
STATES OF JERSEY



BREXIT REPORT: JULY 2019 UPDATE

**Presented to the States on 16th July 2019
by the Minister for External Relations**

STATES GREFFE

REPORT

BREXIT UPDATE

This Report to the States Assembly provides a precis of developments since the last report in January 2019.

It provides States Members with an overview of –

- the political context in which the Government of Jersey has been working since the 2016 United Kingdom (“UK”) referendum on membership of the European Union (“EU”) (Section I);
- the Government’s preparations, to mitigate the domestic impact of a possible ‘No Deal’ exit in October 2019 (Section II);
- the Government’s preparations for the next phase of the Brexit negotiations, the so-called ‘Future Partnership’ negotiations between the UK and the EU, and the internal governance structures that have been put in place to ensure that Jersey’s priorities, objectives and interests are taken into account throughout this process (Section III); and
- the Government’s preparations for Jersey’s future trading relationships with the UK, EU and beyond once the UK leaves the EU, including ongoing work to implement the Jersey-UK Customs Arrangement, extension of the UK’s WTO membership, and Jersey’s future approach to external trade (Section IV).

The report aims to update States Members and the Public on the ongoing work that the Government of Jersey is doing to prepare Government, residents and businesses for the UK’s exit from the EU, and to ensure the Island is ‘negotiation ready’ for the Phase 2 Future Partnership negotiations.

MINISTER FOR EXTERNAL RELATIONS

16 JULY 2019

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FOREWORD BY THE MINISTER FOR EXTERNAL RELATIONS

This Report is presented to the States Assembly at the culmination of the Conservative Party leadership contest, the outcome of which will determine the next Prime Minister of the United Kingdom and Northern Ireland. Whichever candidate is successful, I am certain that the focus of their Premiership will be, as has been the case for the last 3 years, the UK's departure from the European Union.

Whilst the 2 candidates left in the contest have differing approaches to Brexit, it remains the default legal position that the UK will leave the EU in just over 3 months' time without a deal.

It is critical in these circumstances that, as an Island, we continue to nurture and reinforce our relationships, and engagement with, officials and Ministers throughout the UK Government.

Over the past 3 years we have worked consistently and co-operatively on a wide range of matters, and I am confident that these long-established relationships will continue as we move towards the UK's departure – in whatever form that may take – and throughout the next phase of the Brexit process.

That engagement has included quarterly meetings between the Ministerial representatives of the Crown Dependencies and Robin Walker, MP, Minister at the Department for Exiting the European Union, as well as engagement at the British-Irish Council and other political and diplomatic fora. The Ministers I have met have made clear their commitment to representing the interests of Jersey and the other Crown Dependencies in the forthcoming negotiations.

The co-operation we have enjoyed with the UK and our colleagues in the other Crown Dependencies has also ensured that we have met a number of our stated Brexit objectives. For example, in November last year we signed the Jersey-UK Customs Arrangement, ensuring that free, frictionless trade continues between the UK and Jersey; we received formal extension for the United Nations Vienna Convention on Road Traffic in February, ensuring that Jersey vehicles can continue to circulate in Europe regardless of the outcome of Brexit; we launched the Jersey-EU Settlement scheme earlier this year, which will guarantee the rights of the almost 20,000 EU citizens that choose to call Jersey their home; and we have effectively prepared the Island for a 'No Deal' Brexit through close collaboration and information-sharing with key partners in the UK and in the Island.

While significant portions of necessary Brexit legislation were passed through the Assembly earlier this year, there remain elements that will need to be addressed, dependent on the course Brexit now takes. In the second phase of Brexit – the Future Partnership negotiations – it is envisaged that substantial legislative changes will be required. The States Assembly will continue, therefore, to manage a significant volume of legislation. In the months ahead, my Department will continue to work with Scrutiny and States Members to ensure that they are regularly briefed on developments and are engaged early in the preparation of legislation.

I believe our early achievements have placed the Island in a good position as we seek to ensure that Jersey's best interests are protected and promoted in a post-Brexit world. Having secured the future of the tariff-free trade relationship that the Island enjoys with the UK, I am pleased to report that the longstanding Government objective of securing

World Trade Organisation (“WTO”) extension has also progressed significantly over the last 6 months. Officials are in regular contact with their counterparts in the UK, and are close to finalising arrangements to underpin our membership of the WTO. Such an achievement will further Jersey’s global outreach and ability to engage with countries around the world, placing the Island in a stronger position when the UK leaves the EU.

