 1. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Party the obligation:

   (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Party;

   (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Party;

   (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Party in accordance with this Article, the other Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the

limitations of paragraph 3 but in no case shall such limitations be construed to permit a Party to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27
MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 28
ENTRY INTO FORCE

1. The Parties shall notify each other in writing, through appropriate channels, of the completion of the procedures required by their laws for the bringing into force of this Agreement. The Agreement shall enter into force on the date of the later of these notifications.

2. The provisions of this Agreement shall have effect:

   (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year immediately following the year in which the Agreement enters into force; and

   (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the calendar year immediately following the year in which the Agreement enters into force.

ARTICLE 29
TERMINATION

1. This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement, through appropriate channels, by giving written notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force.

2. In such event, this Agreement shall cease to have effect:

   (a) with regard to taxes withheld at source, in respect of amounts paid or credited on or after the first day of January of the calendar year immediately following the year in which the notice is given; and

   (b) with regard to other taxes, in respect of taxable years beginning on or after the first day of January of the calendar year immediately following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

Done in duplicate at London on the 22nd day of February 2013, in the English and Arabic languages, all texts being equally authentic.

FOR THE GOVERNMENT OF GUERNSEY

FOR THE GOVERNMENT OF THE STATE OF QATAR

AGREEMENT BETWEEN THE STATES OF GUERNSEY AND THE REPUBLIC OF SINGAPORE FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The States of Guernsey and the Republic of Singapore,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

Article 1
Persons Covered

This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.

Article 2
Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting Party, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Agreement shall apply are in particular:

(a) in Guernsey:

- income tax

(hereinafter referred to as "Guernsey tax");

(b) in Singapore:

- the income tax

(hereinafter referred to as "Singapore tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their taxation laws.

Article 3
General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term “Guernsey”, means the States of Guernsey and, when used in a geographical sense, means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law;

(b) the term "Singapore" means the Republic of Singapore and, when used in a geographical sense, includes its land territory, internal waters and territorial sea, as well as any maritime area situated beyond the territorial sea which has been or might in the future be designated under its national law, in accordance with international law, as an area within which Singapore may exercise sovereign rights or jurisdiction with regards to the sea, the sea-bed, the subsoil and the natural resources;

(c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(d) the term "competent authority" means:

(i) in Guernsey, the Director of Income Tax or his delegate;

(ii) in Singapore, the Minister for Finance or his authorised representative;

(e) the terms “a Contracting Party” and “the other Contracting Party” mean Guernsey or Singapore, as the context requires;

(f) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

(g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;

(h) the term "national", in relation to a Contracting Party, means:

(i) any individual who possesses the nationality or is a citizen of that Contracting Party; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting Party;

(i) the term "person" includes an individual, a company and any other body of persons;

(j) the term “statutory body” means a body constituted by statute and performing only non-commercial functions which would otherwise be performed by the Government of a Contracting Party.

2. For the purposes of Articles 10, 11 and 12, a trustee liable to tax in a Contracting Party in respect of dividends, interest or royalties shall be deemed to be the beneficial owner of that interest or those dividends or royalties.

3. As regards the application of the Agreement at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4
Resident

1. For the purposes of this Agreement, the term "resident of a Contracting Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that Party and any statutory body thereof.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);

(b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;

(c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national;

(d) in any other case, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

Article 5
Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" also encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities lasts more than 12 months;

(b) the furnishing of services, including consultancy services, by an enterprise of a Contracting Party through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue (for the same or a connected project) within the other Contracting Party for a period or periods aggregating more than 365 days in any 15-month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall

activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6
Income From Immovable Property

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7
Business Profits

1. The profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Party but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting Party carries on business in the other Contracting Party through a permanent establishment situated therein, there shall in each Contracting Party be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions all expenses, including executive and general administrative expenses, which would be deductible if the permanent establishment were an independent enterprise, insofar as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting Party in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8
Shipping And Air Transport

1. Profits derived by an enterprise of a Contracting Party from the operation of ships or aircraft in international traffic shall be taxable only in that Party.

2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

3. Interest on funds connected with the operations of ships or aircraft in international traffic shall be regarded as profits derived from the operation of such ships or aircraft, and the provisions of Article 11 shall not apply in relation to such interest.

4. For the purposes of this Article, profits derived from the operation of ships or aircraft in international traffic of ships and aircraft shall include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

(b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers), used for the transport of goods or merchandise,

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

Article 9
Associated Enterprises

1. Where

(a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party; or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting Party includes, in accordance with the provisions of paragraph 1, in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and where the competent authorities of the Contracting Parties agree, upon consultation, that all or part of the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party shall make an appropriate adjustment to the amount of the tax charged therein on those agreed profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement.

Article 10
Dividends

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party shall be taxable only in that other Party. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

2. The term "dividends" as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other Party, nor subject the company's undistributed profits to a tax on the company’s undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

Article 11
Interest

1. Interest arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such interest may also be taxed in the Contracting Party in which it arises and according to the laws of that Party, but if the beneficial owner of the interest is a resident of the other Contracting Party, the tax so charged shall not exceed 12 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting Party and paid to the Government of the other Contracting Party shall be exempt from tax in the first-mentioned Party.

4. For the purpose of paragraph 3, the term "Government":

(a) in the case of Guernsey, means the Government of Guernsey and shall include:

(i) a statutory body; and

(ii) any institution wholly or mainly owned by the States of Guernsey as may be agreed from time to time between the competent authorities of the Contracting Parties.

(b) in the case of Singapore, means the Government of Singapore and shall include:

(i) the Monetary Authority of Singapore;

(ii) the Government of Singapore Investment Corporation Pte Ltd;

(iii) a statutory body; and

(iv) any institution wholly or mainly owned by the Government of Singapore as may be agreed from time to time between the competent authorities of the Contracting Parties.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a

Contracting Party or not, has in a Contracting Party a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Party in which the permanent establishment or fixed base is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12
Royalties

1. Royalties arising in a Contracting Party and paid to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such royalties may also be taxed in the Contracting Party in which they arise and according to the laws of that Party, but if the beneficial owner of the royalties is a resident of the other Contracting Party, the tax so charged shall not exceed 8 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any computer software, patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the royalties arise, through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Party in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 13
Capital Gains

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party or of movable property pertaining to a fixed base available to a resident of a Contracting Party in the other Contracting Party for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other Party.

3. Gains derived by an enterprise of a Contracting Party from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Party.

4. Gains from the alienation of any property, other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting Party of which the alienator is a resident.

Article 14
Independent Personal Services

1. Income derived by an individual who is a resident of a Contracting Party in respect of professional services or other activities of an independent character shall be taxable only in that Party except in the following circumstances, when such income may also be taxed in the other Contracting Party:

(a) if he has a fixed base regularly available to him in the other Contracting Party for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting Party; or

(b) if his stay in the other Contracting Party is for a period or periods exceeding in the aggregate 365 days in any 15-month period; in that case, only so much of the income as is derived from his activities performed in that other Party may be taxed in that other Party.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15
Dependent Personal Services

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:

(a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting Party shall be taxable only in that Party. However, if the remuneration is derived by a resident of the other Contracting Party, it may also be taxed in that other Party.

