

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

CONSIDERATION OF GUERNSEY'S PARTICIPATION IN INTERNATIONAL AGREEMENTS

The States are asked to decide:-

Whether, after consideration of the Policy Letter entitled "Consideration of Guernsey's Participation in International Agreements" dated 1<sup>st</sup> November, 2021, they are of the opinion:-

1. To rescind the Resolutions of 25<sup>th</sup> February, 1987, relating to the Policy Letter entitled "International Conventions and Agreements", dated 23<sup>rd</sup> January, 1987.
2. Subject to Resolution 3 and any resolution of the States to the contrary –
  - i. to agree that Guernsey's participation in any international agreement should meet Guernsey's needs, whilst respecting the constitutional relationship with the UK through the Crown and Guernsey's domestic autonomy;
  - ii. to endorse the process and approach set out in Paragraphs 6.5-6.10 of this Policy Letter regarding Guernsey's participation in international agreements;
  - iii. to direct the Policy & Resources Committee to maintain efforts to ensure that Guernsey's interests and, subject to the necessary authorisations from Alderney and Sark, the interests of either of those islands or, as the case may be, the Bailiwick's interests continue to be represented to the UK in respect of international agreements;
  - iv. provided there has been consultation with or a request from any other committee whose mandate is engaged by an international agreement, to authorise the Policy & Resources Committee to agree to Guernsey's participation and, subject to the necessary authorisations from Alderney and Sark, the participation of either of those islands or, as the case may be, the Bailiwick's participation in international agreements, whether in whole or in part or with reservations, or to decline the same, and signal that agreement, or rejection, to HM Government.
3. By way of exception to Resolution 2, to direct the Policy & Resources Committee, or, if applicable, other committees of the States, to refer questions relating to participation in international agreements, together with its or, if applicable, their

recommendations, to the States of Deliberation for debate and decision in cases where –

- i. save in cases of urgency, the terms of any international agreement appear to the Policy & Resources Committee to involve questions of human rights and fundamental freedoms, or matters which, in the opinion of the Policy & Resources Committee are likely to be considered controversial;
  - ii. the Policy & Resources Committee and any other committee of the States whose mandate is engaged by an international agreement do not agree on questions relating to participation in an international agreement;
  - iii. the Policy & Resources Committee otherwise considers it to be necessary or expedient to refer a question relating to participation in an international agreement to the States of Deliberation.
4. To direct the Policy & Resources Committee, in cases where the exception detailed in paragraph i) of Resolution 3 is engaged but the matter is not referred to the States of Deliberation because of urgency, to refer such matters to the States of Deliberation as soon as possible after the exercise of its delegated authority so such decisions can be debated and noted.
  5. To direct the Policy & Resources Committee to submit periodically a report setting out all international agreements for which participation has been or is being considered for Guernsey within the reporting period (whatever the status or outcome), and work undertaken in respect of the same, for inclusion as an appendix to a Billet d'État.
  6. To direct the Policy & Resources Committee to create an online resource to provide publicly accessible information about international agreements that have been considered, applied, extended or entered into, or rejected, by Guernsey and those that are currently under consideration.

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

**THE STATES OF DELIBERATION**  
**of the**  
**ISLAND OF GUERNSEY**

**POLICY & RESOURCES COMMITTEE**

CONSIDERATION OF GUERNSEY'S PARTICIPATION IN INTERNATIONAL AGREEMENTS

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

1<sup>st</sup> November, 2021

Dear Sir

**1 Executive Summary**

- 1.1 The UK Government has responsibility, on behalf of the Crown, for the defence and international relations of the Bailiwick of Guernsey. It is longstanding constitutional practice that the UK consults the Crown Dependencies before it enters into or seeks to enter into an international agreement so that they can consider whether they wish the international agreement to apply to them and, if so, provide their consent to application. The islands can also proactively request the later extension or further extension of an international agreement or conclude agreements directly with sovereign states under entrustment. In this Policy Letter, these three mechanisms (initial application, later extension, and entrustment) for coverage by an international agreement will be referred to in terms of 'participation'.
- 1.2 The Policy & Resources Committee ('the Committee') has responsibility for considering, co-ordinating, and consenting to Guernsey's participation in international agreements – it also superintends such matters on behalf of Alderney and Sark if they so wish. The Committee has this responsibility generally through its own mandate and Resolutions of the States of 25 February 1987 ('the 1987 Resolutions')<sup>1</sup> – and specifically and on a Bailiwick-wide basis in relation to goods-related aspects of Free Trade Agreements ('FTAs') (including other trade arrangements).

