



House of Commons
Justice Committee

The implications of Brexit for the Crown Dependencies

Tenth Report of Session 2016–17



House of Commons
Justice Committee

The implications of Brexit for the Crown Dependencies

Tenth Report of Session 2016–17

*Report, together with formal minutes
relating to the report*

*Ordered by the House of Commons to be printed
21 March 2017*

Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

Current membership

[Robert Neill MP](#) (*Conservative, Bromley and Chislehurst*) (Chair)

[Richard Arkless MP](#) (*Scottish National Party, Dumfries and Galloway*)

[Alex Chalk MP](#) (*Conservative, Cheltenham*)

[Alberto Costa MP](#) (*Conservative, South Leicestershire*)

[Philip Davies MP](#) (*Conservative, Shipley*)

[Kate Green MP](#) (*Labour, Stretford and Urmston*)

[Mr David Hanson MP](#) (*Labour, Delyn*)

[John Howell MP](#) (*Conservative, Henley*)

[Victoria Prentis MP](#) (*Conservative, Banbury*)

[Jo Stevens MP](#) (*Labour, Cardiff Central*)

[Keith Vaz MP](#) (*Labour, Leicester East*)

The following Members were also members of the Committee during the Parliament:

[Richard Burgon MP](#) (*Labour, Leeds East*), [Sue Hayman MP](#) (*Labour, Workington*),

[Dr Rupa Huq MP](#) (*Labour, Ealing Central and Acton*), [Christina Rees MP](#) (*Labour, Neath*), [Marie Rimmer MP](#) (*Labour, St Helens South and Whiston*), and [Nick Thomas Symonds MP](#) (*Labour, Torfaen*).

Powers

The committee is one of the departmental select committees, the powers of which are set out in House of Commons Standing Orders, principally in SO No 152. These are available on the internet via www.parliament.uk.

Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

Publication

Committee reports are published on the Committee's website at www.parliament.uk/justicecttee and in print by Order of the House.

Committee staff

The current staff of the Committee are Nick Walker (Clerk), Gavin O'Leary (Second Clerk), Gemma Buckland (Senior Committee Specialist), Nony Ardill (Legal Specialist), Elise Uberoi (Committee Research Clerk), Christine Randall (Senior Committee Assistant), Anna Browning (Committee Assistant), and Liz Parratt (Committee Media Officer).

Contacts

All correspondence should be addressed to the Clerk of the Justice Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 8196; the Committee's email address is justicecom@parliament.uk.

Contents

Summary	3
1 Introduction	4
2 The implications of Brexit for the Crown Dependencies	7
Brexit negotiations: priorities and the constitutional relationship	7
Brexit negotiations: engagement and representation	9
Engagement	9
Representation	11
Conclusions and recommendations	14
Annex: Notes of visits to the Crown Dependencies, January 2017	15
Formal Minutes	31
Witnesses	32
Published written evidence	32
List of Reports from the Committee during the current Parliament	33

Summary

The Crown Dependencies are not part of the UK; nor are they part of the EU. But the UK leaving the EU will affect them in many ways. We consider their priorities, the Government's procedures for engaging with and representing them, and whether the Government is prepared for the pressures and conflicts that might arise as the UK's departure from the EU intensifies.

Financial services, agriculture, and fisheries are among the Islands' economic sectors for which Brexit might have implications; policy on border controls and immigration could also be affected. We observe that some of these issues, including agricultural licences to export outside the EU, must be addressed urgently to provide certainty in advance of the point of Brexit (as orders will be placed for 2019 in 2018), and recommend that the Government report back on its progress on these by March 2018. The Crown Dependencies' primary priority, however, is to preserve their existing relationships with the UK, including their overarching constitutional relationship. We warmly welcome this and recommend that the Government reaffirms, in its response to this report, that there will be no changes to these relationships.

Achievement of the Crown Dependencies' aims in Brexit negotiations will require regular opportunities for them to explain their interests to relevant departments, who must have some familiarity with the Islands' constitutional position—and a willingness to listen. All have welcomed their engagement with the UK Government on Brexit so far. However, this may be more difficult to maintain as negotiations progress.

Engagement encourages—but does not entail—representation, which could become awkward were the interests of the UK and the Crown Dependencies to diverge. The current approach does not guarantee that such a scenario would be handled satisfactorily, and is unclear in ways that might become unhelpful to the Islands. We recommend that the Government clarify its position on representing any of the Crown Dependencies' interests that differ from the UK's own in Brexit negotiations and thereafter.

1 Introduction

1. The Crown Dependencies are not part of the UK; nor are they part of the EU.¹ But the UK leaving the EU will affect them in many ways. The Crown Dependencies trade within the EU's Customs Union; their residents travel inside the Common Travel Area, which includes the UK and Ireland, and many hold EU passports; their economies are inextricable from the UK's, which has in turn been bound with the EU's for many years. Jersey, Guernsey and the Isle of Man have a voice of their own in some foreign policy matters, but the UK is still principally responsible for their international affairs. It is unmistakably a seminal moment in the history of the Islands' external relations: it is therefore timely to look afresh at the UK's discharge of its constitutional duties towards the Crown Dependencies as they relate to the consequences of Brexit.

Box 1: The Crown Dependencies

The Crown Dependencies comprise the Bailiwick of Jersey, the Bailiwick of Guernsey (itself containing the separate jurisdictions of Guernsey, Alderney and Sark) and the Isle of Man. They are not part of the UK—each has its own legal and political systems—but they have an historic relationship with the British Crown that confers some constitutional duties upon the UK, stated most recently in the Government response to the previous Committee's 2014 report:

- to defend the Crown Dependencies;
- to represent them internationally (subject to conditions, as in the 2007–08 Framework Agreements*);
- to ratify their legislation (following scrutiny);
- to ensure they comply with international obligations (such as those arising under the European Convention on Human Rights); and
- as ultimately responsible for their 'good government'—though it is generally agreed that only a grave abrogation of 'good government' would trigger intervention by the UK.

This constitutional relationship is managed by the Ministry of Justice, with the Lord Chancellor ultimately responsible for the Crown Dependencies in Cabinet. However, as a result of the recommendations of previous Justice Committees, the Islands engage with the UK through whichever Government department is responsible for the relevant policy issue.

* *Framework for developing the international identity of Jersey*, 1 May 2007, paras 1 and 9; *Framework for developing the international identity of the Isle of Man*, 1 May 2007, paras 1 and 9; and *Framework for developing the international identity of Guernsey*, 18 December 2008, paras 1 and 9 (all available at Ministry of Justice, [Crown Dependencies: Jersey, Guernsey and the Isle of Man](#))

Sources: Q42 [Sir Oliver Heald QC MP]; Justice Committee, *Tenth Report of Session 2013–14, Crown Dependencies: developments since 2010*, HC (2013–14) 726; Ministry of Justice, *Government Response to the Justice Select Committee's Report 'Crown Dependencies: developments since 2010'*, Cm 8837, March 2014; Ministry of Justice, *Fact sheet on the UK's relationship with the Crown Dependencies* (accessed 15 March 2017)

2. We opened this inquiry on 21 October 2016, seeking answers to the following questions:

- What opportunities and risks does Brexit create for the Crown Dependencies, and from the perspective of the Dependencies what should the UK Government prioritise in its negotiations with the EU over its terms of exit?
- How will the constitutional position of the Crown Dependencies be affected by the UK's departure from the EU?
- How effectively is the UK Government, and particularly the Ministry of Justice, engaging with the Crown Dependencies on Brexit?

3. We published eight written submissions, including from the governments of Jersey, Guernsey, the Isle of Man, and Alderney. We visited Jersey, Guernsey (where we met a delegation from Sark) and the Isle of Man in January 2017: notes of these visits are annexed to this report. In addition, our Chair met the President of the States of Alderney informally in Westminster in connection with this inquiry. We took oral evidence from Sir Oliver Heald QC MP, Minister of State for Courts and Justice, and Elaine Cobb, Head of the Crown Dependencies Team, Ministry of Justice, on 22 February 2017. We are grateful to all those who have contributed to the inquiry. We note also the House of Lords' EU Committee's inquiry, *Brexit: Crown Dependencies*, which has run in parallel to ours (but focuses more on the role of the Department for Exiting the EU than that of the Ministry of Justice).²

4. Our report is brief, intended to articulate our position on the overarching priorities and principles at stake, not to press the Government on each of the Crown Dependencies' objectives for Brexit negotiations—which are matters for them to raise directly. We do begin, however, by setting out some of these at a high level for context. This leads us to the focus of our inquiry: the Government's procedures for engaging with and representing the Islands. We consider what the Government has done so far, and whether it is prepared for the pressures and conflicts that might arise as the UK's departure from the EU intensifies.