Article 16
Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Party.

Article 17
Artistes And Sportsmen

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting Party, may be taxed in that other Party.

2. Where income in respect of or in connection with personal activities exercised by an entertainer or a sportsman accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting Party in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting Party by an artiste or a sportsman if the visit to that Party is wholly or mainly supported by public funds of one or both of the Contracting Parties or statutory bodies thereof. In such case, the income shall be taxable only in the Contracting Party in which the artiste or the sportsman is a resident.

Article 18
Pensions

Pensions and other similar remuneration (including lump sum payments) arising in a Contracting Party and paid to a resident of the other Contracting Party in consideration of past employment or self-employment and social security pensions shall be taxable only in the first-mentioned Contracting Party.

Article 19
Government Service

1. (a) Salaries, wages and other similar remuneration paid by a Contracting Party or a statutory body thereof to an individual in respect of services rendered to that Party or body shall be taxable only in that Party.

(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) is a national of that Party; or

(ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting Party or a statutory body thereof to an individual in respect of services rendered to that Party or body shall be taxable only in that Party.

(b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting Party if the individual is a resident of, and a national of, that Party.

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting Party or a statutory body thereof.

Article 20
Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Party.

Article 21
Other Income

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing articles of this Agreement shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party through a permanent establishment situated therein, or performs in that other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of article 7 or article 14, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting Party not dealt with in the foregoing articles of this Agreement and arising in that other Contracting Party may also be taxed in that other Party.

Article 22
Elimination Of Double Taxation

1. In Guernsey, double taxation shall be avoided as follows:

Subject to the provisions of the laws of Guernsey regarding the allowance as a credit against Guernsey tax of tax payable in a territory outside Guernsey (which shall not affect the general principle hereof):

(a) subject to the provisions of sub-paragraph (c), where a resident of Guernsey derives income which, in accordance with the provisions of this Agreement, may be taxed in Singapore, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in Singapore;

(b) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in Singapore;

(c) where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement shall be taxable only in Singapore, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

2. In Singapore, double taxation shall be avoided as follows:

Where a resident of Singapore derives income from Guernsey which, in accordance with the provisions of this Agreement, may be taxed in Guernsey, Singapore shall, subject to its laws regarding the allowance as a credit against Singapore tax of tax payable in any country other than Singapore, allow the Guernsey tax paid, whether directly or by deduction, as a credit against the Singapore tax payable on the income of that resident. Where such income is a dividend paid by a company which is a resident of Guernsey to a resident of Singapore which is a company owning directly or indirectly not less than 10 per cent of the share capital of the first-mentioned company, the credit shall take into account the Guernsey tax paid by that company on the portion of its profits out of which the dividend is paid.

Article 23
Non-Discrimination

1. Nationals of a Contracting Party shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities.

3. Nothing in this Article shall be construed as obliging a Contracting Party to grant to:

(a) residents of the other Contracting Party any personal allowances, reliefs and reductions for tax purposes which it grants to its own residents; or

(b) nationals of the other Contracting Party those personal allowances, reliefs and reductions for tax purposes which it grants to its own nationals who are not residents of that Party or to such other persons as may be specified in the taxation laws of that Party.

4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.

5. Where a Contracting Party grants tax incentives to its nationals designed to promote economic or social development in accordance with its national policy and criteria, it shall not be construed as discrimination under this Article.

6. The provisions of this Article shall apply to the taxes which are the subject of this Agreement.

Article 24
Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Party of which he is a national. The case must be presented within 3 years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting Parties may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25
Exchange Of Information

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting Parties, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting Party the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting Party to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 26
Members Of Diplomatic Missions And Consular Posts

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 27
Entry Into Force

1. Each of the Contracting Parties shall notify to the other the completion of the procedures required by its law for the bringing into force of this Agreement.

2. The Agreement shall enter into force on the date of the later of these notifications and its provisions shall have effect:

(a) in Guernsey:

(i) in respect of tax chargeable for any tax year beginning on or after 1 January in the calendar year following the year in which the Agreement enters into force; and

(ii) in respect of Article 25, for requests made on or after the date of entry into force concerning information for taxes relating to taxable periods beginning on or after 1 January of the calendar year next following the date on which the Agreement enters into force; or where there is no taxable period, for all charges to tax arising on or after 1 January of the calendar year next following the date on which the Agreement enters into force;

(b) in Singapore:

(i) in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the Agreement enters into force; and

(ii) in respect of Article 25, for requests made on or after the date of entry into force concerning information for taxes relating to taxable periods beginning on or after 1 January of the calendar year next following the date on which the Agreement enters into force; or where there is no taxable period, for all charges to tax arising on or after 1 January of the calendar year next following the date on which the Agreement enters into force.

Article 28
Termination

This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement by giving written notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such event, the Agreement shall cease to have effect:

(a) in Guernsey:

(i) in respect of tax chargeable for any tax year beginning on or after 1 January in the calendar year following the year in which such notice is given; and

(ii) in all other cases, after the end of that calendar year in which the notice is given;

(b) in Singapore:

(i) in respect of tax chargeable for any year of assessment beginning on or after 1 January in the second calendar year following the year in which the notice is given; and

(ii) in all other cases, after the end of that calendar year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at London on this 6th day of February 2013 in the English language.

For the States of Guernsey

Deputy Peter Harwood
Chief Minister of Guernsey

For the Republic of Singapore

HE T Jasudasen
High Commissioner of the Republic of Singapore
Singapore High Commission in London

(N.B The Policy Council has no comments on the Report)

The States are asked to decide:-

V.- Whether, after consideration of the Report dated 2nd April, 2013, of the Treasury and Resources Department, they are of the opinion to ratify the Agreements made with the Republic of Singapore and the Government of the State of Qatar, as appended to that Report, so that they have effect in accordance with section 172(1) of the Income Tax (Guernsey) Law, 1975.

ENVIRONMENT DEPARTMENT

TRAFFIC AND TRANSPORT SERVICES – FEES AND CHARGES

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St Peter Port

23rd April 2013

Dear Sir

1.0 Executive Summary

1.1 On 1st February 2007, Billet III 2007 Resolution IV 1 the States directed all Departments "to review all of the fees and charges for which they have administrative responsibility on a regular basis and to amend them accordingly" and Resolution IV 2 "*That when considering any revisions to fees and charges...take into account the valuation criteria set out in paragraph 4.1of that report"*

1.2 The Environment Department has recently carried out a review of existing traffic and transport services fees and charges, the majority of which can be varied by way of Regulation. In the course of the Environment Department's review, consideration was given, in accordance with the 2007 States Resolution, as to whether there is scope for the introduction of new fees and charges. The Environment Department has established that this opportunity exists in some areas and is therefore seeking to introduce some new fees, particularly in cases where administration services are presently provided by the Department without a charge. This Report seeks the approval of the States for minor amendments to legislation in order to introduce some of these new fees. Details regarding other new fees that are being introduced by way of the Department's regulation making powers are included for States Members' information. There is no direct connection between this Report and the revised Road Transport Strategy which will be submitted to the States at a later date.