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<sup>1</sup> 'International Conventions and Agreements', Billet d'État IV of 6<sup>th</sup> February, 1987, and Resolutions of 25<sup>th</sup> February, 1987.

1.3 As it is now more than 30 years since the 1987 Resolutions were made, there have been various changes in working practices and the development of Guernsey's international identity. The 1987 Resolutions no longer accurately reflect the way in which Guernsey participates in international agreements. The Committee has reviewed the processes and practices in the modern context.

1.4 This Policy Letter recommends modernising and re-stating the 1987 Resolutions to ensure that the processes for considering and approving Guernsey's participation in international agreements are fit for purpose, including providing sufficient flexibility to react to fast-paced events and to enable additional transparency and increased public awareness.

## **2 Current process relating to the consideration of Guernsey's participation in international agreements**

2.1 The UK Government has responsibility, on behalf of the Crown, for the defence and international relations of the Bailiwick of Guernsey. Consequently, as the Bailiwick of Guernsey is not a sovereign state, it is commonplace for UK-concluded international agreements to be applied or (later) extended to the Bailiwick. In recent decades, Guernsey in particular has also been working to further develop its own international identity<sup>2</sup>.

2.2 It is longstanding constitutional practice that the UK consults the Crown Dependencies before it enters into or seeks to enter into an international agreement so that they can consider whether each one wishes the international agreement to apply to them and, if so, provide their consent to application. It is agreed practice accepted by the United Nations that international agreements to which the UK is a party can be extended to any of the Crown Dependencies (if they so wish) at a later date. The islands can also proactively seek to be included in an international agreement or, increasingly, seek Letters of Entrustment from the UK to conclude international agreements on their own behalf. Within the Bailiwick, international agreements can apply to the Bailiwick as a whole, to specific islands within the Bailiwick, or to a combination of islands as agreed by the respective authorities.

2.3 The Ministry of Justice has issued a comprehensive set of guidance notes on the Crown Dependencies' participation in international agreements for the benefit of other UK Government departments<sup>3</sup>. Further information on the relationship with the UK and the process by which the Bailiwick can participate in international agreements is set out in written evidence provided by Guernsey's government to the House of Commons Public Administration and Constitutional

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<sup>2</sup> As outlined in paragraph 4.4.

<sup>3</sup> Guidance - [Crown Dependencies: Jersey, Guernsey and the Isle of Man](#).

Affairs Committee<sup>4</sup>.

- 2.4 The Policy & Resources Committee has responsibility for considering, co-ordinating, and consenting to Guernsey's participation in international agreements – it also superintends such matters on behalf of Alderney and Sark if they so wish. The Committee has this responsibility generally – through its own mandate and the 1987 Resolutions<sup>5</sup> – and specifically and on a Bailiwick-wide basis in relation to goods-related aspects of FTAs (including other trade arrangements).
- 2.5 The method for dealing with Guernsey's participation in international agreements under the 1987 Resolutions was governed by the practicalities of the day. At that time, it was considered to be too resource intensive to submit documents and Propositions for all international agreements to the States of Deliberation; there was also concern that doing so could cause timing issues in relation to UK consultation periods. In short, the 1987 Resolutions set out the process by which international agreements are to be considered; delegate authority to what is now the Policy & Resources Committee to acquiesce to the participation of Guernsey in an international agreement, except in certain circumstances (i.e. in cases of controversy or of disagreement between committees); and detail the reporting requirements. The 1987 Resolutions state:
- “1. That each international agreement in the application of which to this Island the Insular Authorities are invited to acquiesce shall be referred by the Bailiff to the States Advisory and Finance Committee and that the States Advisory and Finance Committee shall make to the Bailiff its recommendations as to whether a notification of acquiescence in the application of an agreement to this Island either in whole or with reservations or of non-acquiescence should be made and thereupon the Bailiff shall communicate with the proper quarter in accordance with such recommendations provided that:-
- a) where the terms of any international agreement appear to the States Advisory and Finance Committee to involve questions of human rights and fundamental freedoms, or matters which, in the opinion of the States Advisory and Finance Committee are likely to be considered controversial, the terms of the proposed agreement shall be laid before the States;

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<sup>4</sup> Further information on the role of the islands in relation to international treaties and arrangements is outlined in [written evidence provided by Guernsey](#) to the House of Commons Public Administration and Constitutional Affairs Committee for their inquiry 'The Scrutiny of International Treaties and other international agreements in the 21st century', published 26<sup>th</sup> October, 2021.

