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# STATES OF JERSEY



## BREXIT REPORT: JUNE 2020 UPDATE

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**Presented to the States on 30th June 2020  
by the Minister for External Relations**

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**STATES GREFFE**

**BREXIT UPDATE**

This Report to the States Assembly provides an update since the last report in December 2019.

Specifically, it provides States Members with:

- An overview of developments which the Government of Jersey has been working on since the last report (Current Context);
- Recap of the fundamental principles which guide the Government of Jersey's analysis and input into the UK-EU negotiations (Section I);
- a look at how the Government's preparations, negotiation, and future planning for the UK-EU Trade Agreement is set around these principles (Section II-V); and
- A look at the Government's achievements and readiness for this critical phase both for the negotiations and for the Island's future (Conclusion).

The Report also updates States Members and the public on the work that the Government of Jersey is undertaking to prepare Government, residents and businesses for the UK's future relationship with the EU, and to ensure the Island is fully prepared for all possible outcomes to the ongoing UK-EU negotiations.

**MINISTER FOR EXTERNAL RELATIONS****30 JUNE 2020**

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## FOREWORD BY THE MINISTER FOR EXTERNAL RELATIONS

This report is presented to the States Assembly shortly after the High-Level Summit between the Prime Minister of the UK and the President of the EU Commission, which marked a decision point in the last 6 months of negotiations between the two parties. At that meeting, the UK confirmed that it will not be seeking an extension to the Transition Period which began after the UK left the EU on 31st January 2020 and will end on 31st December 2020; in addition, both the UK and EU committed to intensifying talks over the coming months in order to reach an agreement before the end of the year.

Since the last report in December 2019, Jersey, along with the rest of the world, has undergone a period of unprecedented challenge. The impact of the Covid-19 pandemic so far has been significant and wide-ranging, and the economic implications are still unfolding. In this context, the Government of Jersey's highest priority has rightly been to preserve the health and well-being of all Islanders, and has devoted substantial energies and resources into emergency response planning and initiatives. There has been a considerable, cross-government effort that has resulted in the recent, successful shift into phase 2 of our Safe Exit Framework.

In parallel with this work, preparations and negotiations for the UK's future relationship with the EU – and Jersey's place within this – have continued unabated. This report outlines the substantial work that has taken place across Government to support Jersey's readiness for a range of possible outcomes.

I continue to prioritise the Government's engagement on arrangements for the future. This has involved considerable interactions and exchanges between Jersey and UK Ministers and officials, coordination of comprehensive analyses, and compilation of an extensive evidence base to inform our decision-making. We have also collaborated closely with our Crown Dependency colleagues in Guernsey and the Isle of Man to ensure that our representations to the UK are aligned and therefore carry maximum impact, when appropriate to do so. This sustained and considered activity has ensured that any future arrangements for our involvement in a new relationship between with the UK and the EU, will be in Jersey's interests. Most importantly, we will be delivering an outcome for Jersey that aligns with, and supports, our wider Economic Recovery and Renewal Strategy post Covid.

Given the recent economic strain and uncertainty, we are particularly aware of the need to minimise disruption for businesses and islanders as a result of Jersey's involvement in any UK-EU Comprehensive Free Trade Agreement (CFTA). This has been at the forefront of our considerations, whilst at the same time seeking to balance this priority against our capacity to capitalise on any new opportunities offered through future trade deals. We will be particularly alert to the potential for new gains through the UK's intended FTAs with non-EU countries, too.

The UK is keen to use its freedom in the international trade arena as is apparent in the recent negotiation launches from the Department of International Trade to begin talks with the US, Japan, New Zealand, Australia and the Trans-Pacific Partnership countries. We are actively engaging with the UK and keeping a watchful eye on these developments, while remaining determined that Jersey's own autonomy and identity will not be compromised as a result of involvement.

The re-intensified negotiations between the EU and the UK over the summer demonstrates the desire on both sides to reach an agreement, but this does not remove the possibility that there may be no further negotiated outcome. So we cannot be complacent. Whilst the negotiations have been ongoing, we paused (as did the UK) no-deal readiness planning. As we enter the final 6 months of the Transition Phase, we have begun internal processes to revisit those plans and to build on the preparations and lessons learnt through Covid-19 response planning and delivery.

We are also well-prepared for whatever outcome may emerge from the UK-EU negotiations, and to that end, we will be engaging and communicating further with Islanders and businesses over the coming

months as more becomes known, in order to ensure that everyone is ready for the end of the Transition Phase.

I want personally to thank my Ministerial colleagues and officials from across the Government of Jersey for their ongoing diligence and commitment to the Island's preparations for our future trading relationships, and I commend this report to the Assembly

A handwritten signature in black ink, appearing to read 'I. Gorst', with a long horizontal stroke extending to the right.

**Senator Ian Gorst**

**Minister for External Relations**

## **CURRENT CONTEXT**

### **AN OVERVIEW OF DEVELOPMENTS (FROM JANUARY TO JUNE 2020)**

This period has been one of change and transition. The United Kingdom (UK) has now legally left the European Union (EU), the transition period is underway, and all parties involved are looking to the future relationship.

On 31 January, the EU (Withdrawal) Act came into force after passing through Parliament and receiving Royal Assent. With the Act, the UK's formal exit from the EU was completed, over 42 months after the British public had voted to leave in the 2016 referendum. The UK's departure was mirrored in Whitehall with the dissolution of the Department for Exiting the EU, whereupon responsibility for the negotiation of the UK-EU future relationship was transferred to the Cabinet Office.

The formal negotiations over the future relationship began in March and continued at pace despite the challenges brought about by the Covid-19 pandemic.

In line with the Prime Minister's electoral promise in late 2019, the first half of 2020 also precipitated a gradual winding down of 'No Deal' preparations by the UK Government. Across Whitehall, this contingency planning was deprioritised while still ensuring that the necessary structures are able to re-mobilise as required as the end of the transition period draws closer.

Throughout the preparations for the UK's withdrawal, the Government of Jersey has aligned closely with the UK approach so as to ensure the Island is well prepared for either a negotiated or no further negotiated outcome. As part of this process the Government of Jersey reviewed its response to Brexit and how this would change during the next phase. It was agreed that focus would need to shift on to Jersey's trading position after exit. This led to the transition of the Brexit Unit into the International Trade Unit (ITU), which will drive and deliver a new framework for Jersey's trade with the UK and internationally.