Box 2: The Crown Dependencies and the EU

The Crown Dependencies are not Member or Associate States of the EU. However, they are part of the EU's Customs Union, allowing them to trade goods freely with Member States: this provision is made under Protocol 3 of the UK's Act of Accession 1972. They are not encompassed by the EU's other freedoms (of services, capital and people). The Islands are also influenced indirectly by the EU, for example:

- where laws in Crown Dependencies are based on (and intended to track) those in the UK, which in turn derive from EU legislation;
- where exports to the EU require the Crown Dependencies to maintain equivalent standards to those of the EU; or
- where Crown Dependencies voluntarily adopt EU standards.

The Crown Dependencies' formal relationship with the EU (including membership of the Customs Union) will end with Brexit, though could be replaced by extension to them of any new UK-EU agreement.

None of the Crown Dependencies participated in the UK's referendum on the EU (as they are not part of either the UK or the EU).

2 The implications of Brexit for the Crown Dependencies

5. Any programme of change can be considered both in terms of what it changes, and the process by which it does so. We note first some of the Crown Dependencies' priorities for the outcomes of Brexit negotiations, including those regarding their relationship—constitutionally and otherwise—with the UK, in paragraphs 6–8. The crux of this report concerns the means by which the Islands can press the UK to act on these points. Paragraphs 9–14 address the Government's engagement with the Crown Dependencies on Brexit, then—from paragraph 15 onward—we consider the UK's commitment to their international representation.

Brexit negotiations: priorities and the constitutional relationship

6. Through written evidence, and particularly through our visits to the Crown Dependencies, we are aware of many of their requests in specific policy areas. We do not speak for the Crown Dependencies, and it would be misconstruing our role to go into great detail on each of these: they are matters for the Islands to raise and pursue with the UK Government. However, it is important that we outline some of these policy priorities so as to give context to our work and illustrate the potential outcomes of the Government's engagement with and representation of the Islands, which are the proper subject of our scrutiny here. The table below presents a summary of some key issues raised by the Crown Dependencies in written submissions and during our visits there.

Table 1: Crown Dependencies' priorities for Brexit outcomes

Crown Dependencies	Theme	Priority
Jersey and the Isle of Man	Agriculture	Continued opportunity to export outside the UK (some current exports rely, for example, on EU licences)
All	Border controls	Retention of the Common Travel Area (CTA), allowing travel between the UK, the Crown Dependencies and Ireland with minimal border controls
All	Financial services	Protection from blacklisting by the EU, where some Member States have shown hostility to the Crown Dependencies, when the UK is not in the EU; this is their central economic sector
Jersey and Guernsey	Fisheries	Clarity on the future of territorial waters (and protection thereof), which involves France
All	Fisheries	Clarity on the future of the UK's fisheries management, possibly absent EU quotas, and any implications for the Crown Dependencies
All	Fisheries	Minimal barriers to exports to the EU (the major buyer for most of the Islands' fisheries produce)

Crown Dependencies	Theme	Priority
All	Immigration	Continued ability to fill demographic and skills gaps
Guernsey and the Isle of Man	Manufacturing	Minimal barriers to exports to the EU
Guernsey (Alderney) and the Isle of Man	Online gambling	Protection from any hostile action by the EU to this growing economic sector when the UK is not in the EU
All	Relationship with the UK	Preserving existing constitutional, trading and other relationships (including on customs and excise) with the UK
Jersey and Guernsey	Relationship with the UK	Ending treatment of Island residents as non-UK, non-EU or non-EEA for the purposes of some UK services (including healthcare and higher education)

Sources: Annex, Government of Jersey ([IBC0004](#)), States of Guernsey ([IBC0005](#)), Isle of Man Government ([IBC0002](#)), States of Alderney ([IBC0003](#))

Further details of these and other priorities can be found in the Annex to this report and in written evidence from the Crown Dependencies' governments. We observe that some of these issues, including agricultural licences to export outside the EU, must be addressed urgently to provide certainty in advance of the point of Brexit (as orders will be placed for 2019 in 2018).

7. Among these issues, we found that the Islands' prime focus for Brexit outcomes is to maintain their most important relationship—that with the UK. The Chief Ministers of Jersey, Guernsey and the Isle of Man wrote to the then-Prime Minister immediately following the referendum, seeking confirmation of their “understanding that the UK’s withdrawal from the EU will not prevent the continued free trade in goods and services, the free movement of capital and the free movement of people between our jurisdictions”.³ This includes the constitutional relationship between the UK and the Crown Dependencies, which witnesses to this inquiry were not eager to change. The Government of Jersey and the States of Guernsey noted potential constitutional implications if Article 50 of the Treaty on European Union⁴ could not be triggered by the UK Government under the Royal Prerogative (simply, the Government’s power—particularly in foreign affairs—to take action without parliamentary permission);⁵ the Supreme Court has since ruled that the Government cannot give notification under Article 50 without an authorising Act of Parliament.⁶ We note that recent expressions of the constitutional relationship, such as the Government response to the previous Committee’s report, *Crown Dependencies: developments since 2010*,⁷ were made in the context of the UK’s EU membership. The Ministry confirmed that “the referendum result has not changed the constitutional relationship between the United Kingdom and the Crown Dependencies”.⁸

3 [Letter from the Crown Dependencies' Chief Ministers to the Prime Minister](#), 28 June 2016

4 Article 50 of the Treaty on European Union establishes a process for Member States to leave the EU; the Government has indicated it will use this process.

5 Government of Jersey ([IBC0004](#)) para 2.8, States of Guernsey ([IBC0005](#)) para 5.5

6 [\[2017\] UKSC 5](#), para 101

7 Ministry of Justice, *Government Response to the Justice Select Committee’s Report ‘Crown Dependencies: developments since 2010’*, Cm 8837, March 2014

8 Ministry of Justice ([IBC0007](#)) para 3

8. The primary priority for the Crown Dependencies in the aftermath of Brexit is to preserve their existing relationships with the UK, including their overarching constitutional relationship. *We warmly welcome this, and recommend that the Government reaffirms, in its response to this report, that there will be no changes to these relationships.*

Brexit negotiations: engagement and representation

Engagement

9. Satisfying some or all of the preferences above (and those that are yet to be expressed) requires the UK Government to recognise them and include them in its negotiating strategy. This in turn necessitates regular opportunities for the Crown Dependencies to explain their interests to relevant departments, who must have some familiarity with the Islands' constitutional position—and a willingness to listen.

10. The Ministry of Justice (and previous departments connected to the position of Lord Chancellor) is historically the Crown Dependencies' principal interlocutor in Whitehall. However, and following the recommendations of previous Justice Committees, there has been (and is expected) more direct engagement between the Islands and other Government departments, e.g. with the Department for Environment, Food and Rural Affairs (DEFRA) on agriculture and fisheries. The Minister described the position:

Over recent years, we have been very much guided by the Select Committee reports on the Crown dependencies, particularly the report from 2013, which set out the constitutional position and encouraged the Department to be a facilitator within Government and something of a champion for the Crown dependencies with other Departments, but working on the basis that the Crown dependencies should have their own relationship with other Government Departments. We try to facilitate and champion that.⁹

Elaine Cobb observed that, following Brexit, other Whitehall departments had proactively engaged the Ministry, which “immediately offered to meet them to explain the constitutional relationship and to provide any support they needed”.¹⁰

11. Steps taken by the Government to engage with the Crown Dependencies over Brexit include:

- immediate Ministerial contact following the referendum;¹¹
- a commitment from the Prime Minister that the Crown Dependencies will be “kept informed and offered the opportunity to contribute where it is relevant and appropriate to do so”;¹²

9 [Q2](#)

10 [Q3](#)

11 [Q3](#) [Sir Oliver Heald QC MP]

12 Prime Minister, [Letter to the Chief Ministers of Jersey, Guernsey and the Isle of Man, regarding Brexit](#), 26 July 2016, p1