<sup>5</sup> 'International Conventions and Agreements', Billet d'État IV of 6<sup>th</sup> February, 1987, and Resolutions of 25<sup>th</sup> February, 1987.

- b) where the subject matter of the agreement relates to a subject which is the concern of any other States Committee, the States Advisory and Finance Committee shall refer the agreement to that Committee with a request for its views;
- c) where the States Advisory and Finance Committee or a States Committee concerned considers it necessary or expedient that the matter of acquiescence or non-acquiescence in the application to this Island of an agreement should be submitted to the States for a decision, the matter shall be so submitted by the States Advisory and Finance Committee together with any necessary clarification and recommendations; and
- d) where the views of the States Advisory and Finance Committee and of any other States Committee concerned are not in accord on the matter, the difference between them shall be submitted by the States Advisory and Finance Committee to the States for a decision thereon.

- 2. That the States Advisory and Finance Committee shall submit annually to the Bailiff for inclusion as an appendix to a Billet d'État a report setting out the title and brief description of each international agreement received by the States Advisory and Finance Committee in the preceding year and giving details of the action taken in relation to that agreement."

### **3 Previous decisions of the States of Deliberation in relation to Guernsey's participation in international agreements**

- 3.1 In August 2020, following consideration of a Requête ('the Requête')<sup>6</sup>, the States resolved:

- "2. To direct the Policy & Resources Committee, in consultation with other Committees of the States, to develop proposals for a modernised approach to the adoption of international treaties and conventions in Guernsey, which includes a greater degree of democratic scrutiny and engagement by the States Assembly as set out in this Requête, to replace the 1987 Resolution, and to return to the States with proposals no later than the end of 2021."

- 3.2 It was not recommended that substantial changes were needed to the way in which Guernsey considers and agrees to participation in international agreements, but areas for improvement were identified. This included a need for additional transparency (with opportunity for greater parliamentary scrutiny and challenge) and increased public awareness.

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<sup>6</sup> 'Extension to the Bailiwick of the UK-US Extradition Treaty of 2003 and changes to processes relating to the approval of international instruments', [Billet d'État XVI of 2020](#) and [Resolutions](#) of 25<sup>th</sup> August, 2020.

- 3.3 A letter of comment from the Committee<sup>7</sup> in response to the Requête noted that “the 1987 Resolutions no longer fully reflect the process by which treaties are referred to the States of Guernsey” and agreed that “a review of the process relating to international agreements in regard to Guernsey, as outlined in the Requête, with the ultimate intention to replace the 1987 Resolutions would appear to be appropriate...The review and subsequent proposals would include consideration as to the extent to which it is possible or appropriate for the ‘approach to the adoption of international treaties and conventions in Guernsey’ to have ‘a greater degree of democratic scrutiny and engagement by the Assembly as set out in this Requête’”.
- 3.4 The Constitutional Investigation Committee (‘CIC’) was formed in January 2014<sup>8</sup>, following earlier decisions of the States of Deliberation<sup>9</sup>, to investigate proposals on greater autonomy in relation to the legislative process and international affairs. The CIC’s report was considered by the States of Deliberation in January 2016<sup>10</sup> and all the recommendations were agreed. *Inter alia* there were objectives of the CIC relating to participation in international agreements, particularly in terms of entrustment.

#### **4 Developments since the adoption of the 1987 Resolutions**

- 4.1 Since the 1987 Resolutions came into effect, working practices have changed significantly and the Resolutions no longer fully reflect the way in which Guernsey participates in various different types of international agreements.
- 4.2 Technology and methods of communication have changed, the UK is now pursuing a fully independent international trade and relations policy after its withdrawal from the EU, and a closer working relationship has been established between the States of Guernsey and the UK Government. It is now common practice for information and requests about international agreements to be sent directly between the UK Government and the States of Guernsey, and for direct engagement on such matters to take place with relevant UK Government departments.
- 4.3 Methods and processes have also evolved for the way in which work is undertaken by the States of Guernsey, to ensure the effective prioritisation of resources to fulfil the strategic objectives of government.

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<sup>7</sup> [Letter of comment from the Policy & Resources Committee](#), dated 13<sup>th</sup> March, 2020.

<sup>8</sup> ‘Establishing the Constitutional Investigation Committee’, [Billet d’État I of 2014](#) and [Resolutions](#) of 30<sup>th</sup> January, 2014.

