



## **Isle of Man Government**

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### **'Implications of leaving the EU for the UK's role in the world'**

#### **Submission by the Isle of Man Government to the House of Commons Foreign Affairs Committee**

**August 2016**

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This submission is made by the Isle of Man Government, and is in response to the Foreign Affairs Committee's ("the Committee") call for evidence in respect of its inquiry into the "Implications of leaving the EU for the UK's role in the world".

The submission is made in the context of the Isle of Man's constitutional status as a British Crown Dependency, and as such, no comment is made on the wider issues concerning UK foreign policy.

The Isle of Man will hold its General Election on 22<sup>nd</sup> September, and for that reason the Isle of Man Government has made this submission to the Committee prior to the dissolution of the House of Keys, on 11<sup>th</sup> August. Further supplementary submissions may be made after the election, and following the formation of a new Government, which will come after the Foreign Affairs Committee's interim deadline of 30<sup>th</sup> September.

#### **Executive Summary**

1. Although the Isle of Man is not included within the UK's membership of the EU, the UK's decision to leave the Union will have an impact on the Island, as it will mean that its limited relationship, as set out in Protocol 3 to the UK's Treaty of Accession, will fall.
2. The UK Government has given a commitment that it will engage and consult with the Isle of Man and other Crown Dependencies as it works towards developing its own negotiating position, which will enable the UK to understand and to represent the Isle of Man's interests.
3. As with the UK, Isle of Man Government officials will continue to work on the mechanics of the leaving process, on the appraisal of the various options for a new

relationship with the EU, and also, on the identification of potential opportunities (including new trade deals with non-EU countries) and risks flowing from the UK's withdrawal from the EU.

4. The House of Keys will be dissolved on 11 August and the General Election will be held on 22 September. This will be followed by the election of a new Chief Minister, after which a new Council of Ministers will be appointed. The proposed timetable for completion of this process is early October. A full update on the Island's position in relation to the negotiations will be presented to the new administration once in place. It may well be case that, subject to the views of the new government, a further update will be provided for the Committee at that point.

### **Overview of the Isle of Man's Constitutional Position**

5. The Isle of Man is a Dependency of the British Crown, with Her Majesty The Queen as Sovereign. The Sovereign appoints a Lieutenant Governor to be her personal representative in the Island. The Isle of Man is not part of the United Kingdom and is internally autonomous and self-governing, with its own, independent legal, administrative and fiscal systems. The Island's parliament, Tynwald, legislates for the Island.
6. UK legislation and international treaties are only extended to the Island with the prior consent of the Isle of Man Government.
7. The Isle of Man is not part of the EU or EEA but is part of the Customs territory of the EU. The relationship between the Isle of Man and the EU is set out in Protocol 3 to the UK's Act of Accession by which the UK became a member of the EU, and not within the Treaty (as amended) itself. The Isle of Man's relationship with the EU is dependent, therefore, on the UK's membership of the EU.
8. The Protocol allows the Island to be part of the EU customs area which permits the free movement of manufactured goods and agricultural products in trade between the Island and the Union. Apart from the requirements of the Protocol, in particular that the Isle of Man must apply the same treatment to all natural and legal persons of the EU, other Union rules do not apply. In addition, the Island's relationship with the Union allows it to trade with countries in the European Economic Area similarly to its trade with the Union itself.
9. The impact of EU legislation and policies on the Island does, however, go beyond the scope of the Protocol, as follows –
  - a. UK agreements/relations – there are several policy areas where, because of bilateral agreements with the UK such as on Customs and Excise/VAT, National Insurance, Health, and certain benefits, EU rules may be applied in order to stay in step with the UK (which itself may be subject to EU

obligations in these areas). A prime example is VAT, where the Island is treated *as if* it were part of the EU for VAT purposes.

- b. Transactional issues – there are many instances where goods produced must meet EU standards if they are to be sold to EU consumers. Similarly, journeys begun or ending in the EU are also subject to EU rules and those providing services to customers in the EU may need to meet EU standards or demonstrate effective equivalence.
- c. Voluntary or reputational issues – the Isle of Man may choose to adopt EU measures and legislation voluntarily – as it has in respect of certain environmental standards – or indeed for reputational reasons, for example, when it adopts EU sanctions measures.
- d. Global standards – there are several examples where the Isle of Man has adopted global standards which have been agreed or implemented by or in conjunction with the EU.

### **The Isle of Man’s ongoing relationship with the UK**

- 10. Irrespective of the UK’s future relationship with the EU, the UK is the Island’s most important trading partner, and free movement of goods and people between the two is of utmost importance. In addition, the Isle of Man is in currency union with the UK.
- 11. There is nothing to suggest that the referendum decision for the UK to withdraw from the EU will have an impact on the underlying constitutional relationship between the Isle of Man and the United Kingdom.
- 12. In addition, it is anticipated that the Customs and Excise Agreement between the Isle of Man and the UK, albeit it in a potentially modified form, may continue, and the rights of Isle of Man residents to British citizenship would not be affected, should the UK leave the EU. The rights, however, of those British citizens to live and work in the EU, will be subject to negotiation.