- fortnightly contact between Robin Walker MP, Parliamentary Under-Secretary of State at the Department for Exiting the European Union (DExEU), and the Islands, including quarterly meetings;¹³
- engagement by the Cabinet Office Constitution Group (which has appointed an official responsible for liaison with the Crown Dependencies);¹⁴
- invitation of Island representatives to DEFRA’s Brexit working group, with quarterly meetings;¹⁵
- engagement with other departments including the new Department for International Trade (DIT) and HMRC;¹⁶

All Crown Dependencies have welcomed their engagement with the UK Government on Brexit so far.¹⁷

12. The quality of engagement to date is an indication, but not a guarantee, that it will be maintained. The Government of Jersey noted:

There is in theory a risk that the UK government could regard this period of prior consultation with the Crown Dependencies as sufficient for its own purposes, and that consultation will diminish when negotiations with the EU start. We recognise how quickly things can change during negotiations, and our interests can therefore only be properly represented if regular contact is maintained beyond the preparation period and throughout the negotiations.¹⁸

Asked whether, if any Crown Dependency was dissatisfied by its level of engagement with a department, the Ministry of Justice would raise that matter, the Minister told us:

That is very much our role in all Government matters. If a Crown dependency feels that it is not being listened to or there is a need for some intervention, that is our role, and we do that. We would do it in this instance as well.¹⁹

He later agreed that “the responsibility to beat the Crown Dependencies’ drum within Cabinet falls on the Lord Chancellor”,²⁰ who “is very conscious of the importance of the role”.²¹

13. In the context of Brexit, DExEU is central to the UK’s relationship with the Crown Dependencies. The Minister explained that:

13 [Q3](#) [Sir Oliver Heald QC MP], Ministry of Justice ([IBC0007](#)) para 5

14 [Q6](#) [Elaine Cobb]

15 Annex: Isle of Man: Meeting at the Department for Environment, Food and Agriculture

16 Annex: Isle of Man: Meeting with the Chief Minister

17 Government of Jersey ([IBC0004](#)) paras 11.2–4, Isle of Man Government ([IBC0003](#)), States of Guernsey ([IBC0005](#)) para 6.3

18 Government of Jersey ([IBC0004](#)) para 4.4

19 [Q7](#)

20 [Q42](#)

21 [Q43](#)

In terms of Brexit, the main relationship in the negotiations and so on is with DExEU, but with us monitoring it and making sure that they feel that everything is being done that should be done.²²

Direct engagement between the Islands and the department managing the issue on which they seek to engage is in line with the previous Committee's recommendations. We note the unique gravity and urgency of Brexit within both UK policy and the Crown Dependencies' international affairs, which makes DExEU critical simultaneously to the Islands and to central UK interests.

14. The Government has engaged the Crown Dependencies well regarding Brexit so far. This engagement may be more difficult to maintain as negotiations progress. We welcome the Ministry of Justice's commitment to—and understanding of the importance of—its role in protecting high levels of engagement despite any such difficulties, which the Department for Exiting the EU's lead in these matters does not abrogate.

Representation

15. Engagement encourages, but does not entail, representation—*bona fide* efforts from the UK's Brexit negotiating team to achieve outcomes beneficial (or at least not harmful) to the Crown Dependencies. Such representation would seem to come easily when interests of the UK and the Islands align, but could become awkward if they diverge. We must stress that we have not identified any current such discrepancies. That is not to say, however, that it is impossible for them to emerge. Indeed, Ms Cobb recalled such instances from her time in post.²³ Various representatives and residents of the Crown Dependencies used the terminology of 'bargaining chips' and 'collateral damage' when asked about their fears: it is at least logically possible, for example, that in the context of hostility from some EU Member States towards the Islands' financial sectors, the UK is presented with the option to further its own interests at the expense of the Crown Dependencies.

16. The UK Government is responsible for the Crown Dependencies' international relations. Between 2007 and 2008, it agreed with each of Jersey, Guernsey, and the Isle of Man a framework for developing that territory's international identity, which explicitly recognised that interests might not coincide. This codification of the constitutional relationship included commitments that:

The UK will not act internationally on behalf on [the Crown Dependency] without prior consultation.

The UK recognises that the interests of the [the Crown Dependency] may differ from those of the UK, and the UK will seek to represent any differing interests when acting in an international capacity. This is particularly evident in respect of the relationship with the European Union where the UK interests can be expected to be those of an EU member state and the interests of the [the Crown Dependency] can be expected to reflect the

22 [Q8](#)
23 [Q17](#)

fact that the UK’s membership of the EU only extends to the [the Crown Dependency] in certain circumstances as set out in Protocol 3 of the UK’s Treaty of Accession.

[...]

The UK and [the Crown Dependency] will work together to resolve or clarify any differences which may arise between their respective interests.²⁴

The Minister said “there are issues where we have taken up the cudgels, or at least made quite an effort on behalf of the Crown Dependencies, where there was a difference of opinion” and indicated the Ministry would be prepared to repeat this if necessary in the course of Brexit negotiations.²⁵

17. The Ministry’s submission to this inquiry also argued:

These agreements should not however be mistaken for guarantees that the UK will always be in a position to represent Crown Dependency views internationally where those views diverge from the UK’s own interests.²⁶

It appears that the UK will ‘recognise’, ‘work together to resolve or clarify’, and ‘seek to represent’—but not ‘guarantee to represent’—any of the Crown Dependencies’ interests that differ from its own. The meaning of this distinction could be made clearer; we are concerned that it might be interpreted as the UK stepping back from its previous commitments.

18. We asked whether any protocol could be put in place to address tensions between the UK’s and the Crown Dependencies’ position, if and when they arise. Ms Cobb replied:

To go back to your original question about whether there is a mechanism in place, the simple answer is that there isn’t, at this time. Part of the reason for that is that it is very difficult to put a mechanism in place. As you can imagine, the nature of a dispute could vary so enormously that it would be very difficult to put a one-size-fits-all solution in place, but, as the Minister said, that is part of our role.²⁷

We also enquired as to whether the Crown Dependencies’ own representatives could participate in negotiations; the Minister was non-committal, arguing “it is a bit too early to hypothesise about particular situations”.²⁸ We understand the Government’s desire to avoid imposing a solution disproportionate to the problem. However, the UK’s obligation to represent the Crown Dependencies is not necessarily served by a purely discretionary approach to managing disagreement, particularly when it is by far the more powerful party.

24 *Framework for developing the international identity of Jersey*, 1 May 2007, paras 1 and 9; *Framework for developing the international identity of the Isle of Man*, 1 May 2007, paras 1 and 9; and *Framework for developing the international identity of Guernsey*, 18 December 2008, paras 1 and 9 (all available at Ministry of Justice, [Crown Dependencies: Jersey, Guernsey and the Isle of Man](#))

25 [Q16](#)

26 Ministry of Justice ([IBC0007](#)) para 13

27 [Q17](#)

28 [Qq21–22](#)

19. There is another type of divergence possible: between the interests of the Crown Dependencies themselves. The Minister said that in such cases, the UK would “take account of all the different viewpoints” and “represent all of them”.²⁹ As Ms Cobb observed (and we agree), the Crown Dependencies appear to be committed to a synchronised approach to Brexit, though she did note “as we get further down the line, I am sure we might see a bit more divergence”.³⁰ **We welcome the Government’s continued commitment to represent the interests of all the Crown Dependencies, even in the event that they are not as one.**

20. The implications of Brexit for the Islands’ international relations are not limited to the negotiations around the UK leaving the EU; all have expressed interest in inclusion in any of the new Free Trade Agreements (FTAs) that the UK is expected to make with non-EU countries in the aftermath.³¹ DIT will lead this work and is engaging with the Islands.³² It is anticipated that WTO membership, which provides a basic framework for free trade and the absence of stronger bilateral (or multilateral) arrangements, will be useful in this context: we note that the UK’s membership currently extends to the Isle of Man, but not Jersey or Guernsey.