#### *UK's Exit*

At 11pm on Friday 31st January 2020, the UK ceased to be a member of the EU. British citizens are no longer EU citizens; there are no British MEPs or commissioners; British ministers will play no further part in EU law making; and no British prime minister will attend EU summits. The change is legal and constitutional.

Therefore, Jersey's formal relationship with the EU – as set out in Protocol 3 of the UK's 1972 Accession Treaty, and confirmed in what was Article 355 (5) (c) of the EU Treaties – now also ceases to exist.

We are currently in the transition period which began immediately after the UK's exit from the EU. While the UK had agreed the immediate terms of its departure from the EU, both sides still need to determine the ambition, basis and content of their future relationship. This detail will need to be agreed upon within the bilateral negotiating rounds taking place during the transition period.

The UK's exit also means that it is now free to begin forging its own global trading arrangements as a state independent from the EU. In parallel to the ambitious timescales set out for securing an EU deal, the UK has initiated talks with both the United States (US) and Japan. Talks with the US got underway on 5<sup>th</sup> May 2020, following the publication of the UK's negotiating objectives in early March. The Japan negotiating objectives were published in May, ahead of the talks which commenced on 9<sup>th</sup> June 2020. The UK have also published mandates outlining their objectives for FTAs with both New Zealand and Australia on the 17<sup>th</sup> June 2020, and their position on accession to the Comprehensive and

Progressive Agreement for Trans-Pacific Partnership (CPTPP) on 18<sup>th</sup> June 2020. Negotiations on these agreements are expected to commence imminently.

### *Transition Period*

The key objective behind the provision of the transition period is to allow both sides time to negotiate a Comprehensive Free Trade Agreement (CFTA) in an orderly fashion, and thereby hopefully reduce potentially negative economic impacts and uncertainty arising from a more sudden departure from the EU customs union and single market. If successfully negotiated, the UK's ambitions for the CFTA will mean that goods would be permitted to move freely between the UK and the EU without checks or extra charges, and new relationships would be established to facilitate the trading of services.

For Jersey, the immediate, practical implications of the transition period are relatively minimal, with perhaps the exception of requirements for the functioning of the Jersey EU Settlement Scheme (JEUSS). However, like the UK, Jersey now needs to forge its own new trading relationship with the EU for the future. The existing parameters of Protocol 3 naturally provide a stable foundation to initiate those discussions, alongside and within the context of our existing constitutional relationships and the wider deal the UK is seeking to negotiate for itself. In essence, Jersey must decide how much of that broader agreement it might wish to participate in; whether the relevant provisions align with our liberal economic outlook; and allow us to preserve our existing autonomy.

If an agreement with the EU cannot be ratified within the transition period, the UK (and therefore potentially Jersey too) faces having to trade with the EU on World Trade Organisation (WTO) terms, something which is currently being described as an 'Australian Style Deal'. That would mean tariffs (taxes) on goods (including those from Jersey) travelling to the EU as well as other trade barriers. An Australia Style Deal is therefore, in effect, synonymous with 'no further negotiated outcome', where the relationship between the UK-EU could then be supplemented with side agreements on specific matters, as opposed to having in place a wide ranging CFTA. Should such an outcome arise, the UK's 'Global Tariff', published in May, outlines tariffs that will apply on products the UK imports on a WTO basis post-transition period – when the UK is no longer bound by the EU's Common External Tariff. Aside from trade however, many other aspects of the future UK-EU relationship will also need to be decided.

The Government's External Relations department have already ensured certainty for Jersey businesses by negotiating and agreeing a formal UK-Jersey customs union arrangement which will work to reinforce existing relationships in relation to free trade in goods with the UK (our major trading partner in this respect). Alongside this, External Relations have secured the extension of the UK's membership of the WTO to Jersey. This means that if an 'Australian Style' deal is the outcome of the transition period, Jersey's trade with the EU will be protected as a minimum trading relationship with tariffs based on WTO terms.

The Withdrawal Agreement (that set out the terms of the UK's transition period) allows for a two-year extension to give more time for negotiations if necessary. However, despite the coronavirus pandemic the UK Government has been strident in its opposition to this possibility - although the full effect of the global health and economic crisis in the coming months remains to be seen. Under the binding terms of the Withdrawal Agreement, a decision must be made on extension to the transition period by the end of June 2020. This was confirmed at the most recent high-level summit between the Prime Minister of the UK and the President of the EU, held on 15<sup>th</sup> June, where the EU noted the UK's decision not to extend.

### *UK-EU negotiations*

The Withdrawal Agreement committed both sides to publish mandates within a month of the UK's legal exit from the EU. The EU published its mandate on 25<sup>th</sup> February 2020, with the UK following two

days later. Clear positions were set out on a range of topics, indicating the key areas of difference would be Open and Fair Competition (also known as Level Playing Field); fisheries (including quotas and access to waters); and the role of the European Court of Justice. As the negotiations have progressed, these issues remain the crucial points of contention.

A first round of talks took place in early March, but further face-to-face talks were put on hold for six weeks due to the Coronavirus pandemic. The negotiations were originally intended to take place every two weeks on a rotating basis between the EU Commission headquarters in Brussels, and 1 Victoria Street in London. Negotiations would comprise of 11 strands.

Talks resumed in April and at the end of the second round, which took place by videoconference, the EU's chief negotiator, Michel Barnier, expressed frustration at the lack of progress, accusing the UK of delaying. Similar language at the end of a third round in mid-May was used by the Commission, with British counterpart David Frost agreeing that little progress had been made and accusing the EU of taking an ideological approach.

By the 20<sup>th</sup> May 2020, both the EU and UK's opening legal texts had been published, with the UK's position over territorial extent (and thereby Jersey's and the other Crown Dependencies' level of involvement) being reserved until there is agreement on the final text. Conversely, the EU's initial opening position was for territorial scope to be established early on and for the Crown Dependencies to be out of scope for the entire agreement. However, the UK, which has been made aware through ongoing engagement of the detail of Jersey's international trade objectives, has a continuing constitutional duty to properly represent those interests.