### **Response to the questions posed by the Committee**

The Committee has posed four questions (highlighted in bold below), and those are addressed separately.

### **The type of relationship that the UK, its Crown Dependencies and its Overseas Territories should seek to pursue with the EU in future**

- 13. The EU Treaties allow only for sovereign states to become members of the EU, as does the Convention establishing the European Free Trade Association. Similarly, the EU can only sign association agreements with sovereign states – such as those currently being negotiated with the so-called ‘micro-states’ of Andorra, Monaco and

San Marino.

14. It is not possible, therefore, for the Isle of Man to either become a Member of the EU, or to join EFTA and accede to the European Economic Area (EEA) Agreement, or to sign an association agreement with the EU, in its own right.
15. The Isle of Man's relationship with the EU is, therefore, dependent upon the UK's membership of the EU – and the retention of Protocol 3 – or, following the UK's exit from the EU, on the arrangements negotiated by the UK on its own behalf.
16. In line with Isle of Man Government policy, and supported by resolution of Tynwald, the Island's parliament, the Isle of Man is not seeking to gain independence from the UK. The Isle of Man Government does not, therefore, envisage seeking an independent or separate relationship with the EU, from that which is negotiated by the UK for itself.
17. The Chief Minister of the Isle of Man, and his counterparts from Jersey and Guernsey wrote jointly on 28 June 2016 to the former Prime Minister to emphasise that the Crown Dependencies would wish to retain the ability to trade freely in goods with the EU, and to continue to allow for free movement of people. This is especially important if the Isle of Man is to continue to register economic growth, as access to labour is a key issue.
18. The Isle of Man is not considered to be part of the metropolitan territory of the United Kingdom for the purposes of ratification and scope of international treaties entered into by the UK, and so any agreement reached by the UK with the EU would not automatically extend to cover the Island.
19. The effect of these two factors is to –
  - a. firstly, give the Isle of Man a choice as to whether it agrees to inclusion within the scope of the UK's new relationship with the EU, and
  - b. secondly, to limit the Island's own potential new relationship with the EU, to either being the same as, or covering certain parts of, the UK relationship (subject to this being feasible and agreed by all parties). In other words, it is difficult to envisage how the Isle of Man could have a deeper or closer relationship with the EU, than does the UK
20. This does, then, bring into focus the Island's options for its future relationship with the EU, which must be viewed in the context of the path which the UK itself chooses to follow.
21. Numerous studies, position papers and opinion pieces have been published which set out the alternatives to EU membership, which could be negotiated by the UK, following withdrawal from the EU.

22. The UK Government paper entitled 'Alternatives to Membership – possible models for the United Kingdom outside the European Union'<sup>1</sup>, set out the following alternatives–
- a. The Norway model – in the European Economic Area (EEA) but not in the EU
  - b. Negotiated bilateral agreements, including –
    - i. The Swiss model – a series of bilateral agreements
    - ii. The Turkish model – customs union
    - iii. The Canadian model – A Free Trade Agreement
  - c. World Trade Organisation (WTO) membership – reliance on WTO rules to set limits for trade barriers/tariffs
23. The various models for alternative relationships between the UK and the EU, along with their potential impact on the Island, are considered in more detail in the Council of Ministers' Second Interim Report<sup>2</sup> on "The UK Referendum on EU Membership – Implications for the Isle of Man".
24. However, the nature of the Referendum campaign, and decision to leave the EU, means that the prospect of full EEA Membership seems remote, and either an EEA-style agreement (minus certain more onerous conditions) or an enhanced FTA option is more likely.
25. The UK Government has not yet decided what negotiating stance it will take, and what kind of new relationship it will be seeking. However, as mentioned above, the Isle of Man Government has stated that it would wish to retain the ability to trade freely with the EU, and to allow for free movement of people, subject to the restrictions which it can currently impose – through the use of a work-permit system, and limitations to access to certain benefits for those who do not qualify as an 'Isle of Man Worker'.
26. As is the case in the UK, much more work will be undertaken in the coming months to set out the necessary steps which must be taken, from a legal perspective, in order to withdraw from the EU. In addition, further work will be undertaken to set out the policy options for the new administration in the Isle of Man, and also, to identify the potential opportunities and risks which flow from withdrawal.