21. **There is no current suggestion of any divergence between the UK’s and the Crown Dependencies’ interests in relation to Brexit negotiations. If one were to arise, it may well be handled satisfactorily in the terms that the Government has laid out to us. However, the current approach does not guarantee this, and is unclear in ways that might become unhelpful to the Islands. The UK is likely to follow Brexit with a series of major trade talks with potential implications for the Crown Dependencies, demonstrating that their need for effective engagement and representation in international affairs will continue to be pressing after the UK leaves the EU. We recommend that, in its response to this report, the Government clarify its position on representing any of the Crown Dependencies’ interests that differ from the UK’s own in Brexit negotiations and thereafter.**

22. **We further recommend that the Government report back on its progress on those issues requiring more urgent attention, such as agricultural export licences, by March 2018.**

29 [Q25](#)

30 [Q25](#)

31 Isle of Man Government ([IBC0002](#)), Government of Jersey ([IBC0004](#)) paras 5.1–2, States of Guernsey ([IBC0005](#)) para 4.11

32 [Q31–4](#)

Conclusions and recommendations

The implications of Brexit for the Crown Dependencies

1. The primary priority for the Crown Dependencies in the aftermath of Brexit is to preserve their existing relationships with the UK, including their overarching constitutional relationship. *We warmly welcome this, and recommend that the Government reaffirms, in its response to this report, that there will be no changes to these relationships.* (Paragraph 8)

Brexit negotiations: engagement and representation

2. The Government has engaged the Crown Dependencies well regarding Brexit so far. This engagement may be more difficult to maintain as negotiations progress. We welcome the Ministry of Justice's commitment to—and understanding of the importance of—its role in protecting high levels of engagement despite any such difficulties, which the Department for Exiting the EU's lead in these matters does not abrogate. (Paragraph 14)
3. We welcome the Government's continued commitment to represent the interests of all the Crown Dependencies, even in the event that they are not as one. (Paragraph 19)
4. There is no current suggestion of any divergence between the UK's and the Crown Dependencies' interests in relation to Brexit negotiations. If one were to arise, it may well be handled satisfactorily in the terms that the Government has laid out to us. However, the current approach does not guarantee this, and is unclear in ways that might become unhelpful to the Islands. The UK is likely to follow Brexit with a series of major trade talks with potential implications for the Crown Dependencies, demonstrating that their need for effective engagement and representation in international affairs will continue to be pressing after the UK leaves the EU. *We recommend that, in its response to this report, the Government clarify its position on representing any of the Crown Dependencies' interests that differ from the UK's own in Brexit negotiations and thereafter.* (Paragraph 21)
5. *We further recommend that the Government report back on its progress on those issues requiring more urgent attention, such as agricultural export licences, by March 2018.* (Paragraph 22)

Annex: Notes of visits to the Crown Dependencies, January 2017

This Annex comprises notes of the Committee's visits to the Isle of Man, Jersey and Guernsey in connection with this inquiry. These meetings were held under Chatham House rules. The notes are summaries, and reflect discussions held rather than any agreed positions of the Committee (which are contained within the main Report); they do not comment on or certify the veracity of factual claims made. Participants in the meetings have agreed to publication of these notes.

Isle of Man (16–17 January 2017)

The Chair, Richard Arkless, Mr David Hanson, John Howell, and Victoria Prentis visited the Isle of Man at the invitation of the Chief Minister, Hon Howard Quayle MHK.

Meeting with the Chief Minister

Financial services

Isle of Man businesses operating in this sector mostly trade with the City of London and Asia, so direct effects of any trade barriers that the EU might establish would be minimal. However, loss of the UK's influence as a protector of the Island's financial services in the EU will be missed, and some Member States could pose threats to the Island's interests. The high volume of capital directed into the UK by Isle of Man finance was raised.

Opportunities from Brexit

There are potential gains from any new trade deals the UK concludes, for example with the USA. The Isle of Man manufactures components used, for example, in the US Air Force's ejector seats (and Boeing landing gear). The Chief Minister felt it would be crucial that any such agreements have the ability to include the Isle of Man, so that it might carve out niche markets in due course.

Future trade deals

The Crown Dependencies are currently covered by EU Free Trade Agreements (FTAs) to the extent that Protocol 3 of the UK's Act of Accession 1973 applies, and no further. In addition, if the UK now goes further in opening new markets through new trade deals, which may include provisions to liberalise access to services (previously foreclosed to the Crown Dependencies) then this may provide opportunities for the Island. There is even potential for access to services to be incorporated into the UK's departure deal with the EU.

Migration

The Isle of Man's approach to immigration, under which non-Manx UK and other EU nationals are free to visit and live on the Island, but require a work permit for employment, was explained. Non-contributory unemployment benefit is not available for an entrant's

first five years of residence, and housing benefit cannot be applied for until a decade's stay. Anyone living in the Isle of Man can avail themselves of the private housing market and the health and education services. The system is closely tied to that in the UK, whose Immigration Acts are given force in the Isle of Man by Orders in Council. The Common Travel Area (CTA) between the UK, Ireland and the Crown Dependencies permits movement without border checks. With the UK and the Crown Dependencies set to leave the EU while Ireland remains, there are some issues to resolve regarding the future of the CTA. The Isle of Man Government is liaising with the Home Office on this matter: it would prefer to avoid border controls for travel to and from the UK. Attendees briefly discussed the social and political history of immigration on the Island.

Engagement with the UK Government

The Chief Minister felt that, although it was early in the Brexit process, the UK had been very receptive to the Island's requests for meetings and information so far. The three Crown Dependencies were working together to liaise with Whitehall on matters of shared interest. They have similar positions on free movement of labour, it was claimed. However, it was noted that their concerns are not identical: the Channel Islands have bigger fisheries, a greater economic focus on financial services, and closer links with the EU (due to their location) than the Isle of Man. Other UK Government departments with which the Isle of Man has had early engagement include DEFRA, the Department for International Trade and HMRC. It was noted that maintaining this influence as Brexit negotiations develop is a key challenge. There was also discussion on engagement with EU institutions and Member States and with fellow members of the British-Irish Council.

Legislation

Brexit has legislative consequences for the Isle of Man, as it is subject to many EU laws directly (though, under Protocol 3, not as many as the UK). Having noted the House of Commons Library briefing paper, *Brexit: impact across policy areas*,³³ on EU Regulations with direct effect in the UK, the Isle of Man Government is now forming its position on the retention or otherwise of these laws. The aim is to conclude this process on a similar timetable to that in the UK, though it is difficult to predict the length of these exercises. Those EU laws that do not have direct effect in the Isle of Man, but which have been incorporated voluntarily, are largely unaffected by Brexit.

Meeting with the Isle of Man Government EU Advisory Group

The EU Advisory Group is a working group within the Isle of Man Government, chaired by the Chief Secretary and including senior officers from several key Isle of Man Government Departments. It was established in advance of the UK's referendum on leaving the EU to help prepare for potential outcomes, and continues to advise on Brexit-related matters.

Financial services

Details were provided on the Isle of Man's financial sector, which comprises banking, insurance, funds and fiduciary activity; it is supported by legal, accounting and tax sectors. Most such operations are branches or subsidiaries of larger international organisations.

33 *Brexit: impact across policy areas*, Briefing paper [CBP 7213](#), House of Commons Library, August 2016

Some focus on UK property development, attracting foreign-owned businesses looking to build in the UK without engaging its tax system. While the Isle of Man does not measure input to the City *per se*, its capital contribution to the UK as a whole is estimated at around £50 billion. Roughly two-thirds of this is raised outside the UK and the EU. Thus direct impacts of Brexit are small, though there could be indirect effects if the UK's financial sector recedes. As much of the Island's business is denominated in US dollars, it has not been greatly affected by Sterling's depreciation in the short term; that depreciation has boosted local manufacturing. It was suggested that if the UK lowers taxes for business and investors after leaving the EU, this might create opportunities for the Isle of Man also.

Income tax

The Isle of Man's income tax regime mirrors the UK's, though at lower rates, and its National Insurance policy is similarly analogous. Under the Isle of Man Act 1979, the Island's VAT rate mirrors the UK's (a key distinction from the Channel Islands), though it has some idiosyncratic excise duties. VAT collection is the subject of quarterly governance meetings with HMRC, and accounts are laid before the UK Parliament annually. These arrangements, on which good case law has emerged, were described as sacrosanct for the Island. Corporation tax is zero-rated for most companies: this is different from a mere absence of corporation tax, as it still requires tax returns.