The latest negotiation round took place in the week beginning 1<sup>st</sup> June with a more restricted scope than the previous rounds, focusing on the aforementioned contentious Chapters of the agreement. While the EU thanked both negotiating teams for the quality and professionalism of their work given the difficult circumstances of the current (Coronavirus) context, the EU reported that no substantial progress was made in this or any other negotiating round. The UK reiterated the limited progress despite the generally positive tone of the talks. While both parties are engaging in negotiations on the basis of the joint Political Declaration which set out the terms of the future partnership, both the UK and the EU diverge in their interpretation of it. In the latest high-level political summit both parties committed to additional intensified negotiations in an effort to make further progress over the remainder of the summer months.

Ministers and officials from across government therefore remain mindful of the need for Jersey to remain agile and ready to react to whatever the negotiated outcome may be or indeed to the possibility of a non-negotiated outcome.

The rest of this report explains how we have ensured our readiness for these outcomes. It outlines what we have done, how we have prepared, how we are currently supporting and responding to the negotiations, and how we are planning for the future. All aspects of this work have been guided by the fundamental principles that Ministers agreed were the framework for Jersey's participation or non-participation in the future UK-EU relationship. Given the UK Government's position that there will be no extension to the transition period, the preparations and work being carried across the Government of Jersey on this has continued at pace and unabated despite the Coronavirus pandemic.

## **SECTION I – FUNDAMENTAL PRINCIPLES**

The Government pledges that, as the UK negotiates its future relationship with the EU in parallel to initiating discussions on Free Trade Agreements (FTAs) with priority third countries, we will continue to ensure the Island's interests are recognised, promoted and protected in these negotiations.

The starting point for our ongoing engagement with the UK Government was based on a set of objectives, developed at the start of the 'Brexit' process in 2016 and further expanded in the previous report. These looked at targeted representation, maintaining frictionless trade with the UK and their trading partners, and adopting an agile and flexible approach based upon the course of negotiations. These objectives helped us to formulate four key principles, agreed by Ministers at the beginning of the transition phase, which guide the Government of Jersey's analysis and input into the UK's discussions:

- promote Jersey's existing constitutional autonomy, unique economic interests and cultural heritage;
- maintain and strengthen Jersey's reputation as a well-administered jurisdiction that is responsible for its own prosperity;
- uphold the long-established rights and privileges of Jersey residents and businesses that enable them to trade and remain agile, innovative and competitive as Jersey seeks to grow and diversify its economy; and
- maintain or increase the ability of the States Assembly and Government of Jersey to make decisions expeditiously in areas of domestic policy, including where close collaboration with the UK Government and EU is required.

Sections II-V of this report will set out how the Government of Jersey have used these principles to guide the preparations for the future arrangement between the UK and the EU; input into the negotiations on the UK EU CFTA thus far; and shape Jersey's path and future planning, which will determine Jersey's relationship with the UK and with other international trading partners beyond the transition period.

## **SECTION II – PROMOTE OUR CONSTITUTIONAL AUTONOMY & KEY INTERESTS**

### **PREPARATIONS FOR THE UK-EU FREE TRADE AGREEMENT**

Preparing for a new future relationship between ourselves, the UK and the EU has been, and will continue to be, a complex venture. The UK has been the Island's most important external partner for centuries; meanwhile our economic, social and cultural relationship with the EU, particularly France, has strengthened since the 1972 Accession Treaty. Throughout the negotiations Jersey looks to preserve our constitutional autonomy and safeguard our cultural links with both the UK and the EU, whilst recognising that our economic interests have evolved, and will continue to do so as Jersey seeks to develop and expand our economy and international presence.

To identify where Jersey's interests would lie in a prospective CFTA between the UK and the EU, the External Relations commissioned a detailed analysis of our existing policies, legislation and objectives within each department. This was compared against relevant chapters of existing EU FTAs to assess what aspects of a possible UK-EU CFTA would be acceptable, appropriate and proportionate for the Island. Amongst other EU FTAs, this has included assessing the Comprehensive Economic and Trade Agreement between Canada and the EU known as "CETA" and the EU's Economic Partnership Agreement with Japan, as the UK's known templates for their CFTA with the EU. This analysis formed a key part of the evidence base we have subsequently drawn upon as negotiations between the UK and the EU commenced (see Section V for more detail).

This evidence base, along with the fundamental principles approved by ministers, has also enabled the Government of Jersey to refine its own narrative which has governed Jersey's input into the UK's CFTA discussions and the exchange of information with counterparts in the UK.

To promote Jersey's interests effectively, External Relations set up communication lines across UK Government so that it could work efficiently with all necessary departments. Key departments the Government has engaged with include the Ministry of Justice (MoJ); the Department for Business, Energy and Industrial Strategy (BEIS); and, the Department for Environment, Food and Rural Affairs (DEFRA) to directly protect and promote Jersey's constitutional, economic and cultural interests. Up until its dissolution on 30<sup>th</sup> January 2020, Jersey and the other Crown Dependencies (CDs) maintained fortnightly working-level meetings with the Department of Exiting the European Union (DExEU), which provided oversight across a range of matters relating to the future relationship between the UK and the EU. As responsibility for the UK's exit has now migrated to the Cabinet Office, these meetings have continued under their lead with input from other UK Government departments as appropriate.

Alongside specific work undertaken on matters relating to the UK-EU CFTA, the broader work of External Relations including Global Markets, our offices in Brussels (CIBO, est. 2011), London (JLO, est. 2013), Caen (BIAN, est. 2014), and European Relations officials stationed in London and Europe, feeds into, supports and sustains our engagement and bilateral relationships with the UK, the EU Institutions and EU Member States

The Government of Jersey's internal governance structure and lines of communication are equally integral to ensuring the Island's interests are consistently recognised and understood across the piece. Collaboration with and contributions from the Law Officers Department (LOD) and Law Draftsman Office (LDO), have also been vital to identify and safeguard any constitutional implications the negotiations may pose. A forum of groups has been established to assess, analyse and enhance Jersey's economic, social and cultural interests in regard to the negotiations. At working level these include, but are not limited to, the Jersey Partnership and Trade Group (JPTG), the Brexit Clearing House (BCH) and the three 'Cluster' work programmes mentioned in the previous Brexit Reports, which were established to ensure that the Island can react and respond quickly to developments, so named; Goods

& Borders; Services & Digital; and Immigration & Security. These groups report to the Brexit Ministerial Group (BMG) and Council of Ministers (COM) who finalised our initial negotiating position prior to the commencement of the UK-EU talks. These groups will be discussed further in Section V.