<sup>9</sup> ‘Greater Autonomy in the Legislative Process and International Affairs’, [Billet d’État XVIII of 2013](#) and [Resolutions](#) of 26<sup>th</sup> September, 2013.

<sup>10</sup> ‘Proposal to Achieve Greater Autonomy in the Legislative Process and International Affairs for Guernsey’, [Billet d’État I of 2016](#) and [Resolutions](#) of 27<sup>th</sup> January, 2016.

4.4 Perhaps most importantly, Guernsey has developed a greater international identity in the last few decades. In 2008, the UK and Guernsey formally agreed a framework that recognised the appropriateness of Guernsey having greater independence with respect to international relations and sought to further enhance Guernsey's international persona<sup>11</sup>.

## 5 Agreements negotiated under entrustment

5.1 In certain circumstances, Guernsey may be authorised to negotiate directly with sovereign states and conclude its own international agreements by a process of entrustment. To date, entrustment has been granted to Guernsey: 1) generally, to negotiate tax agreements with other jurisdictions, including Tax Information Exchange Agreements ('TIEAs') and Double Taxation Agreements ('DTAs'); and, 2) specifically, to conclude a social security agreement with Latvia. To date Guernsey has agreed:

- TIEAs - Guernsey signed its first TIEA with the United States of America in September 2002. To date, Guernsey has signed 61 TIEAs with other jurisdictions<sup>12</sup>.
- DTAs – Guernsey currently has 14 full DTAs and partial DTAs with 12 jurisdictions<sup>13</sup>.

5.2 The framework within which tax agreements are negotiated and concluded under entrustment by the Committee, on behalf of the States of Guernsey, is accepted and understood. The States have an opportunity to comment on or challenge any specific tax agreement when the relevant legislation is brought to the States of Deliberation in advance of the agreement being brought into force. It is therefore not intended that the Propositions in this Policy Letter would affect this well-established practice.

5.3 In 2015, the States of Deliberation resolved “that the States approve in principle the entry into a reciprocal agreement on social security with Latvia”<sup>14</sup>. In March 2019, Guernsey received a specific entrustment from the UK to negotiate and conclude a social security agreement with Latvia. The ‘Agreement between the States of Guernsey and the Republic of Latvia on Social Security’<sup>15</sup> was signed in September 2020 and entered into force in June 2021. This was the first agreement concluded by Guernsey under entrustment in an area outside of tax

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<sup>11</sup> [Framework for developing the international identity of Guernsey](#) (sometimes referred to as international identity framework).

<sup>12</sup> Further information can be found at <https://www.gov.gg/tiea>.

<sup>13</sup> Further information can be found at <https://www.gov.gg/dta>.

<sup>14</sup> ‘Benefit and Contribution Rates for 2016’, [Billet d’État XVIII](#) of 2015 and [Resolutions](#) of 30<sup>th</sup> October, 2015.

<sup>15</sup> The text of the ‘Agreement between the States of Guernsey and the Republic of Latvia on Social Security’ is set out in [Billet d’État XXV of 2020](#).

matters. At this time, no further specific agreements have been identified that Guernsey would wish to negotiate under entrustment.

5.4 The CIC report of 2016<sup>16</sup> included recommendations relating to the entering into of agreements under entrustment. This included seeking a blanket entrustment granted to the island by the UK, which would be valid for Guernsey to negotiate and conclude agreements directly with other parties, except when agreements concluded under it<sup>17</sup>:

- i. affect defence and security matters;
- ii. restrict Human Rights;
- iii. also apply to the UK;
- iv. require the participant to be a sovereign state;
- v. are to be negotiated within an international organisation of which the UK is a member.

5.5 Initial, informal, conversations have taken place with officers at the Ministry of Justice regarding a blanket entrustment, but to date no formal discussions have been held on this topic. Opportunities will continue to be sought to negotiate agreements under entrustment to demonstrate a need for a blanket entrustment, and the social security agreement recently concluded with Latvia can be seen as trailblazing in this regard. The issue of a general entrustment for agreements will be kept under review as Guernsey continues to develop its international identity.

## **6 Proposed changes to the 1987 Resolutions**

6.1 As a result of the evolution of Guernsey's international identity over recent decades, developments in working practices of the States, and past decisions, changes are being proposed to modernise and re-state the 1987 Resolutions so that they reflect the way in which international agreements are entered into by Guernsey, through initial application, later extension, or entrustment, now and for the foreseeable future.

6.2 In developing these proposals, the Committee has sought to balance the need for flexibility with the need to ensure appropriate domestic scrutiny processes can be followed, thus providing transparency and increasing public awareness of the international agreements which are binding on Guernsey.