I believe our continuing engagement with the UK, coupled with the extensive planning and preparations that have been undertaken across Government for a potential ‘No Deal’ Brexit, have placed Jersey in a favourable position to react to whatever path Brexit may take. Over the coming months, a crucial focus for Ministers and officials will be ensuring that the Island’s preparations for Brexit are as robust, comprehensive and up-to-date as they possibly can be, whilst also ensuring that, as we move to the next phase, Jersey is well-placed to address the challenges and seize the opportunities of a post-Brexit world.

I thank officials from across the Government of Jersey for their ongoing diligence and commitment to the Island’s Brexit preparations, and I commend this report to the Assembly.

Senator I.J. Gorst
Minister for External Relations

SECTION I – POLITICAL CONTEXT

AN OVERVIEW OF DEVELOPMENTS TO DATE

Whilst Jersey did not participate in the United Kingdom’s 2016 referendum, having a different relationship with the EU, the Island will nonetheless continue to be significantly impacted by the decision.

Whatever form Brexit may take, ‘no change’ to our existing relationship will not be an option. Indeed, as the negotiations progress, the Island is likely to face difficult and complex choices in relation to its interests, the effects of which could be felt for years to come. Furthermore, with no majority forthcoming in the UK Parliament for the approval of the current Withdrawal Agreement, a ‘Day One No Deal’ (“D1ND”) on 31 October remains the legal default position.

The Conservative Party leadership election, following Prime Minister Theresa May’s resignation in early June, has added additional complexity to the already highly uncertain Brexit process. As this report is being finalised, 2 candidates remain, both of whom have set out an approach to Brexit which could, by accident or design, lead to a full range of outcomes – from a negotiated agreement or a ‘No Deal’ exit to a general election or a second referendum. What is clear, however, is that the eventual outcome – whenever and whatever that may be – will have profound implications for the UK, the EU and for Jersey.

The previous Brexit Report to the Assembly in January 2019 set out the complexities of the final months leading up to ‘Brexit Day’, anticipated at the time to be 29 March. This report continues that narrative.

First meaningful vote

By virtue of amendments to the European Union (Withdrawal) Act, the UK can only ratify the Withdrawal Agreement, setting out the terms of the UK’s departure and agreed with the EU, following a ‘meaningful vote’ in Parliament.

As noted in the previous report to the States Assembly, the first ‘meaningful vote’ had been due to take place on 11 December 2018. In the face of almost certain defeat, the UK Government took the decision to postpone the vote until the New Year, seeking to secure additional assurances from the EU capable of addressing the concerns of UK Parliamentarians, particularly in relation to the Northern Ireland backstop.

While the conclusions of the European Council meeting in December 2018 – subsequently reiterated in an exchange of letters – did seek to provide further reassurance in relation to the backstop, these ultimately proved insufficient. As such, when the first ‘meaningful vote’ took place on 15 January 2019, the Withdrawal Agreement was rejected in the House of Commons by 432 votes to 202. The Leader of the Opposition, Jeremy Corbyn, almost immediately tabled a motion of No Confidence in the Government, which was itself defeated by 325 votes to 306.

The rejection of the Withdrawal Agreement triggered a requirement for the Government to table a motion ‘in neutral terms’ setting out its plans. The House of Commons Speaker selected 7 backbench amendments, with 2 succeeding: the first – the Brady amendment – indicating the acceptability of the Withdrawal Agreement subject to the

re-negotiation of the Northern Ireland backstop (majority of 16); the second – the Spelman-Dromey amendment – setting out the opposition of the House to a ‘No Deal’ exit (majority of 8). The Prime Minister committed to holding another ‘meaningful vote’ as soon as possible, but, if this had not happened by 13 February, to make a statement followed by an amendable motion.

In the absence of significant progress, this statement and debate took place on 13 and 14 February with neither the motion itself nor any amendments to it ultimately succeeding. The Prime Minister made a further statement on 26 February, followed by another amendable motion the following day. On this occasion, 2 amendments succeeded: one – mandating the Government to seek a joint UK-EU commitment to protect citizens’ rights in all circumstances – passed without dissent; the second – mandating a further amendable motion in the event a second ‘meaningful vote’ was unsuccessful – was passed with a majority of 482.