Legal sector

It was not thought that there would be many effects on the Isle of Man's legal sector, as EU regulations on mutual recognition and enforcement of judgments do not apply to the Island, and relatively little EU-facing (or, indeed, international) work is done by solicitors there.

Considering outputs from the Committee's inquiry, it was suggested that a restatement of the responsibilities of the Ministry of Justice (and other Government departments) may be helpful. As to new trading relationships, the Isle of Man would generally prefer to be party to new UK FTAs than to construct its own. It was thought vital that the Island be included in any such agreements.

Entrustment

Entrustment is the procedure by which the UK can confer on the Crown Dependencies the right to make international agreements independently. The Isle of Man is typically so entrusted on tax information and exchange matters, and interlocutors saw no reason to discontinue this practice. However, there is little appetite for entrustment on Brexit or related trade negotiations.

Political and popular attitudes to Brexit on the Isle of Man

The business community had a stronger reaction than individual residents, though there was interest from the latter in future arrangements for travel to the EU. John Rhys-Davies' campaign for the right for Isle of Man residents to vote in the referendum was mentioned, though thought unlikely to develop into further action.

A concern that Crown Dependencies' interests could be sacrificed for UK gain in Brexit negotiations was raised.

Meeting with Tynwald members

Tynwald is the Isle of Man's tricameral parliament, composed of the elected House of Keys, and the indirectly elected Legislative Council, sitting together as the High Court of Tynwald. Ministers are in practice drawn exclusively from the House of Keys. The Island does not have an established party system, and most parliamentarians sit as independents, though three of the House of Keys' 24 members now represent the Liberal Vannin Party.

Tynwald members raised a number of observations across several fields of interest, including:

- a strong desire that the Isle of Man is optimally represented by the UK in Brexit negotiations;
- a large legislative workload arising from the changes in the Island's law when the UK departs the EU;
- the distinctiveness of the Isle of Man among the Crown Dependencies, in particular its greater manufacturing output;
- the impact of changes to UK immigration policy, in the context of the Isle of Man's need for inward movement of labour;
- whether there would be a right to remain for EU nationals resident on the Island;
- a fear that the UK might forget the Isle of Man in time, particularly after the Brexit process has concluded (when the anticipated negotiation of new free trade deals still has significant ramifications for the Crown Dependencies);
- relatedly, a need for the Crown Dependencies to be part of the construction of new FTAs, as opposed to a bolt-on;
- an interest in the UK's new arrangement with the EU being as open as possible;
- the issue of 'Manx passports' (British passports issued by the Isle of Man which do not confer EU free movement rights to their bearers); and
- the need for the Isle of Man Government to receive timely information on the progress of Brexit-related talks.

Meeting with Triumph Actuation Systems

Triumph Actuation Systems is an international aerospace and industrial manufacturer, headquartered in the USA. The Isle of Man branch is focused on the core business of airline hydraulics, particularly landing gear, supplying Airbus, Boeing and BAE Systems. It was opened in 1965, and currently employs around 150 workers.

The General Manager gave an overview, and a tour, of the plant's operations. Like the UK, the Isle of Man has relatively high labour costs when considered within the global market

for manufactured goods; it also faces the transport expenditures inescapable for a small island. Its manufacturing strategy, therefore, is to focus on high value-added products with which it can compete primarily on quality.

The company would be affected by any imposition of aerospace tariffs following Brexit, though this was thought unlikely. There is also a risk that future aircraft construction will move into other parts of the EU. Triumph employs some EU migrants, from Greece and Poland in particular. However, with a growing order book, and possible factory expansion, it has no plans to leave the Island. It is hard to evaluate its exposure to currency fluctuations, as it has buyers and supply chains in many countries.

The EU has restrictive requirements on chemicals and metals, but compliance with these will be necessary to sell into its markets regardless of Brexit. Looking at future free trade deals, the firm might gain from freer trade with the USA, while access to developing markets could reduce its input costs. Defaulting to WTO terms might be harmful.

Meeting with the Isle of Man Chamber of Commerce

The Isle of Man's Chamber of Commerce is a pan-business trade association.

Attendees expressed general calm about Brexit, citing the Island's adaptable history, resilient economy and positive engagement with Government. They noted the Island's high-quality financial and professional services, engineering, and growing biomedical sector. Priorities raised included:

- the opportunity to be added as a signatory to new FTAs where appropriate;
- retaining VAT arrangements with the UK;
- enabling skilled workers to move to the Island;
- maintaining the Isle of Man's close links with Ireland, emphasising the CTA;
- supporting the growth of e-gaming on the Island (which expanded 25% in the year to March), which may be threatened by any UK loss of influence in the EU;
- the risk of knock-on effects from any economic downturn in the City of London; and
- the Island's construction industry, needed to support a rising population, where the decline of Sterling is increasing some costs (for example, on cement, for which UK demand outstrips domestic productive powers).

The meeting also noted possible opportunities for the UK to learn from the Isle of Man after leaving the EU, with regard to its business connections outside the EU. Chamber of Commerce members had recently met delegations from China and South Korea. They hoped the Island would be involved in, rather than merely informed about, the progress of Brexit negotiations.

Meeting with Swagelok

Swagelok is an international manufacturer of construction and industrial components, based in the USA. Its Isle of Man business has 235 employees and annual sales of around \$40m.

The General Manager introduced the company and led a tour of its premises. Swagelok's biggest customers for its Isle of Man branch are in the oil and gas sectors and they focus on small high-value products. It was noted that the plant competes primarily on high standards of quality and delivery, rather than price.

The General Manager indicated that delay was a greater risk from potential new trade barriers than cost. Though additional duties and tariffs could harm the business, lengthy customs processes would do more damage to its relationship with customers, many of whom have tight timetables and expect rapid delivery. Additionally, the ability to attract and retain skilled workers is crucial, given the firm's focus on products requiring complex manufacturing procedures. Some employees are non-UK EU citizens, and their right to remain is therefore viewed as important. On the whole, however, Brexit was not regarded as a crisis by the company at large.

Meeting with the Department for Environment, Food and Agriculture (DEFA), and industry representatives

Exports are vital to the Isle of Man's agriculture and fisheries. An estimated 50% of agricultural and fishery produce—rising to 80% for some items—is exported. The Island produces 1,800 tonnes of cheese annually, of which 300 are now exported to the USA—a new and lucrative market. These and fisheries exports to South Korea rely on EU export licences, which are renewed on an annual basis and expire in August. Loss of these licences could scare current and potential importers. On the other hand, depreciation of the pound sterling might support these industries.

The UK was considered to have a relatively small portion of the EU's fishing quotas, and almost none of this is shared with the Isle of Man (as the Island has very limited quota fish species in its waters). The Island's fisheries therefore focus on shellfish—especially crab, lobster, king scallops and queenies—which are not subject to the quotas. 55–95% of this produce is exported. King scallops and queenies are mostly sold into the EU: France, Spain, and Italy. If the UK's fishing capabilities expand post-Brexit, it was suggested that the Island's fisheries may be able to extend into white fish operations. The Isle of Man's sustainability policy was discussed. It was observed that fisheries, and issues pertaining to territorial waters, may be among the most challenging to resolve of all consequences of Brexit (and not merely for the Crown Dependencies).

It was noted that WTO rules place a 51% tariff on lamb imports into the EU; the Island exports some lamb into the EU. Farmers on the Isle of Man receive some government subsidy, similarly to those in the UK, but at a lower level and with no EU funding. Balance between UK and Isle of Man support for agriculture was considered in the context of requirements of any new trade arrangements. It was also noted that it would be more difficult for domestic farms to compete with low-cost food imports if Brexit precipitates a major liberalisation of agricultural trade. The government's efforts to invigorate a Manx food culture, through its food strategy, were discussed.

The many non-UK EU nationals working on the processing side of fisheries, on dairy farms and in the hospitality and restaurant sectors were raised, emphasising the importance of access to and retention of migrant labour.

Communication with the UK Government was thought very good: DEFA had productive recent meetings with the Ministry of Justice and DEFRA, and DEFRA has established a working group with quarterly meetings at which representatives of the Crown Dependencies and the Department for Exiting the EU are present. Some attendees were concerned that agriculture and fisheries would be a casualty of Brexit, or that these sectors in the Isle of Man could be a very low priority for the UK Government in negotiations.