### **The implications of the decision [to leave the EU] for the UK's strategic orientation, global posture, alliances and international trade**

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[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/504661/Alternatives\\_to\\_membership\\_possible\\_models\\_for\\_the\\_UK\\_outside\\_the\\_EU\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/504661/Alternatives_to_membership_possible_models_for_the_UK_outside_the_EU_Accessible.pdf)

<sup>2</sup> <https://www.gov.im/media/1351808/second-interim-report-on-the-uk-referendum-of-eu-membership-implications-for-the-isle-of-man.pdf>

27. In line with its constitutional status, the Isle of Man Government does not conduct what might be recognised as a formal foreign policy, but it does build relations with countries other than the UK, and welcomes the opportunity to promote economic, political, and cultural ties with other nations where possible.
28. The Isle of Man assumes a neutral position in respect of the international relations of the United Kingdom even when, as with the referendum on EU membership, decisions taken in the UK may have an effect on the Island. For this reason, the Isle of Man Government took the view that the UK's future relationship with the EU is a matter for the United Kingdom Government, and its people, to determine. (Whilst the Isle of Man Government retained a neutral position, it did undertake some contingency planning, in order to assess the potential impact on the Island of a vote to leave, and the Council of Ministers' First Interim Report<sup>3</sup> on the "UK Referendum on EU Membership – Implications for the Isle of Man" was published in April 2016).
29. However, although the Isle of Man is included within the UK's membership of the EU, its limited relationship with the EU is through the UK, and is dependent upon the UK's EU membership. For that reason, the Island's relationship with the EU will fall away, once the UK leaves.
30. As set out above, the Isle of Man would not seek to comment on the UK's strategic orientation, global posture, alliances, in particular, but would offer the following points –
- a. Firstly, that the UK is the Isle of Man's official voice within the EU, and as such, withdrawal will mean that the Isle of Man no longer has a voice. Paragraph 9 above sets out the ways in which the EU impacts upon the Island, in an indirect way, and beyond the scope of Protocol 3. With the UK withdrawal, then this will mean that the Isle of Man may be affected either directly or indirectly by EU policy, and will not, now, enjoy the UK's support in countering these measures.
  - b. Secondly, there could be a more positive outcome for the Island in respect of international trade. Currently, the UK as a full EU Member is covered by the EU's Common Commercial Policy, which empowers the Commission to negotiate trade deals on behalf of the EU as a whole. In addition, trade deals may also include provisions relating to investment, and also extend beyond trade in goods, to cover services or regulatory areas. Currently, these agreements only cover the Isle of Man to the limited extent of its Protocol 3 relationship with the EU (free trade in goods). However, were the UK to gain the freedom to negotiate its own bilateral agreements, then it may be possible, subject the agreement of all parties, that these agreements could be extended to include the Island in full.
31. The Isle of Man's closest and most significant trading partner is the UK, but the importance for the Island of free and open international trade cannot be overstated. As the Isle of Man has a very small domestic market it has, for the last forty years, built its economy on a diversified portfolio ranging from the provision of global

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<sup>3</sup> <https://www.gov.im/media/1351246/uk-referendum-on-eu-membership-implications-for-the-isle-of-man.pdf>

financial services, shipping, film production and high value-added and high-tech industries especially in aerospace and advanced engineering. In common with all developed, and many developing countries, it relies on open, international markets, for its economic wellbeing.

32. The Isle of Man Government sees the promotion of trade and the growth of emerging markets and with the Commonwealth as a key issue, and will be increasingly important to the Isle of Man as it seeks to build stronger and more extensive international business links.
33. There is a great deal of further work to be undertaken in the Isle of Man to assess the impact of the UK's withdrawal from the EU on the Island, and in particular, how withdrawal will need to be managed, what new relationship will be sought, and also, what opportunities and risks can be identified. As such, further work will be undertaken on the issue of Isle of Man's participation in bilateral trade deals with third countries, and their potential extension to include the Isle of Man.

**The Government's management of negotiations to determine the terms of the UK's exit from the EU, including their political direction and the structures and resources to be put in place to orchestrate the transition**

34. The manner in which the UK Government manages the negotiations to determine the terms of its exit from the EU, are not a matter for comment by the Isle of Man Government.
35. What is encouraging, however, is that the UK Government has already recognised the importance of, and the need to, develop its negotiating position in conjunction with the Devolved Administrations, and in consultation with the Crown Dependencies and Overseas Territories.
36. The Isle of Man has already had the opportunity to engage with the UK Cabinet Office at official level, and have been assured that there will be engagement and dialogue with the Department for Exiting the European Union both at official and political level. This will help the Isle of Man in dealing with the withdrawal process internally, and also, enable the Isle of Man Government to advise the UK Government on its position, in a number of different policy areas.

**The work of the FCO in the transition process, both in negotiations with the EU and in managing the UK's broader global role including trade agreements**

37. This is not an area where the Isle of Man Government would wish to comment other than to emphasise its wish to remain involved in the discussions in order to ensure that the Island's interests are reflected in ongoing negotiations.