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<sup>16</sup> 'Proposal to Achieve Greater Autonomy in the Legislative Process and International Affairs for Guernsey', [Billet d'État I of 2016](#) and [Resolutions](#) of 27<sup>th</sup> January, 2016.

<sup>17</sup> As set out in paragraph 7.7 of the CIC report.

## Flexibility

- 6.3 As Guernsey's international identity has developed, an increasing number of international agreements across a wide range of policy areas are being considered, which *inter alia* demonstrates Guernsey's commitment and adherence to international standards. In addition, new agreements continue to be negotiated multilaterally on the international plane or bilaterally by the UK, many of which Guernsey may wish to participate in (whether following consultation from the UK or by request).
- 6.4 Some new international agreements may involve short timescales for consideration by Guernsey. That could be as a result of negotiation timetables between the UK and its proposed treaty partner(s), and such time pressures are likely to be outside of the control of Guernsey. This is particularly the case for FTAs, so a bespoke process for enabling Guernsey (and the wider Bailiwick) to agree to participation in such FTAs is outlined in a Policy Letter<sup>18</sup> and the resulting Resolutions made by the States of Deliberation. The proposed changes outlined in this Policy Letter are not intended to alter the process agreed for participation in UK FTAs, but, rather, apply to international agreements generally or by way of default. New international agreements may also include confidential elements during any negotiation period or may engage wider reputational issues for Guernsey to consider.
- 6.5 In order to retain the necessary flexibility and ability for Guernsey to react quickly to consider international agreements when needed, it is recommended that the Committee retain delegated authority to request and/or agree to Guernsey's participation in new or existing international agreements, as is the case under the 1987 Resolutions, but that they be modernised and restated in line with the below process:
- 1) A request may be sent by the UK Government to the Policy & Resources Committee or another relevant committee in Guernsey to consider, or from Guernsey to the UK Government to seek, participation in a particular international agreement. Where correspondence takes place directly between the UK Government and a committee other than the Policy & Resources Committee, the Policy & Resources Committee should be sighted on such exchanges at an early stage (via the External Relations team).

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<sup>18</sup> 'The Bailiwick's Participation in UK Free Trade Agreements', [Billet d'État XVII of 2021](#) and [Resolutions of 10<sup>th</sup> September, 2021](#). The Sark version of the Propositions relating to this Policy Letter were approved by Sark Chief Pleas on 7<sup>th</sup> July, 2021. The Alderney version of the Propositions relating to this Policy Letter were approved by the States of Alderney on 4<sup>th</sup> October, 2021.

- 2) A decision to agree to or request participation (or not) in an international agreement would follow consideration of the matter by the Policy & Resources Committee. In cases where participation in an international agreement is initiated by the UK and its subject matter falls within the mandate of other committees, there would be an opportunity for consideration and approval by those committees. The Policy & Resources Committee would promptly share information regarding any such international agreements with such committees. In cases where participation in an international agreement is initiated by Guernsey, consideration by the Policy & Resources Committee should follow the initial consideration carried out by those committees who have mandated responsibility for the subject-matter of the international agreement.
- Consideration of the matter by the Policy & Resources Committee and other committees should include matters such as, but not limited to: designation of a lead Committee for implementation, monitoring, reporting, and maintaining compliance after the international agreement has come into force; likely resourcing requirements, including potential funding and staffing requirements for any policy or operational matters relating to the international agreement (initially and for subsequent implementation, monitoring, reporting, and compliance etc.); legislative, regulatory or policy changes required; IT or operational changes; communications issues; and reputational matters.
  - Consultation on international agreements under consideration will take place with relevant committees according to policy responsibilities and the matters covered by the agreement in question. It is not intended that consultation will take place by default with all Principal Committees on all international agreements as this could create unnecessary work for committees which do not have mandated responsibility for the subject-matter of the agreement in question.
  - Where consultation is initiated by the Policy & Resources Committee with certain committees, those committees can suggest consultation with further committees if responsibility for the particular subject-matter of an international agreement, or part of it, is shared or is otherwise the responsibility of another committee.
  - Participation (or not) in an international agreement should be considered within the wider context of government priorities to ensure alignment with the overall work of the States, such that the Policy & Resources Committee or other relevant committees may wish to consult additional committees of the States.