Jersey (Monday 23–Tuesday 24 January)

The Chair, Alex Chalk, and Kate Green visited Jersey at the invitation of the Chief Minister, Senator Ian Gorst.

Meeting with the Treasury and Resources Department

Attendees were uncertain about the precise effects of the UK leaving the EU. The Treasury and Resources Department is looking at the fiscal ramifications. It has an excellent relationship with HMRC. The Jersey Government does not publish financial reports with sufficient regularity to yet determine any impacts of Brexit to the public purse. Anecdotally, persistently high levels of construction activity suggest no immediate economic slowdown. It was emphasised that Jersey's most important trading relationship is with the UK.

Jersey's tax regime and international reaction thereto were key concerns. Though its codes are rated highly by the OECD, some EU Member States are hostile to zero-rate jurisdictions. The UK has defended Jersey in this regard, though other Northern European countries are also keen protectors of fiscal sovereignty. The Island is already entrusted by the UK on international tax matters.

Operational difficulties in leaving the EU's Customs Union were observed. Tariffs may need adjusting. It is not obvious what trade rules would replace the Customs Union by default, and trading partners may struggle to understand these. Any transition could take at least a decade.

Meeting with Department of the Environment and Department for Economic Development

It was hoped that current, close relations with the UK and with the EU would be maintained as far as possible. Attendees noted that most agricultural exports go to the UK, while most fisheries exports are purchased in other Member States. As such, Jersey would like to continue with reciprocal arrangements to export produce to and from the UK without tariffs or quantity restrictions.

Brexit's impact on Jersey's bilateral fishing agreements—the Granville Bay Agreement (between the UK and France) and Fisheries Management Agreement (the FMA) (with the UK) is yet unclear, but changes to them would bear serious implications for Jersey. The FMA, for example, refers to EU law and access and quota arrangements. The Granville Bay Agreement allows mutual access by Jersey and France to each other's waters. It is

formally between the UK and France with Jersey as a party, though in practice managed by Jersey and France; the Jersey Government has discussed the possibility of acting under entrustment on this issue. Any implications of Brexit for this or other matters relating to territorial waters will need consideration.

France is the main buyer for Jersey's capture fishery and aquaculture production. Under the Customs Union, there are no tariffs on fish: any imposition of such would hurt their businesses. It was emphasised that Jersey fisheries form a small sector relative to the other interests at play in Brexit negotiations, and may struggle for cachet. Connected services rely on a critical mass of boats and would be affected by any reduction in fleet size. However, French demand for the produce implies mutual benefit in a favourable arrangement. In agriculture, the security of the PDO³⁴ for Jersey Royal New Potatoes was unclear. Attendees reported effective engagement with DEFRA so far.

Both agriculture and fisheries have an interest in immigration, given their need to import seasonal labour (mostly from Eastern Europe). The point was argued that it would be difficult to maintain farming without the support of these expats. Agriculture is valued not just economically, but for its positive effect on the natural environment. Mechanisation is reducing, but will never deplete, a requirement for manual labour in this sector.

Brexit may be an opportunity to clarify Jersey's status in the context of new trade negotiations. Dairy success in exporting liquid milk to Hong Kong has not carried through to the Chinese mainland. It was noted that Jersey has an inconsistent status across the UK's trade treaties—an accessory in some, a region of the UK in others, and in a few, part of the UK—which could be streamlined in future dealings.

Meeting with members of the States of Jersey

The States of Jersey is Jersey's unicameral parliament, with 51 elected members. It includes Senators (representing the whole Island), and Deputies and Constables (returned from localities). Most members do not represent a political party, though three are members of Reform Jersey. Government Ministers are selected from the States' ranks.

States members expressed surprise, and some disappointment, at the result of the EU referendum. Committee Members discussed likely outcomes of the current legislative process in the UK.

States members then raised the following points:

- tariffs, which were felt to carry significant risks for a small island community, were a key concern for the future after Brexit;
- Jersey might not be well understood in the UK, or treated as 'collateral damage' in exit negotiations;
- the CTA could be at risk;
- the significance of Jersey's financial services sector and how it might be affected by Brexit;
- the need for Jersey's agriculture to grow;

- possible risks to the European Convention of Human Rights, to which Jersey is a signatory via the EU;
- occasional treatment of students from Jersey as overseas for university fee purposes;
- nautical transport into and from Jersey, and whether relaxed state aid rules would permit state sponsorship of ferry links; and
- agriculture and fisheries' need for immigrant labour.

Meeting with Jersey Finance

Jersey Finance is a trade association for financial services in Jersey.

Jersey Finance's representatives told the Committee that the financial services sector on the Island employs 13,000 people and directly or indirectly supports half of its economic output. It supports nearly 250,000 UK jobs, adding £14 billion to the UK economy and £5 billion to the Exchequer annually. The sector's relationship with the EU is smaller, supporting some 88,000 jobs. It is composed of four key parts: cross-border banking, international trusts, alternative funds, and related professional services. The sector's transparency and adherence to international standards were discussed. Most of its business connects investors in one larger economy with investments as another: Jersey's tax-neutral regime was thus likened to a free port.

The sector's greatest fear is being used by the UK or EU as a bargaining chip in Brexit negotiations. Furthermore, the UK has defended the Crown Dependencies against some EU opposition to their tax status, and this loss of protection may have consequences. There is a particular threat from Luxembourg, which is growing its own alternative funds sector. Blacklisting by the EU could limit multinational corporations' desire to transact in Jersey.

The Island's financial relationship with the UK is stronger than that with the EU. This moderates the extent of direct impacts of Brexit on Jersey's financial services. However, any damage to the UK's financial sector could have a knock-on effect to Jersey.

The sector's engagement with the Brexit process was through the Jersey Government; representatives felt this had been successful to date, though there remained worries that Jersey's financial sector would be a low priority for the UK Government in negotiations.

Meeting with representatives of Jersey's agriculture and fisheries industries

Jersey's produces £50 million worth of agricultural produce every year, of which £40 million is exported to the UK. Jersey Royal New Potatoes are the principal crop, though the Island also grows other vegetables and ornamental plants on a smaller scale. Retaining free trade with the UK is therefore crucial. Farming also requires seasonal labour, mostly from Poland, Romania and Madeira. Beyond economic output, the sector has cultural value and attracts visitors and immigrants.

The Jersey cow has cultural and economic significance for the Island. Traditionally, the dairy sector emphasised the Jersey market, but now exports 30% of its produce to the UK and the Far East. Hong Kong's consumers are interested in the milk's origin and traditions, and cheaper to distribute to than anywhere north of Manchester in the UK. Attempts to extend supply to Shanghai have hit diplomatic delays. The Island's Brie could be recognised by UNESCO, but the UK does not support UNESCO classifications for food. Brexit could be seen as an opportunity to re-engage with international markets with support from the UK.

Jersey-UK fisheries relations are defined by a Fisheries Management Agreement (FMA) which facilitates reciprocal licensing and ensures compliance with EU quotas, although shellfish, the main focus of the Island's fleet, are not covered by it. 90% of its fisheries products are exported to continental Europe. The aquaculture sector relies on migrant (mostly Polish) workers, and a small number of immigrants work in catching; it was argued that both sectors would benefit from continued access to EU labour. It was suggested that many in UK fisheries voted to leave the EU for more control over territorial waters. This control was rated as a higher priority than trade agreements.

A pre-1973-style work permit system may be sufficient for hiring migrant labourers. Attendees reported no tensions between the local and immigrant communities. They had good engagement with DEFRA, and believed that the UK engages effectively on the Island's behalf.

Meeting with Polish and Portuguese Honorary Consuls

There are 15–16,000 people of Portuguese descent in Jersey, representing in particular a close link with Madeira. Portuguese citizens began immigrating to the Island before the Second World War, many to work in the hotel industry. Over time, the community's occupational mix has diversified. Many second-generation Portuguese have UK nationality. Around 6–7,000 members of Jersey's population have Polish nationality: their migratory history is more recent, and they work in all sectors of the economy—farming, hotels, finance etc.

The Honorary Consuls conveyed a sense of uncertainty felt by members of the Polish and Portuguese communities in Jersey. They discussed the work permit system in place before 2004, which had the disadvantages of tying immigrants to a single employer (which usually paid for the permit) and requiring annual renewal. It was noted that Jersey has freedom to set its own immigration policy.