1.3 In putting forward its suggestions for new fees the Environment Department has taken account of the *Criteria for Evaluating Fees and Charges* as set out in paragraph 4.1 of the aforementioned 2007 States Report and the recent publication of further advice in implementation from the Policy Council.[1] The Department has also been mindful of the need to strengthen the finances of the States as a whole and has taken special note of the contents of the Financial Transformation Programme.

[1] Policy Council, Fees and Charges Policy Guidance, *v.2.01.1* January 2013

1.4 It is proposed to introduce new fees for the following:

- Processing an application for a permit for the purpose of circulating a vehicle that exceeds the stipulated limits for size and / or weight;
- Processing an application for, and amending, a Road Service Licence;
- Processing an application for a permit for entering prohibited streets;
- Processing an application for a permit for the use of a flashing warning light, excluding emergency services (these are predominantly amber);
- The transfer of a motor vehicle from one registered keeper to another;

1.5 As a result of the introduction of a charge for transferring the registration of a motor vehicle, which could act as a deterrent against compliance with the legal requirements for notifying the Environment Department of any changes in registration details, it will be essential that additional monitoring is put in place to ensure that the register of motor vehicles is kept in good order. It is therefore necessary that the Environment Department initiate a process for contacting vehicle keepers on a regular basis. It is recognised that this extension of the existing administrative duties will require some additional resources in order to be carried out effectively. Funding for this requirement, however, is more than adequately covered by the proposed introduction of the vehicle transfer fee (see paragraphs 3.6 and 4).

2.0 Background

2.1 Vehicle ownership in Guernsey has increased considerably in the course of the last fifty years and has reached the point that just about all individuals who desire or require personal transport have access to it. This is borne out by the figures for the number of driving licences in issue and the number of vehicles that are registered. At the same time, there has been a considerable increase over the last ten years or so in the number of bus journeys being taken and the numbers of young people choosing to cycle, walk or take alternative transport to travel to school.

2.2 It is widely accepted that, as far as is reasonably possible, the direct and indirect costs of motoring should be borne by the user. At the same time, it is widely accepted that general revenues from taxation should support the transport infrastructure. In this context, it is useful to point out that, given the prevalence of vehicle ownership in Guernsey, there is very little in the way of cross subsidisation of the transport infrastructure as the great majority of taxpayers are themselves motorists.

2.3 Balancing the costs of private transportation between direct charges and general taxation is a difficult challenge for which there is no given formula. It is evident however, that many services provided for motorists by the Environment Department carry no charge to cover the costs of administration. It is also evident that the rapid growth of both private and commercial motoring has impacted on life and the environment in Guernsey in a variety of ways.

2.4 In 2012, excluding costs associated with the bus contract and costs specifically

connected to previous States approved transport strategies, the administrative costs of the Traffic Division of the Department amounted to a little under £2million. Income raised by the Division through fees and charges amounted to £700,000 pounds. It is clear, therefore, that the administrative costs of meeting the needs of the motorists exceed the fees and charges by the Department by a factor of 3.

2.5 This report aims to address some of the issues created by this situation by seeking the support of the States for introducing a range of additional fees and charges for traffic and transport services provided by the Environment Department that it considers to be fair and reasonable.

2.6 It should be made clear that the Environment Department is not seeking to impose additional or excessive costs on motoring in general, whether for private or commercial use. Rather it is attempting to bring in fees and charges for those services currently provided without charge, to align those new charges to existing charges to ensure equity and to reduce the operational burden on the tax payer. These new charges will contribute to the Department's commitments in respect of the States of Guernsey Financial Transformation Programme.

3.0 **Proposed New Charges**

3.1 The following new charges are proposed:

3.2 *Processing an application for a permit for the purpose of circulating a vehicle that exceeds the stipulated limits for size and / or weight.*

3.2.1 Permits are issued for the purpose of allowing oversized / overweight vehicles to be used in conducting business, whether for economic, social or other reasons. Applications for permits are made under section 10 of the Road Traffic (Construction and Use of Motor Vehicles) Ordinance, 2002, and are ordinarily issued for a period of three years. In addition, should the operator of a vehicle attach a trailer or other item that causes the vehicle to exceed the stipulations for size and/or weight, then a permit is required.

3.2.2 Before a permit is granted, consideration must be given by the Environment Department to the reasons for the request and the vehicle must be weighed and / or measured, as appropriate. Conditions may be attached to any permit. For example, the vehicle may be permitted to use all routes on the Island, or may be restricted to specified roads and certain times.

3.2.3 The time taken to process and produce the paperwork for the issue of a permit varies but involves a short administrative function of around one hour and ongoing monitoring support. It is proposed that a charge of £30 is introduced for the processing of an application for a permit under section 10 of the 2002 Ordinance relating to oversized or overweight vehicles, which is broadly in line with other charges

already implemented by the Department.

3.2.4 Only approximately fifty permits are issued in any one year and hence it can be seen that this charge generates very minimal additional income but will assist in delivering a more equitable charging system. .

3.3 *Processing an application for, and amending, a Road Service Licence*

3.3.1 An application for a road service licence can be made under section 19 of the Public Transport Ordinance, 1986. There is currently no requirement under section 19 or in any of the other provisions under the Ordinance to pay a fee upon making an application. Each year the Environment Department receives numerous requests for road service licences in connection with the proposed operation of public service vehicles, for which there is no initial charge. In the past many of these requests have been poorly thought through and have bordered on the frivolous but nevertheless must be considered in accordance with the legal provisions. The time taken to evaluate the applications varies considerably. Even with straightforward applications, it can take a considerable amount of staff time to evaluate and process a road service licence as it is invariably the case that the matter must be placed before the Environment Department's Board. In presenting an application for the Board's attention it is necessary that the request is evaluated against the criteria by which road service licences are issued under section 21 of the Public Transport Ordinance, 1986 and, in most cases, a recommendation is advanced. It may follow that the applicant will choose to make representations in person to the Board Members and, in the event of an application not succeeding, the procedures of an appeal may be enacted.

3.3.2 It is just as likely that an application is not at all complicated (some are repeated for special events that take place annually) and the time taken to process the documentation is fairly minimal. A balance between these extremes is, therefore, required.

3.3.3 As well as applications for new licences, the Environment Department also receives requests for amendments to existing road service licences (these may be for adjustments to routes, new or additional vehicles, etc.). The Environment Department has the power to vary existing road service licences under section 24 of the Public Transport Ordinance, 1986. Including requests for amendments, approximately fifty licences are issued each year.

3.3.4 It is proposed that the Public Transport Ordinance, 1986 is amended so as to introduce a charge of £30 in relation to both the filing of a fresh application for a road service licence and any request made to the Department for it to vary an existing licence. Again the income associated with this proposed charge is fairly minimal but the charge will assist in deterring frivolous applications and will assist in delivering a more equitable charging system.

3.3.5 In accordance with the provisions of the Public Transport (Amendment) Ordinance, 1986, the prohibition on the operation of a road service without a licence does not apply to approved motor vehicles operated by, or on behalf of, the States of Guernsey as a road service (e.g. scheduled bus services). The Environment Department will not, therefore, be liable to the proposed charge in such cases.

3.4 *Processing of an application for a permit for entering prohibited streets.*

3.4.1 Under section 3(1) of the Prohibited and One Way Streets Ordinance, 1989, the prohibition in relation to one way streets does not apply to anything done in accordance with the terms of any permission given under the authority of the Environment Department.