## **NEGOTIATIONS ON THE UK-EU FREE TRADE AGREEMENT**

Notwithstanding the problems the Coronavirus pandemic has brought, the UK's negotiation timeline with the EU on the CFTA remains unchanged and continues at pace. As the speed of developments - and correspondingly the demands on all governments and institutions involved in the negotiations - increases, so has the engagement between these institutions at both Ministerial and official level. Across government we have used this improved communication with the UK to our advantage, by utilising all avenues to ensure our asks land at the appropriate level within the relevant UK department including the newly set up Task Force Europe (TFE) which is directly responsible for UK- EU negotiations. All engagement has been guided by the Government of Jersey's overriding narrative to ensure the consistency of messaging and the promotion of our fundamental negotiating objectives.

Despite the need for virtual engagement under the Coronavirus restrictions, Jersey's relationship with UK departments have continued and been strengthened. External Relations has utilised its long-standing relationship with the Ministry of Justice to champion our constitutional autonomy and affiliation to the British Crown, throughout the negotiations. In addition to the regular Cabinet Office-led meetings, there has been an increased and ongoing series of discussions with lead departments on specific matters, allowing the Island to reiterate and explain its priorities. The bilateral relationships between Jersey and UK department counterparts have been proactively developed to continue to enhance Jersey's interests at technical level, as well as strategically from the centre. These bilateral relationships include for example, those between DEFRA and our Growth Housing and Environment department (GHE); in Brussels between CIBO and the UK Mission to the EU (formerly UKRep); and, Her Majesty's Revenue and Customs (HMRC), the Home Office's Common Travel Area (CTA) policy team and the Jersey Customs and Immigration Services (JCIS).

As anticipated, it is evident that fisheries is going to be a key and challenging aspect of the future relationship for both the UK and the EU. Fishing also represents a fundamental mainstay of Jersey's cultural and historic identity and therefore is at the forefront of Government planning. Jersey officials stationed on island and in Caen (BIAN) have collaborated closely with the other CDs on this matter - particularly Guernsey - and have sought to protect and maintain the joint existing relationships with DEFRA and the French regional authorities throughout the negotiations. While the bilateral Granville Bay Agreement is not directly within the scope of the UK-EU trading relationship and is distinct to Jersey amongst the Crown Dependencies, it is possible that decisions taken in the CFTA negotiations could have an effect upon the appetite for and viability of the Agreement as it stands. We therefore closely monitor developments in fisheries discussions as a whole.

To protect Jersey's key interests, consideration must also be given to both the Open and Fair Competition requirements which may evolve through the negotiations; and to the provisions and commitments in the CFTA for the largest sector of the Island's economy, Financial Services. In respect of the former, Ministers will continue to evaluate Jersey's level of involvement in the UK-EU CFTA from the start of the negotiations to when the Open and Fair Competition commitments are finalised. Regarding the latter, the Government has and will seek to protect the autonomy of our financial services industry, and ensure any involvement in this Chapter of the UK's CFTA with the EU, or FTA's with third countries, is actively and meticulously evaluated. As ever, the Government will pursue and defend Jersey's best interests throughout these negotiations and beyond.

At a domestic level, there has been sustained engagement with traders in multiple sectors to ensure that local economic operators are prepared post-transition period, whilst similarly immigration officers are in regular consultation with carriers and Honorary Consuls in relation to border control measures. With

the possibility of increased border controls, the Government of Jersey continue to put preparations in place to allow business and the free flow of goods to continue after the transition period ends, regardless of the potential negotiated outcome. Jersey has engaged with other CDs on this matter to share information and future planning processes.

All External Relations work is underpinned by regular political engagement by Ministers. Due to the travel restrictions as a result of Coronavirus, the last 'in person' off island visit to Brussels was by Senator Gorst and the Guernsey Chief Minister, Deputy St Pier, on 4-5<sup>th</sup> March 2020. This bi-annual joint visit with Guernsey, facilitated by CIBO, allowed Ministers to explain and underline to EU interlocutors the large element of continuity in the CDs relationship with the EU. Ministerial level engagement across External Relations has continued, despite the restrictions the Coronavirus pandemic has brought. Discussions have taken place remotely during this time through bilateral meetings between Crown Dependency Ministers and the Paymaster General Rt. Hon. Penny Mordaunt MP, and the recommencement of the quadrilateral Chief Ministers' Quarterly meetings in 2020. Through the exchanging of letters, contact with the Department for International Trade (DIT) and MoJ Ministers has also been sustained throughout the planning and negotiations of the UK's FTAs with Third Countries.

## **FUTURE NEGOTIATION PROCESS**

Jersey's approach to the next stage of negotiations will continue to be guided by its underlying principles. Jersey's involvement with the UK-EU CFTA, and the UK's FTAs with third countries, will be to the extent that it is in Jersey's best interests. As it has done to date, any opportunities presented to Jersey in upcoming UK FTAs must be evaluated alongside potential risks to ensure any future partnerships at least preserve Jersey's current position. This is important for the Island as, in addition to governing the direct trading relationship between parties, modern FTAs impact on a wide range of customs, animal, plant and human health measures, and include commitments on human rights and social provisions. In many cases these provisions have a direct effect on domestic policy and legislation. All of these factors must be considered holistically to determine how, and to what extent, Jersey wishes to participate in future UK trade agreements.

For most of Jersey's history, the island has successfully existed outside of formal trade structures such as may be found in FTA arrangements. The global trading arena has however, evolved and modernised since 1972 when we began our Protocol 3 arrangement. Now, the UK's exit from the EU allows it the freedom to pursue new international trade deals that present new avenues for Jersey to also elevate our trade links with the EU and third countries. This will allow Jersey to consider and exploit any opportunity for economic growth, whilst balancing the Island's own domestic interests and preserving the long-standing beneficial relationships with the UK, EU and the rest of the world.