- 3) Having considered the matter, the Policy & Resources Committee would signal (to the UK) Guernsey's (and, subject to any necessary authorisations, Alderney's, Sark's or the Bailiwick's) consent to participation in an international agreement. Alternatively, the Policy & Resources Committee may decline to provide consent, offer reservations, or engage in such further discussions or negotiations with the UK as the context may require.
- 4) Participation in an international agreement would then be confirmed through official channels, being official correspondence between the government of Guernsey and the UK Government, through the Office of the Lieutenant-Governor.

6.6 There are some exceptions to the use of delegated authority of the Committee as set out above. Some of those exceptions, if engaged, would require suitable Propositions to be put to the States of Deliberation for debate and decision about whether or not to participate in an international agreement:

- a. Where a specific framework for participation in classes of international agreements exists because the principles have already been considered by the States (e.g. in relation to tax agreements falling within the general entrustment, or FTAs); in such cases the delegated authority of the Policy & Resources Committee would be exercised in accordance with those frameworks.
- b. Where the terms of any international agreement appear to the Policy & Resources Committee to involve questions of human rights and fundamental freedoms, or matters which, in the opinion of the Policy & Resources Committee are likely to be considered controversial (which could include, for example, any significant resourcing implications for the States of Guernsey), the terms of the proposed agreement shall be laid before the States. However, where timing pressures do not allow an international agreement to be submitted in time for consideration by the States of Deliberation, either at a scheduled meeting or in accordance with Rule 2(4) or Rule 2(5) of the Rules of Procedure, the Policy & Resources Committee will retain the delegated authority to agree to or request Guernsey's participation in international agreements. In such a situation, the Policy & Resources Committee will refer the matter to the States of Deliberation as soon as possible afterwards, so that such a decision can be debated and noted.
- c. Where the Policy & Resources Committee and another relevant Committee do not agree (or, where an international agreement covers the mandates of multiple committees, two or more committees do not agree) on participation (or not) in an international agreement, the matter will be put to the States of Deliberation for a decision.

- d. Where the Policy & Resources Committee otherwise considers it to be necessary or expedient to refer the matter to the States of Deliberation for debate and decision.
- 6.7 If matters relating to an international agreement are put to the States for debate and decision, the Policy & Resources Committee must provide recommendations and information as needed, supported by any relevant information from other relevant committees; in the case where the question is being put because another relevant committee takes a different view, in accordance with point c above, that/those committee(s) must also provide recommendations and/or information as needed. Where such matters are put to the States, this could be in the form of a joint Policy Letter between the Policy & Resources Committee and the other relevant committees or through a Policy Letter (drafted by either the Policy & Resources Committee or the other committee) with attached letters of comment from relevant committees.

#### Entrustment

- 6.8 In the absence of a blanket entrustment (as noted in paragraphs 5.4 and 5.5), it is recommended that if the Policy & Resources Committee, or another relevant committee, wishes to pursue any new agreement(s) that would require a new general or specific entrustment (or a substantial variation to an existing entrustment; for example, where such variations would enable the conclusion of future types of agreements which had not been envisaged at the time an entrustment was originally granted), a Policy Letter from either the Policy & Resources Committee or other relevant committee(s) should first be considered by the States to agree the proposal to seek an entrustment (or a substantial variation to an existing entrustment) to negotiate a new international agreement. It is not intended that the Propositions in this Policy Letter would affect the well-established practice already in place with respect to tax agreements under the current general entrustment for that purpose.
- 6.9 Such Policy Letters could seek approval to pursue either a specific individual agreement (as with the social security agreement with Latvia) or seek approval for a framework under which certain types of agreements could be negotiated (as has historically been the case for tax agreements). This would provide transparency about agreements Guernsey is seeking to enter into, and an opportunity for parliamentary engagement and scrutiny at an early stage. It should also ensure that considerations relating to resourcing for seeking the entrustment, negotiating the international agreement in question, and ongoing implementation, compliance, monitoring and reporting requirements can be considered within the wider context of strategic government priorities.
- 6.10 There could be instances where an entrustment may be required to negotiate an agreement at short notice, which does not allow for time for such a matter to be

considered by the States before a request is made to the UK for an entrustment to be granted. In such instances, it is recommended that an entrustment may be requested by the Policy & Resources Committee but should not be exercised until after the States have approved the entering into of negotiations. This would enable any financial or policy implications to be debated before negotiations under the entrustment commence.