3.4.2 Permits are generally issued for three years, although temporary permits for specified periods may also be granted. There is little difference in the staff time required for the production of either a three year or a temporary permit.

3.4.3 The time taken to process and produce the paperwork for the issue of a permit involves a short administrative function of around half an hour with some further subsequent monitoring support. It is proposed that a charge of £30 is introduced for the processing of both an application for a 3 year permit and the temporary permit

3.4.4 Approximately one hundred permits are issued in any year and hence once again the income is not significant but a more equitable charging system results.

3.5 *Processing an application for the issue of a permit for the use of a flashing warning light.*

3.5.1 Under section 26(3) of the Lighting of Vehicles and Skips Ordinance, 1988, the Environment Department may by permit exempt any vehicle, for such occasion or period, and subject to such conditions as may be specified in the permit, from any of the requirements set out in section 7 relating to flashing lights. A flashing light (which is usually amber) is recognised as a warning system aimed at indicating, for the benefit of road users, pedestrians and others in proximity, that the vehicle represents a hazard of some description. Requests for the use of flashing lights are received from a variety of sources for a variety of purposes including the vehicle escort service, towing of trailers, movers of heavy plant, etc.

3.5.2 The time taken to process and produce the paperwork for the issue of a permit averages approximately half an hour and the Environment Department issues approximately thirty permits a year; this plus monitoring and administration indicate a charge of £30. It is proposed

that a charge of £30 is introduced for processing an application for a permit for the use of a flashing light on a vehicle.

3.5.3 There is an exemption under section 8(2) of the Lighting of Vehicles and Skips Ordinance, 1988 for police, fire brigade and ambulance services or to illuminate the scene of, or to warn persons about an accident or breakdown. It is the case, therefore, that as the Law permits the use of a flashing light for the aforementioned reasons without the need for a permit, there will be no charge levied in respect of these uses.

3.6 *The transfer of a motor vehicle from one registered keeper to another.*

3.6.1 At the present time a charge of £40 is levied for the first registration of a vehicle. This is a fair representation of the costs involved in effecting the transaction and issuing the paperwork, maintaining the IT systems and processing subsequent requests and applications for information. In 2012 the Environment Department processed paperwork for the first registration of 5,640 vehicles, realising £197,400 in fee income (the fee at this time was £35).

3.6.2 Section 10 of the Ordonnance supplementaire à l'Ordonnance ayant rapport au Trafic Vehiculair en cette Île sets out the provisions relating to the change of ownership of a motor vehicle. A similar administrative task to that described above in paragraph 3.6.1 must be carried out to re-register a vehicle to a new keeper, although the time taken is generally slightly reduced on account of the fact that the vehicle's details are already logged in the Environment Department's database. Each year approximately 17,000 changes from one registered keeper to another are recorded.

3.6.3 While there is no charge for this service, it evidently requires time and application by members of staff and there is a responsibility for ensuring that details are correctly entered into the record. All of this warrants the imposition of an administration charge.

3.6.4 In view of the slightly reduced workload for re-registration of a vehicle, the Environment Department has resolved to introduce a fee of £25 for this service, which is expected to realise approximately £425,000 per year. This is a significant level of additional income but would contribute to the Departments FTP target.

3.6.5 States members are advised of this new charge by way of information as the Environment Department will introduce this fee by Regulation in accordance with its existing powers under sections 2A(j) and 2B of the Motor Taxation and Licensing (Guernsey) Law, 1987.

4.0 **Maintaining a Reliable and Up To Date Register of Vehicles**

4.1 Prior to the abolition of the Vehicle Excise Duty ("Motor Tax"), the register of vehicles was considered to be reasonably reliable. At that time it was a requirement for motorists to present insurance and registration documents in order to obtain a motor tax disc and this helped ensure that the Environment Department was kept informed of any changes to vehicle or vehicle keeper details.

4.2 Since that time the Environment Department has not had any means for checking the details of registered vehicles (or, indeed, the personal details of the registered keepers of vehicles) and it may be that the register has become less reliable as a result.

4.3 It is evident that the introduction of a fee for the transfer of a vehicle has the potential to act as a further disincentive for the keepers of motor vehicles to inform the Environment Department about changes in ownership or other details. Clearly if a register of vehicles is to be kept, as is the case in all other jurisdictions, and if reliable information about vehicle ownership is to be exchanged with other jurisdictions as appropriate then the register must be kept up to date.

4.4 In the absence of the check provided by the former motor tax regime, the Environment Department must introduce a specific record checking system. It is proposed that all persons registered as a keeper of a vehicle would be contacted at least once in every three years and required to verify their details. The ability to ensure the register remains up to date would be put seriously at risk without these checks. The Department would wish that the record checking system is incorporated as an integral part of vehicle registration and that appropriate civil or criminal penalties for failure to conform to the requirements are put in place. Under section 2(34) of the Motor Taxation and Licensing Law, 1987, the States may by Ordinance make provision for the maintaining of records in connection with any function under that Law.

4.5 It is recognised that, with a register of above 80,000 vehicles, this proposal would require the introduction of some additional resources. In accordance with rule 15(2)(a) of the States Rules of Procedure,

- It is estimated that additional annual costs of approximately £50,000 would be incurred in carrying out the checks, though some costs may be offset against other savings generated by efficiencies;
- Funding for these additional costs would be covered by part of the income received from the introduction of the new charge for transferring a vehicle from one registered keeper to another.;
- There would be no discernible impact on the States Fiscal and Economic Policy Plan.

4.6 The Environment Department asks the States to recognise the evident need for these additional resources in order to bring the register of vehicles up to date

and to maintain it in a proper state.

5.0 **Alteration of Fees and Charges by Regulation**

5.1 It is proposed that the States approve that all adjustments to the fees and charges listed in the Appendix attached to this Report can henceforth be enacted by way of regulation made by the Environment Department.

6.0 **Corporate Governance**

6.1 The Environment Department believes that it has fully complied with the six principles of good governance in the public services in the preparation of this Report (set out in Billet D'État IV, 2011 and approved by the States).

7.0 **Legislation, Risks and Benefits**

7.1 The Law Officers have been consulted about these proposals.

7.2 Legislation will be required in order to introduce the new fees and charges in respect of the proposals regarding applications for permits (see paragraphs 3.2, 3.4 and 3.5), filing an application for a road service licence (see paragraph 3.3) and to incorporate the new record checking system (see paragraph 4) as discussed in this Report. The legislation required to introduce these new fees is not extensive, and the drafting time should take no longer than one to two days.

7.3 There are no additional funding requirements in respect of the required legislation, apart from those set out in paragraph 4 of this Report.

7.4 As outlined above, there is a risk that the introduction of a charge for the transfer of a vehicle from one keeper to another may discourage motorists from registering ownership details; measures have been suggested in paragraph 4 for dealing with this risk by way of the introduction of a record checking system.

7.5 There is also the broader risk that any new or additional charge will serve to discourage compliance with legal and other requirements. The Environment Department believes that it has put forward proposals for charges that are reasonable and fair and that this therefore presents a low and acceptable risk.