The UK's emphasis on the future of international trade policy - now it has legally left the EU - inevitably brings into play other bilateral and multilateral opportunities with trading partners outside the boundaries of an FTA. While access to non-EU markets could be facilitated by having these agreements extended to the Island, Jersey is also looking at building upon our current network of international agreements, such as Bilateral Investment Treaties and Double Taxation Agreements. This would continue the path set by all the CDs at the beginning of the 21st Century, in which each have taken greater responsibility for asserting and promoting their separate international identities, both through the making of international agreements (under, for example, entrustment from the UK government on behalf of the Crown), and participation in international fora. This furtherance of Jersey's international identity was expressed formally in a Framework Agreement between the Island's (then) Chief Minister and the (then) UK Secretary of State for Constitutional Affairs in 2007. As ever, it is important that Jersey maintains an agile and flexible approach to its external relations to guarantee the best outcome for the Island.

### **SECTION III – MAINTAIN & STRENGTHEN JERSEY’S REPUTATION**

#### **PREPARATIONS FOR THE UK-EU FREE TRADE AGREEMENT**

The economic, social and cultural links between Jersey and the UK are myriad, and of great benefit to both parties. The signing of the Jersey-UK Customs Union Arrangement in November 2018 brought our trading relationship into the 21st century, and further strengthened the commitment between our two jurisdictions for a symbiotic and prosperous partnership. Within this partnership Jersey continues to have the right and ability to make its own choices with regard to trade policy. These choices create new opportunities for Jersey and its citizens, whilst noting that such opportunities often create new obligations which must be addressed with equal vigour. Jersey is committed to continuing to act and be known as, a responsible jurisdiction which meets its international obligations.

In order to demonstrate the Island’s strong institutions and robust regulatory environment, officials undertook extensive compliance exercises in an examination of international standards. A significant aspect of this exercise was identifying relevant deliverables across international standards and determining how Jersey achieves equivalent outcomes to the UK and EU, through means which are proportionate to the size and scale of the Island’s economy. This exercise has included assessing alignment with EU regulations; consideration of trade policies which govern other geographically small jurisdictions; as well as a comparative exercise based on the chapters expected to be included within the UK’s proposed “Best in Class” CFTA with the EU, all in preparation for the start of the negotiations. These iterative exercises continued to be updated and informed by the progress of the negotiations.

Jersey’s longstanding commitment to the development and implementation of international standards is a cornerstone of the Island’s success as an international finance centre, and its reputation as a responsible global citizen. As highlighted in the previous report, the significant milestone of securing the extension of the UK’s membership to the World Trade Organisation (WTO) to Jersey, concludes a political objective of the Government’s spanning over two decades. It also demonstrates that the Island is willing and able to comply with The General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS), as the central agreements within the WTO to facilitate the liberalisation of trade. As an outward-facing liberal economy, this accomplishment continues our long tradition of trading in high quality goods and services with customers from around the world, and helps to prepare Jersey for the future ahead.

The WTO’s core objectives of providing a forum for negotiating and monitoring further trade liberalization; increasing the transparency of decision-making processes; and helping developing countries benefit from the global trading system aligns with Government priorities across departments. As the Minister of External Relations stated in October “[official’s] work has placed Jersey on the strongest possible footing as we look to provide added security for our businesses and explore global trading opportunities post-Brexit.” The importance of securing this certainty for business was highlighted in the findings from the ‘Let’s Talk Trade’ public consultation which sought local views and evidence on the shape of Jersey’s future international trade policy, and the opportunities presented under WTO membership. This is discussed further in Section IV.

External Relations’ sustained and consistent engagement with multilateral bodies complements its bilateral diplomacy. Bilateral engagement forges new relations, preserves long standing relationships, and builds our reputation with Governments across the globe. Activity to this end includes engagement undertaken by the European Relations team with London Embassies, national governments in European capitals, and honorary consuls in Jersey; and CIBO’s engagement with the Permanent Representations of EU MS on the Channel Islands “good neighbour” policy. All of this runs alongside multilateral engagement including the Islands’ policy discussions with EU Institutions, coordinated by CIBO, which focus on key priorities such as tax, data protection, Anti-Money Laundering, financial services

regulation. Over many decades, Jersey has also pursued a policy of active engagement with relevant multilateral bodies which set international standards, such as the OECD where Jersey in some meetings takes its own seat. Today, States Members, Ministers and officials participate in a range of multilateral fora – reflecting Jersey’s status as an outward-looking jurisdiction. Jersey will continue to meet international standards such as those set by the OECD amongst others<sup>1</sup>. The reconfirmation in February 2020, by EU Finance Ministers (ECOFIN) that Jersey fully meets the EU’s criteria for tax good governance and hence remains “whitelisted” as a cooperative jurisdiction, represents a significant achievement demonstrating the value and impact of our engagement strands.

Since before the referendum in June 2016, our LOD, the LDO and relevant policy leads have continually monitored and updated a programme of work to ensure that our legislative structure is ready for the UK withdrawal and its many potential ramifications for the Island. These preparations have included and accommodated planning around the UK exit date, the previous possibility of a ‘no deal scenario’ and now preparations for a potential negotiated or no further negotiated outcome at the end of the transition period. This has involved, but is not limited to: the ratification of the European Union (Repeal and Amendment) (Jersey) Law 2018 (EURAL); legislative projects to ensure that Jersey’s customs and immigration provisions correspond with UK law; and a draft policy document outlining the intent for the future border policy & immigration system.

## **NEGOTIATIONS ON THE UK-EU FREE TRADE AGREEMENT**

Throughout the negotiations, activity demonstrating Jersey as a prosperous and well-administrated jurisdiction has continued both through engagement with the UK, and through work led by External Relations’ broader UK-EU Directorate and Global Markets team. Departments across Government have worked together and collaborated in this shared endeavour. A key element of this has been the provision and assessment of quantitative empirical data on Jersey’s relationship with the UK and EU in respect of goods and services, which can be shared with external partners. The work of many departments, including Statistics Jersey, has been invaluable in supplying this information to support and enhance our engagement with the UK, and in turn the EU, thereby strengthening our government-to-government relationships.