#### Information available to the States of Deliberation and the public

- 6.11 To provide greater transparency about international agreements that Guernsey considers and enters into (or declines), the Committee recommends that all committees should seek to include information relating to international agreements in their regular updates<sup>19</sup> given to States' meetings. This should be either as part of their Rule 10(4) statement, or, if circumstances require it, by seeking the permission of the Presiding Officer to deliver a statement under Rule 10(3).
- 6.12 To complement information provided through regular committee update statements and to provide a clear summary of actions taken by or on behalf of the States, it is recommended that a report be submitted periodically by the Policy & Resources Committee to the States of Deliberation to set out agreements considered, work undertaken within the reporting period, and any new international agreements which Guernsey is participating in.
- 6.13 It is also recommended that, as part of work to digitise the information held by the States of Guernsey and to make the situation about international agreements more accessible, work is undertaken to create an online resource to provide publicly accessible information about which international agreements are binding on Guernsey, and the wider Bailiwick, and those which are actively being considered. Such a resource would be updated on a periodic basis. This resource can also be used to help prioritise work on international agreements and manage resourcing needs.

#### Operational considerations

- 6.14 The recommendations in this Policy Letter do not affect responsibility for particular policy matters. Committees will continue to have responsibility for policy areas falling within their mandates, including any relevant international agreements pertaining to those policy areas.

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<sup>19</sup> Rule 10(4) states "the President of the Policy & Resources Committee and the President of each Principal Committee shall be obliged twice every twelve months and the President of the following other Committees of the States, ..., and the nominated Alderney Representative on behalf of the States of Alderney, shall be obliged once every twelve months ... to make a statement setting out his or her Committee's, or in the case of the nominated Alderney Representative the States of Alderney's, recent activities, forthcoming work and the like at an ordinary Meeting."

- 6.15 Participation in international agreements means that Guernsey has obligations which must continue to be met to ensure that the agreements are suitably implemented. These obligations include ongoing monitoring and reporting requirements, as well as the need to ensure that policies and legislation continue to conform with the requirements of particular international agreements. The lead Committee with responsibility for a particular international agreement should ensure that it is able to resource this work sufficiently when seeking to participate in an international agreement. Guernsey will also continue to meet its ongoing international obligations through appropriate and timely reporting on international agreements as required<sup>20</sup>.
- 6.16 The Policy & Resources Committee will continue to have a close interest in international agreements given its responsibilities for external relations and international and constitutional affairs generally (including Guernsey's international identity and its reputation) and for leadership and co-ordination of the work of the States.

## **7 Resources**

- 7.1 There will be no financial implications from the proposed changes to the processes relating to participation in international agreements (except as noted in the following paragraph). The new process would form a procedural element of work to be undertaken when a committee is considering any international agreement. Resource considerations for ongoing monitoring or implementation of an agreement will need to be considered by the relevant committee(s) as part of that work, as is currently the case, in order to maintain compliance with the obligations that Guernsey would sign up to through participation in an agreement.
- 7.2 There will be a small financial cost for developing and implementing the proposed online information resource (as set out in paragraph 6.13), which is anticipated to cost approximately £2,500. Some policy and administrative resource will be required at the outset to gather the relevant data to be included, which will be uploaded periodically. However, once set up, it is not anticipated that there would be any further financial implications from maintenance of the online resource. Financial and staffing requirements to develop, maintain and update the online resource will be met from existing resources allocated to the External Relations team.
- 7.3 Where the Policy & Resources Committee uses delegated authority to agree to Guernsey's participation in an international agreement, consideration will be

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<sup>20</sup> The States of Guernsey publish reports that have been submitted in line with reporting obligations for international agreements which have been extended to Guernsey, for example for the International Labour Organisation (ILO). Reports are available to view [here](#).

given to any resourcing requirements that could arise from such a decision. Where significant resourcing implications are identified, a Policy Letter will be put to the States of Deliberation for a decision.