Guernsey (24–25 January 2016)

The Chair, Alex Chalk and Kate Green visited Guernsey at the invitation of the President of the Policy and Resources Committee (effectively the head of government), Deputy Gavin St Pier.

Meeting with the President of the Policy and Resources Committee

Attendees described Brexit as among the greatest contemporary policy and political challenges for the UK and the Crown Dependencies. The Crown Dependencies had, however, prepared well in advance of the referendum. Excepting its effect on the exchange rate, no direct or significant economic impacts of Brexit had yet been observed.

The Island's largest industry is finance. While diverse in itself, the States are seeking to create further diversity from within and outwith that sector, the key elements of which are investment, fiduciary, insurance and banking. It supplies more than £25 billion of liquidity to the UK, without which the recent recession may have been worse. About 70% of the finance sector's business is UK-centric. Attendees discussed Guernsey's tax structure. The system is designed to be tax-neutral, which—in the absence of extensive double-taxation agreements with other jurisdictions—helps the Island function as a frictionless conduit between countries. Guernsey's talent pool, strong regulation and compact environment give the industry its competitive edge. The Crown Dependencies' finance sectors differ from each other: for example, Jersey specialises in private wealth, while Guernsey focuses more on insurance. There had been a move by the European Commission to extend financial passport rights to the Island (alongside Jersey, Switzerland, the USA and Japan) following recommendations by the European Securities and Market Authority, under the Alternative Investment Fund Managers Directive; this is on hiatus for the time being, as the EU reviews it in light of Brexit. In the meantime, Guernsey's businesses maintain market access through national private placement regimes.

Guernsey's workforce numbers around 35,000. Almost 10% are non-UK EU nationals, who work in tourism, retail and professional services (among other sectors).

On legal matters, Guernsey is not within the scope of the EU's Brussels I and II Regulations for the mutual recognition and enforcement of civil judgments. There are, however, reciprocal arrangements with certain countries: lack of access to Brussels I and II was not considered problematic. The Island is also not party to the European Arrest Warrant, relying instead upon older extradition acts and treaties (and its relationship with the UK).

In discussing the people of Guernsey's attitude to Brexit, it was pointed out that though they were keenly aware and engaged on the issue, there were no locally-targeted campaigns seeking their votes (as they had none).

The positions of Alderney and Sark were highlighted. Sark has been content to channel most Brexit-related business through Guernsey so far, while Alderney is keener to raise matters directly with the UK. It was observed that the UK Government generally prefers to deal with the Bailiwick as a whole.

The possibility of providing some state aid and financial opportunities are among potential benefits of Brexit to the Island. There may also be more freedom to adopt a new immigration regime, and to remove disparities between the treatment of UK and Guernsey residents in the UK—including in higher education and healthcare charging.

Guernsey is not yet a member of the WTO: extension of the UK's membership was raised as a key issue to be discussed with the UK.

The Ministers' chief ask of the UK Government was for good UK-Guernsey engagement throughout the Brexit process. Attendees thought well of current interlocution, but that this had been a struggle at times in the past two decades. They were aware of the risk that the Crown Dependencies become deprioritised as the exit process becomes ever more complicated and demanding. There was uncertainty about the Ministry of Justice's role as an advocate for the Crown Dependencies in Whitehall regarding Brexit. It was observed that the Ministry and the Department for Exiting the EU were becoming 'twin masters' of the Crown Dependencies' Brexit role, and that this arrangement may run into complexities—such as the legislative consequences of Brexit for the Islands, which has both international and constitutional dimensions. The UK Government is required to represent Guernsey's position even if it clashes with the UK's own, it was argued, though it was hoped there would be no such divergence. Attendees raised the Dependencies' plans to collaborate closely on engagement with the UK Government over Brexit.

Meeting with representatives of Guernsey's agriculture and fisheries industries

Guernsey has around 150 fishing boats, which contribute an estimated £5 million per annum to GDP. Most produce (around 80%) is sold in France, mostly crab and shellfish. The Common Fisheries Policy does not apply in the Bailiwick as a matter of law. The Island recently attempted a judicial review, ultimately unsuccessful, against the application of UK fishing quotas: there are talks with DEFRA on a new licensing process in the aftermath. Relations with DEFRA were thought healthy, and problems are resolved rapidly. Some difficulties include data collection, less comprehensive than in the UK due to the smaller scale of operations, and the complex structure of government in the Bailiwick. Representatives told the Committee that the Island's fisheries already operated on the margins of profitability, and if Brexit were to lead to new trade barriers, hardship for these small business would follow.

Jersey and the Isle of Man had their territorial waters extended in the 1990s, and similar expansion for the Bailiwick is being negotiated. Problem points include the complexity of managing three jurisdictions' waters, and ensuring that an old UK dumping ground within Guernsey's waters is protected (and that risks it poses are managed). Resolution will emerge through UK-France negotiations. Given Guernsey is, in effect, an enclave within the EU's waters and airspace, further issues may develop during the UK's EU departure.

It was thought that agriculture would be less affected by Brexit, as most produce is for internal consumption. Most farms are dairy or small holdings. There is a domestic need to protect the dairy herd for environmental, cultural and economic reasons. Food imports are very largely from the UK. Risks to the pet travel scheme, mostly used by residents to bring horses to competitions and treatment, might excite public interest.

Meeting on financial services with representatives of government, industry and the regulator

Guernsey's financial sector is diverse, with its own laws—including for financial crime—and independent regulator. The regulator advises on and enforces these laws, with a panel of QCs adjudicating on quasi-judicial regulatory decisions. There is a monitoring framework, developed in the context of international responses to financial crises. More

than 200 organisations are so regulated: those most impacting upon the economy are the most closely supervised. Guernsey's record of prosecuting financial crimes was explained and considered.

Attendees reported good engagement with the UK Government since the UK's EU referendum. The sector's priority is to protect and develop in its niche markets under bilateral trade arrangements. A delay to the Island's access to EU financial passporting rights is the main effect of Brexit so far. The greatest fear is becoming 'collateral damage', overlooked in negotiations. Guernsey's affairs are small in the full field of interests at stake. It was felt important that engagement, and opportunity for Guernsey to create input for the Brexit talks, persists through the process.

Brexit might open opportunities for Guernsey if its services are given access to new FTAs. A potential UK-US deal was mooted as an example. It was pointed out that Protocol 3, provided for free trade in goods, rather than services, between the Crown Dependencies and the EU. It was designed for the Islands' largely agricultural economies of the 1970s: similar arrangements in future could be more service-focused. Regarding future trade with the EU, it was observed that 'third country equivalence' in practice requires minimum standards for equivalence to be exceeded to avoid ambiguity, and can involve a political element. Guernsey is not a member of the WTO: this could be problematic for trade if unresolved following the UK's EU departure. Nevertheless, the Island was felt to have a history of adaptation and innovation.

Attendees noted antagonism towards the Crown Dependencies from some quarters of the EU. It is difficult to predict the effect of this on Brexit talks or afterwards. Guernsey has direct, close relationships with other EU financial regulators. The importance of immigration from the EU and the CTA was raised.

Some attendees suggested that Guernsey's experience as a third country for EU purposes, and its business with other states, made it a resource for the UK as it redesigns its trade networks. The Island's financial strengths include its compact nature, English as a language and a trusted legal system.

A question was asked as to where the UK's loyalties would lie if faced with a clash between the interests of its Crown Dependencies and its Overseas Territories.

Meeting with Guernsey's Law Officers

Guernsey is not party to the regulations (such as Brussels I and II) providing pan-EU mutual recognition and enforceability of judgments for the UK. It relies instead on a mixture of bilateral agreements and domestic law. Guernsey statute specifies foreign jurisdictions whose judgments (such as confiscation orders) are to be enforced on the Island. The extradition process is based on pre-2003 UK law, and is a rather slow government-to-government affair, rather than the UK's streamlined court-to-court system under the European Arrest Warrant.