7.6 Net income from the new fees and charges will amount to approximately £385,000 in 2014 and will assist the Environment Department in meeting its commitments to the States of Guernsey Financial Transformation Programme.

8.0 Recommendations

8.1 The States are recommended to -

(i) Approve the introduction of new fees and charges as set out in the Appendix of this Report by way of legislation as per paragraphs 3.2 to

3.5 inclusive of this Report;

(ii) Approve the proposal that adjustments to any of the fees and charges listed in the Appendix of this Report can henceforth be enacted by way of regulations of the Environment Department as set out in paragraph 5 of this Report;

(iii) Direct the preparation of such legislation and any other minor consequential amendments as may be necessary to give effect to the proposals set out in paragraphs 3, 4 and 5 of this Report.

Yours faithfully

R Domaille
Minister

A Spruce, Deputy Minister
B J Paint
B Brehaut
Y Burford

Appendix

Proposed New Charges

Description of Service	Proposed Fee £	Transactions per annum	Estimated Future Revenue (£)
Application for a permit to circulate an oversize vehicle (3 year permit)	30.00	50	1,500
Application for a road service licence or amendment thereto	30.00	20	600
Application for a permit to enter prohibited streets	30.00	200	6,000
Application to use a flashing warning light	30.00	30	900
		TOTALS	**9,000**

(N.B The Treasury and Resources Department supports this States Report. It commends the Environment Department for introducing fair and reasonable charges that are intended to make substantial progress towards recovering the full cost of the service provided by the Traffic Division in order that, as far as is reasonably possible, the direct and indirect costs of motoring are borne by the user.)

(N.B The Policy Council supports the Report.)

The States are asked to decide:-

VI.- Whether, after consideration of the Report dated 23rd April, 2013, of the Environment Department, they are of the opinion:

1. To approve the introduction of new fees and charges as set out in the Appendix of that Report by way of legislation, as set out in paragraphs 3.2 to 3.5 inclusive of that Report.

2. To approve the proposal that adjustments to any of the fees and charges listed in the Appendix of that Report can henceforth be enacted by way of regulations of the Environment Department, as set out in paragraph 5 of that Report.

3. To direct the preparation of such legislation and any other minor consequential amendments as may be necessary to give effect to their above decisions.

PANEL OF MEMBERS
(Constituted by the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993)

REPORT OF THE REVIEW BOARD FOR 2012

The Chief Minister
Policy Council
Sir Charles Frossard House
La Charroterie
St. Peter Port

18th April 2013

Dear Sir

1. Executive Summary

1.1 In accordance with the provisions of Section 8 of the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993 ("the Law"), I hereby submit a report on the complaints received by the Chief Executive of the States of Guernsey during the period 1st January 2012 to 31st December 2012.

1.2 Section 1 of the Law provides that all applications for a matter to be reviewed by a Review Board shall be made to the Chief Executive of the States, except where the matter complained of relates to the Policy Council and its staff, in which case application is made to HM Greffier.

2. Complaints and Enquiries received in 2012

2.1 Three complaints were received by the Chief Executive in 2012 and a brief synopsis of the matters complained about and the outcome are set out in the appended report.

2.2 Over the course of the year, the Chief Executive also received general enquiries from Members of the Public about the Law.

2.3 No complaints were received by HM Greffier during 2012.

3. Recommendation

3.1 Sir, I should be grateful if the States of Deliberation were of the opinion to note the contents of the appended report.

Yours faithfully

R A Perrot, Chairman of the Panel of Members

Appendix

The Administrative Decisions (Review) (Guernsey) Laws 1986-1993

PART I- REPORT OF COMPLAINTS RECEIVED BY THE CHIEF EXECUTIVE OF THE STATES DURING 2012

1. Mr. R Brooks v The Health and Social Services Department

A complaint against a decision of the Health and Social Services Department not to reimburse Mr Brooks for fees and expenses amounting to £9,903.20, incurred by him in March 2011, when undergoing a pacemaker operation in London.

The Chief Executive referred the matter to the Chairman of the Panel of Members who appointed the following members to a Review Board to hear the complaint:

Deputy Roger Perrot (Chairman)
Deputy Matt Fallaize
Mr Andrew Courtney (Dean of the Douzaine)

The Review Board's full decision is attached in Part II.

2. Mr and Mrs. X v The Environment Department

A complaint that a decision of the Environment Department under section 15 of The Land Planning and Development (Guernsey) Law, 2005 in respect of the redevelopment of the former Les Carterets Hotel, Cobo.

The Chief Executive did not refer the complaint to the Chairman of the Panel of Members because the complainant had a right of appeal in a court of law in relation to the matter from which the complaint arose.

3. Mr C Rolfe v. The Health and Social Services Department

A complaint against a decision of the Health and Social Services Department not to reimburse Mr Rolfe for fees and expenses to £13,000, incurred in August and October 2012 by him, as a result of two operations in Cambridge.

The Chief Executive referred the matter to the Chairman of the Panel of Members who appointed the following members to a Review Board to hear the complaint:

Deputy Matt Fallaize (Chairman)
Deputy Scott Ogier
Richard Heaume, Esq. (MBE) (Dean of the Douzaine)

The Complaint is due to be heard by the Review Board on 23rd May 2013.

PART II- REVIEW BOARD DECISION: MR. R BROOKS V THE HEALTH AND SOCIAL SERVICES DEPARTMENT

THE ADMINISTRATIVE DECISIONS (REVIEW) (GUERNSEY) LAW, 1986 ("the Law")

Complaint of Mr. R. Brooks against the Health and Social Services Department ("HSSD")

BACKGROUND FORMALITIES

Mr. Brooks made application to the Chief Executive of the States of Guernsey on 12th March 2012 under Section 1 of the Law for the matter described in the next section to be reviewed by a Review Board. The Chief Executive enquired into the matter in accordance with the provisions of Section 2 of the Law and satisfied himself that the matter complained of was within the jurisdiction of a Review Board. Accordingly, he requested the Chairman of the Panel of members constituted under the Law to appoint a Review Board to enquire into the complaint.

The Chairman of the Panel appointed himself (Mr. R. A. Perrot, Deputy), Mr. M. Fallaize, Deputy and Mr. A. M. J. Courtney, Dean of Saint Saviour's Douzaine as members of the Review Board. Mr. Perrot chaired the Board.

The Review Board hearing took place on 20th. November 2012 in the Reading Room at Les Cotils Christian Centre, Saint Peter Port. It began at 1000 hours and finished at 1645 hours. Mr. Brooks represented himself, accompanied by his wife. The Department was represented by its Minister, Dr. Hunter Adam and he was accompanied by Mr. Richard Evans (Director of Corporate Services HSSD) and Mr. Ed. Freestone (Assistant Director, Policy, HSSD).

In order to give each one coherence the following two narratives (the complaint and its background and the HSSD response) are compilations of the oral representations of the parties on the day, their responses to questioning by each other and the Review Board and, where relevant, the documentation submitted by each party in support of their cases and the additional documentation bespoken by the Board.

COMPLAINT AND ITS HISTORY

Mr. Brooks's complaint, in short, was that the HSSD had refused to pay his medical and travelling expenses in respect of a surgical procedure undergone by him in London in March 2011.