In alignment with the Government Plan 2020-23 External Relation’s work seeks to protect and support a “sustainable, vibrant economy and skilled local workforce for the future”. Key work-streams for achieving this, supported by colleagues in JCIS, GHE and the Financial Services and Digital Economy (FSDE) to name a few, include ensuring the readiness of our future immigration routes; demonstrating Jersey’s own bilateral relationship with the EU on financial services; and developing the UK’s understanding of our own Competent Authorities.

In addition to the UK-EU work, officials have reviewed the UK’s ‘Rest of the World’ (RoW) future FTA priorities and identified potential opportunities for Jersey to further our reputation. In similar vein to the strategic approach to EU negotiations, the Government will consider each of the UK’s RoW FTA’s separately and on their own merits. This is explored further in Section IV.

## **FUTURE NEGOTIATION PROCESS**

To maintain and strengthen Jersey’s global standing, External Relations will seek to progress the establishment of governance committees with the UK, including on customs and trade. In regard to the Committee structures governing the UK’s EU CFTA, the final arrangements will be directed by the extent of Jersey’s participation in the agreement. External Relations will ensure that any mechanisms for governance and oversight of compliance with the obligations in the agreement, provide sufficient opportunity for Jersey’s interests to be represented, protected and advanced. Furthermore, External Relations will ensure these mechanisms will respect Jersey’s constitutional arrangements, including the

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<sup>1</sup> The Basel Committee on Banking Supervision, the International Organization of Securities Commissions (IOSCO), the International Association of Insurance Supervisors (IAIS), and the Financial Action Task Force (FATF).

jurisdiction of its courts and regulatory authorities. Adopting a balanced approach will be critical, and will apply to the formation of other committee structures agreed under the Jersey-UK Customs Union Arrangement and under the extension of the UK's membership of WTO to Jersey.

Jersey's interaction with future negotiation processes will build upon the Government's existing efforts, to position the Island as a more influential partner internationally, with maturing commercial and political relationships. As future trade-related work will place increasing demands on the Government, officials from Jersey and the UK Department for International Trade have worked collaboratively to build on and improve our existing working relationships to address that level of future co-operation most likely required in the context of the any of the UK RoW FTAs.

## **SECTION IV – FRAMEWORK FOR BUSINESS TO TRADE COMPETITIVELY**

### **PREPARATIONS FOR THE UK-EU FREE TRADE AGREEMENT**

Crucially intertwined with the preceding objective, is the Government's commitment to uphold the long-established rights and privileges of Jersey residents and businesses that enable them to trade and remain agile, innovative and competitive. The facilitation of both inbound and outbound trade flows are vital as we seek to grow and diversify Jersey's economy. Frictionless trade between Jersey and the UK, now reinforced under the Jersey-UK Customs Arrangement (which will come into effect at the end of the transition period), is an essential part of Island life. Complementary to the at-border measures secured through the Customs Arrangement, the extension of the UK's membership of WTO to Jersey will further the Island's international outreach, its ability to engage with countries globally and will avoid the risk of punitive tariffs being applied to trade to and from Jersey. This preparation provides the framework within which businesses across the Island can operate with certainty and confidence after the end of the transition period.

As outlined in the Government Plan 2020-23, the UK's decision to leave the EU posed a potential risk to the Island's economy, which would be exacerbated if Jersey failed to plan for, and respond appropriately to, the changes emanating after 'Brexit', the transition period and beyond. To prepare for this, resources were allocated towards both maximising the opportunities the UK's exit may present, and to mitigating the direct consequences of the UK leaving the EU without the Withdrawal Agreement in January or the possibility of no further negotiated agreement at the end of the transition period. Before the Withdrawal Agreement was concluded, External Relations and officials from across Government through the One Government No Deal Brexit Team (1GBT) helped to prepare colleagues and business for all eventualities. 1GBT co-ordinated the operational and technical response in case the UK left the EU without a deal in place on 31<sup>st</sup> January 2020, which included extensive readiness planning across Government. Similarly now, as we await the outcome of the ongoing negotiations between the UK and the EU, and whatever Jersey's relationship and involvement in that agreement will be, Jersey has, and will continue to, be prepared for any and all changes that may be required.

As the Government continues to prepare for all eventualities, we draw upon lessons learnt throughout the 'Brexit' process. From our previous planning in the event of the historic 'no deal', the Government developed a far better understanding of Jersey's overall contingency and emergency planning processes for example, across all departments. This included identification of key strategic strengths and weaknesses; risks and risk management; legislative provision for emergency and contingency planning including the role of competent authorities; and areas for further review and improvement. Essential to External Relations preparatory work was the maintenance of relationships with our regional partners such as France, to ensure that the impact on trade of 'no deal' was minimised. This particular work strand, led by BIAN, additionally incorporated ways to diversify the local demand and seek new trading opportunities. It is work such as that listed above that also helped prepare Government for both the unseen difficulties we have, globally, faced this year; and for what the outcome of the negotiations may mean for Jersey. This preparation will help us over the next 6 months as, if needed, we help businesses and islanders prepare for a potential no further negotiated outcome.

To develop a greater understanding of business' priorities in the changing trade landscape, the Government sought greater levels of stakeholder input. Through the 'Let's Talk Trade' consultation, External Relations ensured business-driven thinking underpinned our approach to the negotiations. The campaign was well received by the public, industry and business, with over 600 respondents to the consultation via gov.je and our consultation partner 4insight. The findings were published on 16<sup>th</sup> January 2020, and these highlighted the concerns Island businesses and residents have had about the impact of the UK's future relationship with the EU in Jersey, and the opportunities they think it might generate. The consultation and campaign fulfilled its four primary objectives - to seek input from stakeholders to inform trade priorities for Jersey; to provide information about trade in the post-Brexit context; to inform stakeholders about Brexit-related changes to the UK's future international trade policy; and seek views on the priorities to shape our future approach.

Good communication plays an essential role in all Government work. As a cornerstone of our preparations, the relationships and broader network of the communications team has ensured that we can effectively reach key target audiences with information that has, and will continue to, prove vital to Island life as the UK EU future relationship is developed. Preparations range from engagement with businesses through the Chamber of Commerce and other key industry bodies; to joint Crown Dependency press releases at Ministerial level.