Guernsey will need an analogue of the UK's planned Great Repeal Bill: this is likely to, *inter alia*, repeal enabling legislation for the Island's current relationship with the EU and incorporate desired EU law with direct effect into domestic statute. Work on identifying its content is still ongoing, as it is in the UK (though the volume will be lower): this may

be complex in some areas due to the interaction between Protocol 3 and EU law. It is important that communication between the UK and Guernsey on this matter continues before, during and after the bills' passage to ensure smooth coordination. From Guernsey's standpoint, contacts with central UK Government officials is key here. Attendees reported that the Island is sometimes engaged on relevant UK legislation at the last minute, which threatens serious consequences—particularly in this context.

The Law Officers of the Crown in respect of the Bailiwick of Guernsey still draft legislation for Alderney and Sark. Both are becoming more autonomous and will need their own repeal ordinances. It was noted that Alderney is pushing for greater autonomy within the Bailiwick. The implications for Guernsey's constitutional position of the Supreme Court judgment in *R(Barclay) v Secretary of State* were noted.

General points relating to the UK's impending departure from the EU were discussed. Aurigny and Blue Islands, the Island's main carriers, are non-EU airlines but fly extensively to the EU, so access to the EU aviation market is important. Guernsey will need to maintain equivalence with regard to EU data protection for the purposes of the air passenger notification system. There has been a dispute between the Island and HMRC on the subject of information sharing, which the UK Government has been slow to resolve. There have been occasions where, due to the UK's relationship with the EU, Guernsey's residents are treated as non-EEA residents, with unintended consequences—including for university fees and NHS charges.

Meeting on free movement of people and customs issues with Guernsey's Business, Innovation and Skills, Economic Development and Home Affairs Committees

Maintaining the CTA was ascribed paramount importance due to powerful economic, cultural and social links with the UK. Some 700 students at UK institutions are from Guernsey (almost 20% of the Island's 18–22 year olds) many of whom return after graduation. These education links are indispensable, as there is no local university. There has been excellent staff-level engagement with the Home Office on this and other issues.

The Island's immigration system was discussed. UK immigration legislation is applied. Guernsey's housing control system will change to a work permit regime later this year: currently, UK and EU nationals are treated identically. No great tensions between Guernsey-born and immigrant communities were observed.

Clarity on the future of non-UK EU nationals resident in Guernsey was sought: immigrant labour is necessary to maintain the Island's workplace and population. Seasonal labour makes a major contribution to the hospitality, tourism, health, social care, construction and horticulture sectors. Unemployment is very low, emphasising the need for the working population to grow (though developing skills on the Island is also a government priority).

Guernsey tends to follow the EU's action on border security, even though not mandated to. Though it does not participate in the EAW, it is able to deport offenders of EU citizenship under domestic law and bilateral arrangements. These will remain important after the UK leaves the EU, but may require adaptation.

The UK is Guernsey's most important trading partner: it is unclear what, if any, effect Brexit will have on this relationship. Food retailers operate on a just-in-time basis, so Guernsey relies on regular freight services and deliveries from the UK. It was observed that new trading arrangements with the EU would necessitate redesigned customs and excise processes, taking time to disseminate and implement. Opportunities to be included in new UK FTAs would be valued. Membership of the WTO, which the Isle of Man has and the Channel Islands lack, is more important than ever and still awaits pursuit by the UK Government.

Meeting with the Chief Pleas of Sark

Sark is an island of approximately 600 residents and an independent jurisdiction forming part of the Bailiwick of Guernsey. The Chief Pleas is its parliament, composed of 28 elected Conseillers.

Tourism makes up 75–80% of Sark's economy. Last year the Island entertained around 17,000 visitors, with Germany an increasingly key market. It is seasonal, particularly reliant on summer income. Any effects of Brexit on this sector would be keenly felt. The industry employs some citizens of Eastern European countries, who are important.

Fishing is another significant industry and connected to tourism. Seven boats provide work for some 30 fishermen, or 5% of the population. Sustainable lobster fishing is a focus, with no trap pots and a five-month closed season. Roughly four-fifths of Sark's catch is landed in France under agreement with the Bailiwick of Guernsey. Sark would like this to continue, but have had no confirmation from France, who are interested in improving their fishing rights in Bailiwick waters and may wish to bargain on the matter.

Possible ambitions for Sark with regard to new services were discussed. Concerns were also raised about any potential diminishment of environmental protections post-Brexit. Chief Pleas members meet with Guernsey every three months, though Sark has no direct involvement with the UK Government.

In general, Sark's representatives were keen to maintain the status quo as far as possible, including on the Island's constitutional position in respect of the Bailiwick of Guernsey and the UK. They noted that in some areas, Sark's interests differed from Guernsey (for example, in respect of the relative importance of tourism within their economies). The Channel Islands' joint office in Brussels has visited Sark.

Meeting with Specsavers

Specsavers is a UK-focused international optical retail company, based in Guernsey.

Manufacturing is central to Specsavers' business. Its processes take place across borders (factory locations include the UK and Hungary), so if Brexit induces new tariffs, this might increase the company's costs. It is unclear if or how regulation of manufacturing might be affected.

The UK-Guernsey relationship is the most important from Specsavers' perspective. London is the enterprise's digital marketing centre. Any barriers opening between the UK and Guernsey would be harmful; a concern was raised that this might happen by mistake.

Personnel movement was discussed: the Guernsey office employs EU nationals, often former staff at the company's Northern European branches. It is important for an international business, it was argued, that these employees had opportunities to work in the head office. However, the Guernsey office had experience dealing with the existing complexities of the Island's immigration system, as well as with immigration systems in other locations where branches are based (including Australia). The company also sends staff out to regional partners: the CTA matters for travel to the UK in particular.

Overall, while Brexit created areas of uncertainty and the potential for some unwanted effects, it was not felt to threaten the foundations of the company.

Formal Minutes

Tuesday 21 March 2017

Members present:

Robert Neill, in the Chair

Richard Arkless	Mr David Hanson
Alex Chalk	John Howell
Alberto Costa	Jo Stevens
Philip Davies	Keith Vaz
Kate Green	

Draft Report (*The implications of Brexit for the Crown Dependencies*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 22 read and agreed to.

Annex read and agreed to.

Summary read and agreed to.

Resolved, That the Report be the Tenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till tomorrow at 9.15am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Wednesday 22 February 2017

Question number

Rt Hon Sir Oliver Heald QC MP, Minister of State for Courts and Justice, Ministry of Justice; and **Elaine Cobb**, Head of Crown Dependencies Team, Ministry of Justice

[Q1-44](#)

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

IBC numbers are generated by the evidence processing system and so may not be complete.

- 1 Government of Jersey ([IBC0004](#))
- 2 International Financial Centres Forum ([IBC0001](#))
- 3 Isle of Man Creamery Ltd ([IBC0009](#))
- 4 Isle of Man Government ([IBC0002](#))
- 5 Jersey Finance Limited ([IBC0008](#))
- 6 Ministry of Justice ([IBC0007](#))
- 7 States of Alderney ([IBC0003](#))
- 8 States of Guernsey ([IBC0005](#))

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2015–16

First Report	Draft Allocation Guideline	HC 404
Second Report	Criminal courts charge	HC 586 (HC 667)
Third Report	Appointment of HM Chief Inspector of Prisons and HM Chief Inspector of Probation	HC 624
Fourth Report	Criminal Justice inspectorates	HC 724 (HC 1000)
Fifth Report	Draft sentencing guideline on community and custodial sentences	HC 876
Sixth Report	Prison Safety	HC 625 (HC 647)
First Special Report	Women offenders: follow-up: Government response to the Committee's Thirteenth Report of Session 2014–15	HC 374

Session 2016–17

First Report	Reduction in sentence for a guilty plea guideline	HC 168
Second Report	Courts and tribunals fees	HC 167 (Cm 9300)
Third Report	Pre-appointment scrutiny of the Chair of the Judicial Appointments Commission	HC 416
Fourth Report	Restorative Justice	HC 164 (Cm 9343)
Fifth Report	Sentencing Council draft guidelines on sentencing of youths and magistrates' court sentencing	HC 646
Sixth Report	The role of the magistracy	HC 165 (Cm 9368)
Seventh Report	The treatment of young adults in the criminal justice	HC 169 (Cm 9388)
Eighth Report	Draft Sentencing Guidelines on bladed articles and offensive weapons	HC 1028
Ninth Report	Implications of Brexit for the justice system	HC 750
First Special Report	Prison safety: Government Response to the Committee's Sixth Report of Session 2015–16	HC 647