## **8 Alderney and Sark**

- 8.1 An international agreement could apply or be extended to Guernsey only, Guernsey with Alderney or Sark (or just Alderney and/or Sark, but this has not occurred to date), or on a Bailiwick-wide basis. International agreements can be extended to or apply to Guernsey only in the first instance and then it would generally be possible for extension to Alderney and/or Sark later. This might be because one or more of the other islands could not comply with the obligations of an agreement at the time of initial application or later extension to Guernsey.
- 8.2 The 1987 Resolutions, and the changes proposed within this Policy Letter, cover the internal process for consideration of international agreements by Guernsey only.
- 8.3 When decisions are made by a Guernsey committee about possible participation in an international agreement this can only be in respect of Guernsey, unless an international agreement in question covers topics falling under the '1948 Agreement'<sup>21</sup> in respect of Alderney or where Alderney and/or Sark have agreed that Guernsey can make such decisions (for example in respect of FTAs as noted in paragraph 6.4). Tax agreements entered into under the existing entrustment apply to Guernsey (including Herm) and Alderney only.
- 8.4 Consideration of participation in international agreements by Alderney and Sark is a domestic matter for those islands, which have their own processes to enable consideration of such matters. It is for Alderney and Sark to ensure their own domestic compliance with the obligations of the relevant international agreement.
- 8.5 Otherwise, when Guernsey's government is considering possible participation in an international agreement, the Policy & Resources Committee or other relevant committees should ensure that Alderney and Sark are consulted about whether they wish to seek to participate in that agreement. If Alderney and/or Sark wish to participate, then consent can be signalled and official notification of such a request can be made through the official channel by the Policy & Resources Committee on behalf of Guernsey/Alderney/Sark/the Bailiwick, as appropriate.

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<sup>21</sup> The 1948 Agreement was made following a series of joint meetings between Guernsey, Alderney and the UK (the UK had a financial responsibility for Alderney at the time). The agreement is not described in a single document, it is a set of principles agreed at those meetings which are enshrined in laws in both Guernsey and Alderney. It includes services such as policing, education and health.

- 8.6 The proposed changes to the 1987 Resolutions will not alter the requirement for consultation on international agreements with the authorities in Alderney and Sark.

## **9 Engagement and consultation on these proposals**

- 9.1 The Policy & Resources Committee has responsibility for leadership and co-ordination of the work of the States, as well as specific responsibility for external relations and international and constitutional affairs including “executing and requesting the extension of international agreements to which the Island is invited to acquiesce”.

- 9.2 Individual committees have responsibility for policy areas that fall within their mandate. This includes consideration of international agreements and whether Guernsey should participate in them (or not), and any work required to progress participation in an international agreement. That includes developing any policy or legislation required to ensure domestic compliance with obligations of an agreement. It also involves ensuring that there is adequate resourcing for ongoing implementation of an agreement, including any reporting requirements, which should be undertaken by the relevant service area with responsibility for the particular policy topic.

- 9.3 Principal Committees and other committees were sent a draft of this Policy Letter and were invited to give their views on the proposals. The comments received during the consultation period have been taken into account in the final version of the Policy Letter. The Bailiff’s Chambers and the Office of the Lieutenant-Governor have also been consulted in a similar manner.

- 9.4 The Law Officers have been consulted on the proposals set out in this Policy Letter.

- 9.5 Alderney and Sark have been informed of the development of these proposals. Further information is set out in Section 8.

- 9.6 The Ministry of Justice has been informed of the development of these proposals.

## **10 Compliance with Rule 4**

- 10.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

- 10.2 In accordance with Rule 4(1)(a), the changes proposed within this Policy Letter contribute to States objectives and policy plans by supporting one of the four

main priorities identified within Stage 1 of the Government Work Plan<sup>22</sup>, “managing the effects of Brexit and our international obligations”, which includes the continuing development of Guernsey’s international identity and meeting international standards. The proposed changes also support workstreams identified within Stage 2 of the Government Work Plan<sup>23</sup> to support this priority area of work, including ensuring compliance with agreed international agreements/standards and seeking opportunities for new beneficial arrangements.

- 10.3 In accordance with Rule 4(1)(b), the Committee’s consultation with other parties is outlined in Section 9.
- 10.4 In accordance with Rule 4(1)(c), the Propositions have been submitted to Her Majesty’s Procureur for advice on any legal or constitutional implications.
- 10.5 In accordance with Rule 4(1)(d), the resources required to fulfil the Propositions of this Policy Letter are set out in Section 7.
- 10.6 In accordance with Rule 4(2)(a), the Propositions relate to the duties of the Policy & Resources Committee because its mandate includes responsibilities to, “advise the States and to develop and implement policies and programmes relating to: (a) leadership and co-ordination of the work of the States” and “(c) external relations and international and constitutional affairs, which includes: 7. executing and requesting the extension of international agreements to which the Island is invited to acquiesce”.
- 10.7 In accordance with Rule 4(2)(b), it is confirmed that the Propositions have the unanimous support of the Committee.

Yours faithfully

Policy & Resources Committee

P T R Ferbrache  
President

H J Soulsby  
Vice-President

M A J Helyar  
J P Le Tocq  
D J Mahoney

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<sup>22</sup> Government Work Plan – Stage 1, [Billet d’État VI, 2021](#) and [Resolutions](#) of 26<sup>th</sup> March, 2021.

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