His narrative began in 2008. During a cruise in the Mediterranean in September of that year he fell ill, most particularly manifested by blackouts. The medical team on board the ship diagnosed a heart condition and as a result he was flown to London for

emergency treatment. He was treated by a consultant cardiologist – Dr. Paul Curry- who implanted a pacemaker. The costs of the medical evacuation and treatment were borne by insurers under the terms of a holiday insurance policy. Surgery took place on 16th. September 2008 and Mr. Brooks was given a check-up by Dr. Curry on 25th. September. He (Dr. Curry) duly reported to Dr Malcolm Chamberlain (Mr. Brooks's G.P.) by letter dated 25th September, writing that Mr. Brooks was very well, that the pacemaker battery had a life of up to nine years and that …" the leads are excellent". [The relevance of the reference to "leads" will become apparent in a few paragraphs.] He went on to write that the pacemaker needed to be checked every year.

A check was carried out on the pacemaker in January 2010 without any problem being detected. Mr. Brooks again attended a pacemaker check appointment on January 19th. 2011, as a consequence of his receiving a letter from the HSSD dated 23rd. December 2010. In 2010 he had been examined by a Mrs. Janine Burgess, an employee of the DHSS, but on this occasion he was seen by a Mr. Andrew Norman, from Jersey. Mr. Norman identified the "top" or atrial lead of the two pacemaker leads as having failed, in October 2010. He went on to say that the pacemaker would function on one lead only. He isolated the upper lead completely and re-programmed the pacemaker. He also said that there was no need to change the lead and that Mr. Brooks would not need a check-up until the next annual one due in 2012. During a subsequent telephone conversation on 31st. January 2011 Mr. Norman told Mr. Brooks that the upper "chamber" lead was more likely to slip because the chamber was smooth but that the lower chamber was rougher and more likely to grip better. There had been no reports of manufacturing problems.

Dr. Chamberlain received a report from Mr. Norman, and he subsequently tried to speak to Dr. Dean Patterson, the consultant cardiologist at the Medical Specialist Group, without success. He then sent a copy of the report to Dr. Curry, mentioning that there had been some worry about the atrial lead. Dr Curry telephoned Mr. Brooks on 21st. February saying that he would like to re-programme the top lead. He followed that up with a letter to Dr. Chamberlain dated 23rd. February 2011, repeating his wish to re-programme the pacemaker and possibly reposition the atrial lead.

Mr. Brooks therefore arranged to go to London and he was examined by Dr. Curry on 14th. March 2011. (At that stage he regarded himself as a private patient, in no particular danger, who was in a position to combine a family stay with his daughter with a visit to Dr. Curry. He said that he had not intended to make any claim under the secondary care scheme if the visit had been "benign" – for example if Dr. Curry had had to give a "minor tweak" to the pacemaker.) Chest x-rays taken that day revealed that the atrial lead had disrupted completely and that the lower or ventricular lead was crushed. Mr. Brooks was in a condition of sufficient danger (by the potential complete disruption of the ventricular lead) that he was told not to raise his arm above the shoulder and not to travel back to Guernsey. Although the Board hasn't been able to corroborate this from the documents produced, Dr. Chamberlain quoted Dr. Curry and his colleague Dr. Jaswinder Gill as saying that "the ventricular wire was hanging on its

last thread". The damage had been caused by abrasion from the site of the setting joint of a broken left clavicle. It was decided that the leads had to be extracted and the pacemaker re-implanted with new leads, as a matter of urgency. Specialist equipment was required, which was only available at St. Thomas's Hospital, where Dr. Gill practised. In the interim, Mr. Brooks was allowed to stay with his daughter in London. Apparently, Drs. Curry and Gill were fortified in that view as Mr. Brooks would be under the supervision of his wife and would be living in the near vicinity of a hospital. The surgery was successfully carried out on 21st March 2011. The total costs incurred by Mr. Brooks amounted to £9,903.20. There was some saving in that Dr. Gill said that he would prepare equipment for all eventualities, but would ensure that Mr. Brooks was only charged for equipment used.

When Mr. Brooks realised that his life was in danger, he formed the view that the pacemaker check was defective and that the realisation that a lead had failed should have prompted a recommendation that x-rays be taken immediately. Furthermore, he felt that it was wrong for Mr. Norman to tell him that a further check was not necessary until the regular check-up in 2012. As a consequence he felt that he was entitled to be reimbursed his expenses, because if his condition had been correctly diagnosed by x-ray in Guernsey he would have been referred anyway for treatment at St. Thomas's hospital, with which the HSSD had a referral arrangement.

Dr. Chamberlain wrote to Dr. Patterson on 8th. April 2011, explaining what had happened and suggesting of Mr. Brooks … "that he merits being covered under the reciprocal health arrangements made for cardiology with the UK". Dr. Patterson replied on 22nd. June 2011 and said this:

"I have identified 2 areas of concern here.

- Firstly, I think that there was an inappropriate hasty decision taken in rushing him over to see Paul Curry without first discussing with The Medical Specialist Group or myself. This has led to him receiving a large bill. This is unfortunate and could have been avoided had you/he gone through the contract referral to St. Thomas'.

- The second issue is, of course, the actual follow up of patients with pacemakers in Guernsey and dealing with the complications or queries. Mr Brooks was followed up by the Jersey pacemaker service who identified a problem but did not arrange a chest x-ray or write to anyone explaining the problem. Clearly, things should have been communicated better. This service has been identified by Janine Burgess (our pacing physiologist currently on sick leave) and me as being less than satisfactory. We raised our concerns to Jan Coleman (Manager for Adult Services in the PEH) at a meeting in November 2009 to discuss many such similar incidents and I proposed a business plan to manage the problem.

  I have copied this letter to Jan Coleman and Bill Langley, who helps manage cardiology,Trish de la Mare (PEH Patient Safety Advisor) and Cathy de Carteret

(Senior Manager Off-Island & Visiting Services). I have also copied to them the report which I generated in November 2009.

Unfortunately the visiting service, from Jersey, is, of course, not contracted and the whole area is currently under review at my urgent request. The visiting service from Jersey is also unable to meet the minimum requirements set out by HRUK (I have attached their latest guidance summarising this).

In the medium term, we are hoping to implement a visiting and remote telemetry based pacemaker service from Southampton University Hospitals NHS Trust. I will take this opportunity to reiterate that this is an urgent matter that needs to be dealt with without delay."

Mr. Brooks wrote to the Minister on 26th. September 2011, asking for reimbursement of his costs. The Minister wrote a substantive reply on 8th. November 2011, declining to reimburse the costs claimed. He said this:

"I note that Dr. Chamberlain referred you to Dr. Curry who arranged to see you. However, to be treated under the Specialist Health Insurance Scheme (SHIS), a patient must be referred to a NHS provider with whom the DHSS has a contract by a specialist from the Medical Specialist Group. GP's are not able to refer off island under the Scheme and any patient referred direct by a GP will be as a private patient and liable for the costs incurred.

Unfortunately, as you were referred off island by your GP this falls outside the provisions of the SHIS and I regret that it is, therefore, not possible to reimburse you for the costs incurred."

Mr. Brooks then issued a petty debt summons which was subsequently withdrawn, after it was mooted by the judge that a review board might be a more appropriate forum for his claim.

