

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

27th December, 2020

Proposition No. P.2020/208

POLICY & RESOURCES COMMITTEE

The Bailiwick's Participation in the UK-EU Trade and Cooperation Agreement

AMENDMENT

Proposed by: H M Procureur
Seconded by: H M Comptroller

1. Immediately after Proposition 6 insert the following Proposition:-
 - "7. To note the contents of the letter dated 24 December 2020, relating to the Bailiwick's participation in the Agreement between the UK and the EU, sent by the Lord Chancellor & Secretary of State for Justice to the President of the States of Guernsey Policy & Resources Committee."
2. Renumber Proposition 7 as Proposition 8.



Chief Minister

Deputy Peter Ferbrache
Sir Charles Frossard House
La Charroterie
St. Peter Port
Guernsey
GY1 1FH

24 December 2020

Dear Peter,

GUERNSEY'S PARTICIPATION IN THE AGREEMENT BETWEEN THE UK AND THE EU

This letter is sent in connection with the Bailiwick of Guernsey's proposed participation in the negotiated agreement between the United Kingdom of Great Britain and Northern Ireland and the European Union (the "Agreement").

Successive Governments have made clear on a number of occasions since the UK's 2016 Brexit referendum, that the UK's decision to leave the EU, and to enter a new trading relationship with the EU, does not alter or affect the constitutional relationships, through the Crown, between the UK and each of the Crown Dependencies. Neither does it affect Guernsey's participation in the Common Travel Area with the UK, Republic of Ireland and the other Crown Dependencies.

I am pleased to reaffirm the UK Government's commitment to the much valued and long-standing constitutional relationship between the UK and Guernsey. I look forward to continuing to strengthen that relationship, in line with the Justice Select Committee Reports and Government responses of 2010-14; and the Framework for Developing the International Identity of Guernsey, signed in 2008. The UK Government will continue to work closely with Guernsey, in positive collaboration and in the context of our existing constitutional relationship, as we implement the Agreement and develop new trading relationships with other countries. The UK Government continues to support Guernsey and the other Crown Dependencies seeking Letters of Entrustment in additional policy areas, where appropriate, recognising as it does the value to the Crown Dependencies of representing their own interests on the international stage.

As a Crown Dependency, Guernsey is self-governing in respect of its domestic affairs, including in relation to its territorial sea. The UK is responsible for the defence and international relations of the Crown Dependencies. The UK recognises and respects Guernsey's excellent track record of meeting its international obligations through its own domestic policies and legislation. The UK understands that you now have your own decision-making processes to go through to indicate your consent to inclusion in the Agreement. I note the article in the Agreement that would allow for termination of the arrangements applicable to Guernsey within 90 days of the Agreement's entry into force, were you to request this. Subject to your inclusion, while the UK will retain ultimate responsibility in international law for compliance with obligations created by the Agreement, it is for the Governments of the Bailiwick of Guernsey to determine, in consultation with the UK Government as may be appropriate, how the Agreement should be implemented and administratively enforced in the Bailiwick, and for the Bailiwick's competent authorities to undertake such implementation as necessary. In particular, the UK Government recognises that it will

be for the Bailiwick of Guernsey to license and manage fishing by EU vessels in its territorial seas under the Agreement.

Subject to the approval of its legislatures, the Governments of the Bailiwick have confirmed that they are committed to adopting such domestic policies, laws or practices as they consider necessary or expedient for the purpose of implementing the Agreement. In the unlikely event that there is any dispute with the EU, as to any of the islands in the Bailiwick's compliance with the Agreement, the UK Government will work closely with the Governments of the Bailiwick to ensure that their interests are fully represented and that the Governments are fully engaged in the conduct of any dispute resolution process.

In recognition of Guernsey's fiscal autonomy, and in line with constitutional arrangements, I am happy to record that Guernsey was fully consulted upon, and consented to, the declaration in respect of the Bailiwick of Guernsey and the Bailiwick of Jersey on cooperation with the European Union on the recovery of claims related to VAT, customs duties and excise duties. I anticipate and am supportive of the Bailiwicks of Guernsey and Jersey requesting entrustments to negotiate the arrangements referred to in the declaration directly with the EU in due course.

Some provisions of the Agreement can be used to create new or modify existing obligations. Where any proposal is made to create or amend any obligation which could apply to Guernsey, the UK Government will engage fully with Guernsey prior to entering any negotiations concerning those obligations. I can confirm that the UK Government will involve Guernsey, as appropriate, in discussions about the formulation of the UK's policy position on such relevant matters. The UK Government recognises that the interests of Guernsey and the UK may be different in this context and will only extend any new or amended obligations arising under the Agreement to Guernsey in accordance with the established constitutional arrangements between the UK and Guernsey for consultation and consent.

I am copying this letter to the Paymaster General, Chief Pleas and the States of Alderney.

Yours ever,

A handwritten signature in black ink that reads "Robert Buckland". The signature is written in a cursive, slightly slanted style.

RT HON ROBERT BUCKLAND QC MP