## **NEGOTIATIONS ON THE UK-EU FREE TRADE AGREEMENT**

Throughout the negotiations Jersey has engaged positively and constructively with the UK to ensure that its offensive and defensive positions are actively considered. This same vigour with respect to engagement has applied where possible to key stakeholders and our external partners. We have continued engagement with businesses and industry bodies to maximise preparations and ensure business continuity. Where the outcome is already known, such as the requirements for the permanent residence of EU nationals in Jersey, we have continued communications on all operational and processing matters which individuals and business may need to take. External Relations will continue the publication of these reports to update the assembly and members of the public.

For the prosperity of the Island and as outlined in the Council of Ministers' Common Strategic Policy objectives related to the work of External Relations, we believe that the Island's economic interests are best served through "encouraging a strong, open, diversified and innovative economy". This aim has been an overarching driver for our work and engagement since the start of the negotiations in March.

We have fed into the UK's RoW negotiation planning as they develop their future trade policy, to ensure Jersey businesses can benefit from any future arrangements between the UK and third countries. This has not however occurred within a vacuum; all Governments and institutions are operating within a changing economic context brought about by a global pandemic. While noting the global economic downturn that coronavirus has caused, non-EU markets remain increasingly important as engines of growth in the international economy. Rising populations and levels of wealth creation mean that Jersey's trade in both goods and particularly services in non-EU markets, is ever more important to the Island's economy.

As part of this External Relations have secured the establishment of a Contact Group with the DIT, which is the lead department for the UK's FTAs with the RoW. Currently this group is focussing on the UK's negotiations with the US which began in March and on the emerging Japan negotiations which began in June. The focus will soon also turn to the Australia, New Zealand and CPTPP negotiations following the UK's June publication of their respective mandates.

In harmony with the Global Markets 2019 Strategy, Jersey's RoW strategy places emphasis on the importance of building broad-based and sustainable government-to-government relationships across a range of common interests. Jersey will take a tailored approach in its engagement with priority FTA partners based on careful identification of shared interests and opportunities for cooperation. The Government will seek to participate in order to benefit from the UK's RoW FTAs, should such involvement be in the Island's best interest.

## **FUTURE NEGOTIATION PROCESS**

Irrespective of what agreement is reached between the UK and the EU, the Government's highest priority will be to inform businesses, stakeholders and the public to ensure Jersey citizens are ready. Accordingly, we will undertake further stakeholder and public engagement later this year, as the outcome of the negotiations become clearer. Officials are scoping the possibility of public events building upon the success of the 'Ready for Brexit' week and 'Let's Talk Trade' campaign to help

businesses and individuals prepare for the “new normal” after the UK’s economic exit from the EU at the end of the year. The new normal could be based on a negotiated trade agreement with the EU or on no further negotiated outcome.

We will also continue our programme of engagement with local traders and members of the agricultural and fisheries industries, to ensure that they understand the regulatory and practical effects should WTO rules apply at the end of the transition period. All of this work will be vital for businesses and Islanders to help guide and steer their way through a critical economic period post both the transition period and Covid-19.

As a responsible government we are forecasting the various outcomes of the negotiations using a risk-based model, which includes preparing for the relative worst-case scenario. This is an approach that External Relations has considered throughout its engagement and planning to date. We are conscious of all the valuable work across government that was carried out during our ‘no deal’ planning and remain ready to mobilise this in an adapted form for the possibility of ‘no further negotiated outcome’, if required. Dependent on which path the negotiations may take, and Jersey’s subsequent level of involvement in the UK EU relationship, the requirements of Government, businesses and individuals will differ. Should there be no further negotiated outcome, our operational planning will gear up proportionately over the coming months. We will ensure the necessary governance structures are reinstated and the risks are thoroughly evaluated, learning from and building on the immeasurable work undertaken by officials in response to the coronavirus pandemic. The work and planning done for Vulnerable People and on the Food Security project as a result of Covid-19 will provide an up-to-date and relevant source to draw from in the event that no further negotiated outcome is agreed between the UK and EU. As ever, the Government will choose and defend the path for Jersey that is in the best interests of its people.

## **SECTION V – MAINTAIN ABILITY TO MAKE DECISIONS EXPEDITIOUSLY**

### **PREPARATIONS FOR THE UK-EU FREE TRADE AGREEMENT**

The UK's decision to negotiate a CFTA by the autumn of 2020 – to allow the required time for ratification before the end of the transition period – meant that decisions, invariably, would and will need to be made expeditiously. The time pressures which both the UK and the EU face within these negotiations, affect Jersey similarly as a self-governing, autonomous non-sovereign state with its own parliament (the States Assembly), laws, courts, currency, and tax system. Both the States Assembly's and the Government of Jersey's abilities to effectively respond to this challenge must be maintained and reinforced to ensure Jersey's interests are safeguarded and championed. The European Union (Regulations Related to United Kingdom Exit – Commencement) (Jersey) Order 2020 signed in January, initiated the negotiation phase and was drafted so as to allow flexibility around the UK's date of departure. Future decisions will need to be made across government in areas of domestic policy, including where close collaboration with the UK Government and EU Member States is required.

Officials have undertaken substantial analyses considering both different FTA models and their implications for Jersey; and evaluating Jersey's current domestic policy position, to support and inform Ministers' decision-making on Jersey's future. As laid out in Section II, these analyses continue to cover all policy areas which would fall within the – increasingly broad – remit of a modern EU FTA, in addition to analysis in areas of existing UK- EU cooperation. Over the course of our preparations, this comprehensive evidence base has been revisited, refreshed and reformulated by relevant policy leads in each department, and presented to Ministers accordingly. Through the regular provision of up-to-date information pertinent to Jersey's negotiating position and priorities, Ministers have been prepared and able to make swift and informed decisions.

Recognising that Government would be required to take a series of decisions imminently, in areas relatively untested before now, External Relations developed a process to enable Government and Ministers to input effectively and in an agile manner to UK requests, whilst respecting the requirements of the Assembly and Scrutiny. This was a cross-government exercise utilising the three programme 'Clusters' (Goods & Borders; Services & Digital; and Immigration & Security) established to respond effectively to developments in short order. This Cluster-led exercise identified and solidified departmental and Ministerial responsibilities for decisions which will need to be made during the UK's negotiations with the EU and non-EU countries. A related, but equally beneficial output of this preparatory work, has been the strengthening of existing, and forging of new, relationships across Government departments, building our 'One Government, Team Jersey culture' across the public service.