Mr. Brooks told the Board that pacemaker checks were now carried out by Southampton Hospital.

THE HSSD RESPONSE

The Department's case was straightforward and was as set out in the Minister's letter to Mr. Brooks dated 8th. November 2011. The cost of off-island treatment could not be claimed unless the patient had been referred by a Medical Specialist Group specialist to an NHS provider with which the HSSD had a contract.

The Minister referred the Board to Billet D'État XIII of 1995 at paragraph 26. That paragraph said that specifically excluded from the scheme was treatment outside Guernsey or Alderney with the exception of a specialist escorting a patient to the U.K. or Jersey. [That reference was not appropriate, because, clearly, *some* treatment off-island is indeed paid for by the DHSS. Of relevance is paragraph 23 which states that specialist treatment under contracts which the Board of Heath (now the HSSD) has with

U.K. health authorities will continue.] The Board referred the Minister to Billet D'État VI of 1992. On page 273, at paragraph 30(e) of the policy letter of the then Board of Health outlining the proposed health care scheme, it was stated that the scheme would cover the costs of certain treatment not available in Guernsey. Access to specified hospitals in the U.K. would be allowed under the terms of the scheme following referral by local specialists, or in certain circumstances by GPs. The Minister was asked what were those circumstances. He said that they would include, for example, facial reconstructive surgery.

The Minister expressed considerable concern that the correct formalities be observed in respect of off-island treatment. It would not be acceptable or good governance for patients to elect to be treated at hospitals where HSSD did not have a contract and still expect to be refunded under the scheme. The HSSD would be open to requests for payments for unproven treatments or procedures and to scales of charges which were not acceptable.

The Minister made the point that although Dr. Chamberlain had tried to contact Dr. Patterson in respect of the pacemaker report, when it was realised by him that Dr. Patterson was not immediately available Dr. Chamberlain did not appear to have requested that another consultant review Mr. Brooks or offer advice. Furthermore it was for Dr. Chamberlain to recommend that an x-ray be taken of Mr. Brooks. If, in the light of that, a consultant from the Medical Specialist Group had so recommended, Mr. Brooks would have been referred for treatment to Guy's and St. Thomas's NHS Foundation Trust under the Specialist Health Insurance Scheme. He accepted that had Mrs. Janine Burgess not been away on sick leave, she would have had more knowledge and could have suggested an x-ray and spoken to a physician.

Dr. Adam referred the Board particularly to the letter from Dr. Chamberlain to Dr. Patterson dated 25th. July 2011, in which Dr. Chamberlain said that "I told him in very straight and plain language that I could not guarantee that he would have his costs covered by the States Social Security". It was therefore the view of the Department that Mr. Brooks was aware that his costs might not be covered and no further check seemed to have been made by Mr. Brooks or Dr. Chamberlain. The Department could not itself give Mr. Brooks any warning because, of course, it knew nothing of the matter until Mr. Brooks made his claim in a letter to the Minister dated 26th. September 2011.

The Minister said that it was wrong for Mr. Brooks to have made a claim for his travel costs. Travel costs were reimbursed, if they were due, by the Social Security Department under the provisions of its leaflet 58.

The Minister conceded that if, having discovered the condition of Mr. Brooks after Dr. Curry had examined his x-rays, a call had been made to the Medical Specialist Group or the Department by or on behalf of Mr. Brooks, he might well have been referred to the "Exceptional Care Panel" which could have referred Mr. Brooks for treatment to Guy's and St. Thomas's under the health scheme. He also conceded that he was not aware of

any factual or legal impediment preventing the HSSD from reimbursing Mr. Brooks, other than that formalities had not been observed.

The Minister said that it was not appropriate for him to give a view as to whether Mr. Norman had been negligent. Mr. Norman still came to the Island. No action had been taken in respect of what had happened to Mr. Brooks and no changes in procedure had been made in respect of Mr. Norman's work. The general system now in place had changed, anyway, in that pacemakers were checked under the new arrangement with Southampton Hospital, although some patients could choose to go to Jersey for a check-up by the Jersey pacemaker service.

REVIEW BOARD FINDING

It is not completely clear to the layman what the procedure is when a person is to be able to claim for specialist treatment in the U.K. Although the protocols will be known to local medical practitioners, a patient would probably look no further than the leaflet issued by the HSSD [leaflet 2] which states that not covered by the scheme is "Private specialist care provided by a specialist not under contract to the States". The Board was of the view that there was room for improvement in what is contained in the leaflet, which ought to make the full reference procedure clear beyond doubt.

In the case of Mr. Brooks, it was clear that he knew that his consultation with Dr. Curry would most probably not be covered by the scheme, because Dr. Chamberlain had told him so. That was of no especial concern to Mr. Brooks because, as he had told the Board, he was content to spend some time with his family in London and at that stage he had no great cause for concern in respect of his health. The danger in which he found himself was only realised when Dr. Curry had examined the x-rays which had been taken. That, in Mr. Brooks's mind, changed the position retrospectively, because he regarded the pacemaker service which he had received as having been defective. Furthermore, he was anyway treated by the same group of hospitals as would have treated him had all the correct formalities been followed.

The role of the Jersey pacemaker service seems to have raised some doubts in the mind of Dr. Patterson, because he said in his letter to Dr. Chamberlain dated 22nd. June 2011 that "it was not contracted".

Whatever may have been the view of Dr. Patterson, the Board regards the specialist health scheme to be a "compact" between the States of Guernsey and its residents as set out in the relevant Billets d'Etat in the 1990s. The States provide the service through the agency of its contractor the Medical Specialist Group and, irrespective of where the pacemaker check-up service sits within that framework, the service is just that – a service provided under what the Board calls that compact, for which the States, through the HSSD, must accept responsibility. There was something of a shock experienced during the course of the enquiry when Mr. Brooks asked the Minister, baldly, whether the Minister thought that Mr. Norman had been negligent. The Minister declined to answer. The Board has sympathy with the Minister's position, because to anyone with

even a brushing experience with the law the idea of negligence is a highly technical term within the law of tort, and one enters that legal minefield at one's peril. Had Mr. Brooks put the question more moderately – say by asking whether the Minister thought that the check was unsatisfactory- he would have been very hard-pressed other than to agree. Indeed, Dr. Patterson –as a representative of the HSSD's medical contractor - had himself said in his letter to Dr. Chamberlain of 22nd. June 2011 that things should have been communicated better and that the service generally had been identified as less than satisfactory.

The general concern had been expressed to the HSSD as long before as November 2009, and the Board cannot but express surprise that it was not until some time after events concerning Mr. Brooks that a different system of pacemaker checks was adopted. In the Board's view it was incumbent on the HSSD immediately after being alerted to the problem in November 2009 to put in place a protocol so as to ensure that in the event of a pacemaker technician having the slightest doubt about the results of a check a report was sent forthwith both to the GP concerned and to the relevant specialist within the Medical Specialist Group. Although in Mr. Brooks's case, the receipt of a report by the GP did not automatically result in an x-ray being requested [in his letter to Dr. Curry dated 7th. February 2011 enclosing a copy of Mr. Norman's report Dr. Chamberlain said "I assume nothing else needs to be done at the present time"] because (the Board supposes) Dr. Chamberlain was not a heart specialist, the Board feels confident in assuming that an x-ray would have been demanded by Dr. Patterson had he received a copy of the report. The upshot was that safeguards were not robust enough, a sentiment with which the Minister did not disagree.

As the Minister conceded, if the Medical Specialist Group had been informed by telephone of Mr. Brooks's condition at the time of his examination by Dr. Curry, he would have been swept up in the health scheme and treated in the very hospital where he was actually treated, but at a lower cost – because of the contractual arrangements in place between Guernsey and Guy's and St. Thomas's at that time. [It wasn't very long after Mr. Brooks's treatment that the contract was brought to an end.]

The Board has sympathy with the position taken by the HSSD. It was very anxious not to let a precedent be created. It needs to be assured of a proper filtering system so that only qualifying cases are referred outside the Island and then only to hospitals with which it has arrangements. That said, Mr. Brooks's case turns upon its own facts. It is unlikely that the unfortunate turn of events will be repeated. Furthermore, given that the same hospital would have been used if Mr. Brooks had followed all formalities, albeit at a reduced price, the Board has concluded that the HSSD has in this case been too keen to focus on form rather than substance.

In the Board's view, Mr. Brooks was let down by the pacemaker check for which the DHSS must accept responsibility. It wasn't good enough for Mr. Brooks to be told that no further check was required for another year. Proper safeguards should have been built into the system so that an x-ray was generated. That said, it would be wrong for the Board to ignore the fact that Mr. Brooks's own GP didn't persist in trying to discuss

the pacemaker report with Dr. Patterson. Balanced against that, it was to Dr. Chamberlain's great credit that he sent a copy of the report to Dr. Curry. Had that not been done, the result could have been disastrous.

In the opinion of the Board the refusal of the HSSD to reimburse Mr. Brooks could not have been made by a reasonable body of people after proper consideration of all the facts and thus falls within the provisions of Section 7 (3) (e) of the Law.

The Board's conclusion is that the HSSD should reimburse Mr. Brooks for his medical expenses incurred in London – but on the basis of the costs which would have been incurred by the scheme had the correct reference procedure been followed, so that a reference would have been made to Guy's and St. Thomas's under the contractual arrangement in place with the HSSD. The Board also concludes that Mr. Brooks's travelling costs should also be reimbursed in respect of the visit to London in March 2011. Although such a claim should have been made pursuant to the terms of Social Security Grant Leaflet 58 (whereby details relating to Mr. Brooks should have been sent to the Health Benefits Section by Mr. Brooks's Specialist or G.P.) the Board realises that the HSSD and the Social Security Department are simply two parts of a greater whole – i.e. the States of Guernsey - and it seems unlikely that an appropriate money transfer cannot be made between those Departments.

The Board requests the Department to reconsider the matter accordingly.

POSTSCRIPT 1.

As a preliminary issue prior to the hearing the Chairman of the Board arranged for Mr. Brooks and the HSSD to be informed that a consultant in his Advocates's firm had acted for the Medical Specialist Group during the period in the early 1990s when the health care contract was being negotiated with the Board of Health, and enquired whether either party wished to raise any objection to his involvement in the review on the ground of conflict. He informed them that he had not been involved personally in the matter and not seen the health service contract prior to the review papers being received. Both parties confirmed that they had no such objection.

POSTSCRIPT 2.

A review is an enquiry, not a court case. The Board proceeded to hear this complaint and arrived at its conclusions by taking at face value any statement by a party which went unchallenged by the other party. A number of individuals were referred to during the course of the parties's presentations, who were not present to counter or otherwise correct any perceived wrongful assertions relating to them. Clearly, it was and is not for the Board to hold itself out as arriving at any legal finding of fact in respect of such individuals.

5th December 2012

R. A. Perrot M. Fallaize A. M. J. Courtney

(N.B As there are no resource implications in this Report, the Treasury and Resources Department has no comments to make.)

(N.B The Policy Council has no comments on the Report.)

The States are asked to decide:-

VII.- Whether, after consideration of the Report dated 18th April, 2013, of the Panel of Members (constituted by the Administrative Decisions (Review) (Guernsey) Laws, 1986-1993), they are of the opinion to note the contents of that Report.

ORDINANCE LAID BEFORE THE STATES

THE NORTH KOREA (RESTRICTIVE MEASURES) (GUERNSEY) (AMENDMENT) ORDINANCE, 2013

In pursuance to the provisions of the proviso to Article 66 (3) of the Reform (Guernsey) Law, 1948, as amended, The North Korea (Restrictive Measures) (Guernsey) (Amendment) Ordinance, 2013, made by the Legislation Select Committee on 22nd April, 2013, is laid before the States.

STATUTORY INSTRUMENT LAID BEFORE THE STATES

THE MERCHANT SHIPPING (OIL POLLUTION) (SUPPLEMENTARY FUND PROTOCOL) (BAILIWICK OF GUERNSEY) (COMMENCEMENT) ORDER, 2013

In pursuance of Section 289(1) (c) of The Merchant Shipping (Guernsey) Law, 2002, the Merchant Shipping (Oil Pollution) (Supplementary Fund Protocol) (Bailiwick of Guernsey) (Commencement) Order, 2013, made by the Public Services Department on 17th April, 2013, is laid before the States.

EXPLANATORY NOTE

This Order brought into force throughout the Bailiwick the Merchant Shipping (Oil Pollution) (Supplementary Fund Protocol) (Bailiwick of Guernsey) Ordinance, 2009, following the extension to the Bailiwick of the Protocol of 2003 to the International Convention on the Establishment of an International Fund for Oil Pollution Damage, 1992.

Guernsey Quarterly Inflation Bulletin

31st March 2013 - Issue date 19th April 2013

POLICY COUNCIL
THE STATES OF GUERNSEY

1.1 Introduction

The Guernsey RPIX and RPI are measures of inflation. They measure the change in the prices of goods and services bought for the purpose of consumption or use by households in Guernsey. The indices are published quarterly by the States of Guernsey Policy and Research Unit. The calculations of the RPIX and RPI are based on the price change of items within a 'shopping basket'. Whilst some prices rise over time, others will fall or fluctuate and the indices represent the average change in these prices. More detailed information on the calculation of these indices can be found at the end of this handout.

1.2 Headlines

- Guernsey's annual inflation as measured by the RPIX ('core' inflation excluding mortgage interest payments) was 2.3% in March 2013, 0.7 percentage points lower than the previous quarter, ending December 2012 and 0.9 percentage points lower than in March 2012.
- In the UK the equivalent RPIX figure for March 2013 was 3.2% (see ***Figure 1.2.1***). RPIX in Jersey was 1.6%.
- Food and Leisure services made the largest contributions to the increase in RPIX in March 2013, each contributing 0.4 percentage points.
- Clothing and Household goods made negative contributions to the annual change in RPIX in March 2013.
- The 'all items' RPI annual inflation was 2.6% in March 2013, compared to 3.2% the previous quarter and 3.5% in March 2012.
- The annual change in the UK RPI in March 2013 was 3.3%. RPI for Jersey in March 2013 was 1.4%.

Figure 1.2.1: Annual percentage change in RPIX