To test the arrangements and ensure the implications of this process were fully understood, External Relations ran a comprehensive programme of briefing sessions across all Government departments to prepare the Government for the potential paths UK-EU CFTA negotiations may take. In line with the existing procedure for seeking Ministerial approval, all members within the following Groups were invited to the programme of briefings: at official level, the Jersey Partnership and Trade Group (JPTG) and the Brexit Clearing House (BCH); at ministerial level, the Brexit Ministerial Group (BMG) and the Council of Ministers (COM). Surrounding this briefing programme, External Relations ran a series of scenario planning sessions to better envisage how the negotiation phase may unfold. Ensuring that individuals at each stage of the decision-making process were fully briefed and sighted on all relevant information relating to the negotiations was paramount in preparing Jersey for the next phase.

This programme also included separate briefings for Members of the States Assembly and Scrutiny panels, whose valued input is integral to the democratic process, and in turn for deciding the best path for Jersey. This engagement has been undertaken in a constructive spirit, and the briefings covered both the range of preparations Government have undertaken for the negotiations, and the projected outlook for the talks set to commence. External Relations worked closely with the Law Officer's Department

and Scrutiny Members/officials to ensure that the Brexit Review Panel could scrutinise legislative changes, including EURAL, and relevant processes for this phase. Prior to the commencement of negotiations, the Minister of External Relations, Senator Ian Gorst, attended a formal hearing of the Brexit Review Panel to allow public scrutiny of the Government's preparations.

## **NEGOTIATIONS ON THE UK-EU FREE TRADE AGREEMENT**

The very nature of the negotiations prohibits the sharing of information sensitive to the UK's talks with the EU and other RoW partners. Nevertheless, the Government uses its best endeavours to share integral information with Scrutiny and states members, as and when it is legally possible to do so. We strive to continue our engagement with these stakeholders, who are fundamental to the Government's decision-making process, through various fora appropriate to the context of the Coronavirus restrictions. On 13<sup>th</sup> May 2020, the States Assembly voted to allow a full hour of Questions Without Notice (QWON) to any Minister, on any subject, at each sitting of the States Assembly during the Coronavirus pandemic. The Minister for External Relations stands ready to feed into and support the increased transparency and democratic accountability this decision brings. The Minister has also responded publicly to Written and Oral questions, attended informal briefings with scrutiny clerks, and provided, where possible, information for scrutiny to assess and analyse, since the negotiations rounds commenced.

While the current context has inevitably brought new challenges for Ministers, equally the Government has learnt and adapted to new ways of working, enabling informed decisions required on Jersey's position within the UK's FTAs to be made, unabated. The preparatory work done on establishing an evidence base has proven to be of indispensable importance and value in informing decisions which needed to be made, at pace, since the start of the negotiations. Government has had sustained Ministerial engagement across all range of FTA matters – held virtually, via private briefings and by bringing the established BMG and COM meetings online. As the negotiations continued External Relations effectively utilised the existing governance processes, such as calling emergency BMG meetings (as and when required); and successfully employed our new process for quick decision making across government. By embracing this new form of virtual communication, Government efficiency and collaboration has been improved for the long term. In the short term, this flexibility is equally, if not more, important given the expedited UK asks within this phase, as the UK EU negotiations grow ever closer to their climax.

## **FUTURE NEGOTIATION PROCESS**

The Coronavirus pandemic has both strained and constrained governments, businesses and civilians globally. Interacting with the negotiations of a new future relationship between the UK and the EU within this context has brought, and will continue to bring, new trials to the fore for Jersey. At a time of shared international grief, we must still address the divide the EU referendum brought back in June 2016. Michel Barnier, has made it clear that no Member State of the EU can benefit from leaving that membership, including the UK. While acknowledging these challenges, Jersey has looked and must continue to look for opportunities within the new future space, and protect the cornerstones of Island life. We must understand our future relationship with the EU within the context the EU has laid out. The Government are therefore considering various scenarios building upon the evidence base set forth in this report, to prepare for future decision making. This will help to ensure that Jersey can demonstrate agility and respond coherently to tight UK deadlines while taking a measured and considered approach.

## **CONCLUSION**

We are heading into a period where critical decisions will be taken, where the UK and EU will negotiate their own paths and Jersey will need to be prepared to do the same. A period where we will need to ensure businesses are fully prepared for the end of the transition period and the outcome of the negotiations in any form. A period where Jersey will need to adapt to a 'new normal', whether that is close to the current trading, movement, and cultural arrangements or indeed a new relationship arising from a no further negotiated outcome.

We believe the key to achieving this is readiness. Readiness, in as far as it is possible, has been achieved through the extensive preparations we have outlined which will allow us to deliver stability, ensure that both residents and businesses are cognisant of any new relationship requirements, and for the government to safeguard prosperity for the Island as it gradually exits out of the Covid-19 pandemic and into a critical phase of our economic recovery.

As set out in Sections II-V those foundations are in place and will continue to be built upon over the next 6 months at least. The completion of the mechanism for WTO extension, and the agreed Customs Arrangement between Jersey and the UK provides stability and certainty for the majority of Jersey businesses should no agreement be reached over the UK-EU CFTA. The report has also set out clearly Jersey's demonstration to all parties of good governance and high standards which puts the Island in the best possible position to take any opportunities it may be able to arising from the negotiation. It also identifies all the preparatory work undertaken across government and coordinated through the Jersey Partnership and Trade Group allows Ministers to make informed and timely decisions at pace towards the conclusion on negotiations.

The preparations will not falter, and the work will continue at pace as the outcome of the negotiation between the UK-EU begins to crystalize, and the focus to shift from a negotiation to readiness planning. Upon receipt of this clarity, the work of External Relations will enter a critical phase of communications to residents, businesses and engagement with the States Assembly. Officials look forward to this and are confident of the engagement and preparations already carried out which will enable us to do so.

External Relations will continue to update and engage the States Assembly regularly and as appropriate over the coming months to ensure mutual readiness for and awareness of the opportunities and challenges that lie ahead in determining the shape of Jersey's new relationships both with the UK and the EU.

**-END-**