Second ‘meaningful vote’

On 12 March, the Prime Minister called the second ‘meaningful vote’. The Government also presented a further package of measures designed to provide reassurance to Parliamentarians in relation to the backstop. This included: a ‘joint instrument’ negotiated with the EU, giving legal weight to the joint commitments made in the earlier exchange of letters between the UK and EU to make best endeavours to avoid the backstop; a joint statement on the future relationship, committing to begin work immediately following the ratification of the Withdrawal Agreement on future arrangements to avoid the need for the backstop; and a Unilateral Declaration by the UK that, should the backstop come into force and should negotiations on the future relationship break down, there would be nothing to stop it ultimately implementing measures to disapply the backstop.

Alongside this, the Attorney General provided a legal opinion on the force of this package and answered questions from Parliamentarians on the floor of the House. However, whilst the Attorney General was clear that, taken together, these measures made it highly unlikely that, through no demonstrable failure of either the UK or the EU, the UK would find itself caught in the backstop in perpetuity without this being replaced by future arrangements, the legal possibility of such a situation remained.

In light of this advice, the House of Commons again rejected the Withdrawal Agreement by 391 to 242 votes. On 13 March therefore, as required under the amended motion of 27 February, the Government brought forward a motion on next steps, which sought to test the view of the House on leaving without a deal on 29 March 2019. The Prime Minister made clear that, should the House vote against ‘No Deal’, then she would bring forward a motion to extend the Article 50 negotiation period the following day. In the event, not only did the House reject ‘No Deal’, but also backed an amendment tabled by Conservative MP Caroline Spelman rejecting ‘No Deal’ in all circumstances (by a majority of 4). The Prime Minister therefore tabled a motion on 14 March stating that if a Withdrawal Agreement was not ratified by 20 March, the Government would seek an extension of the negotiating period to 30 June (the last point at which the UK could avoid participating in the upcoming European Parliamentary elections).

Following difficult discussions in the European Council, on 21 March, the Prime Minister set out the EU’s response to the UK’s extension request, prefaced on the need for a further ‘meaningful vote’. Should the UK Parliament agree to the Withdrawal

Agreement, the date of the UK's exit from the EU would be postponed to 22 May, to enable the passage of necessary implementing legislation. If, on the other hand, the UK Parliament once again rejected the Withdrawal Agreement, the UK would either leave without a deal on 12 April, or would have to request a further extension and participate in the European Parliamentary elections.

Indicative votes and third 'meaningful vote'

Recognising that a 'No Deal' exit on 12 April had now become the new default legal position, and the widespread desire to avoid participating in the EU elections, a cross-party coalition of backbench MPs, led by Conservative Oliver Letwin, used innovative Parliamentary mechanisms to carve out an opportunity for a succession of indicative votes. Held on 27 March, this sought to test Parliament's views on alternatives to the Prime Minister's deal, including 'No Deal'; remaining in the EU customs union and Single Market; a second referendum and revocation; as well as various versions of these. However, whilst a proposition to remain only in the Customs Union gathered significant support (getting within 6 votes of passing), ultimately Parliament did not back any of the alternatives presented.

With the 12 April deadline fast approaching, and after some procedural difficulties, the Withdrawal Agreement – though without the Political Declaration on this occasion – was put to a third 'meaningful vote' on 29 March. Yet despite a series of high-profile changes of position, largely prompted by the Prime Minister's commitment to resign should the Withdrawal Agreement pass, the Government was once again defeated.

A second round of indicative votes held on 1 April once again failed to produce a majority for any of the alternative options.

'Flexextension' and cross-party talks

On 2 April the Prime Minister announced that a further short extension would be required, a 'No Deal' exit having been repeatedly rejected by Parliament. She announced, too, that she would be reaching out to the Leader of the Opposition in an effort to identify a cross-party solution to the impasse.

On 5 April, the Prime Minister wrote to Donald Tusk, the European Council President, requesting an extension to 30 June. Despite reported concern amongst the EU27 Members about the purpose of these recurring extensions, at an emergency summit on the 10 April – just 2 days before the amended deadline – the European Council agreed on a compromise. This provided for a so called 'flexextension' to 31 October 2019, with the option for an early departure should the Withdrawal Agreement be accepted prior to this date. This would, however, require the UK to participate in the European Parliamentary elections on 23 May.

The EU also took the opportunity to reiterate that discussions on the Withdrawal Agreement would not be reopened and that, even in the event of a 'No Deal', any negotiations on trade would be predicated on the acceptance by the UK of the central tenets of that Agreement, namely citizen's rights, budget contributions and the Irish border.

Talks between Labour and the Conservatives started in earnest on 3 April, with detailed discussions continuing for a number of weeks. From the outset, however, political realities indicated that the chance of a successful outcome was remote. A range of prominent Conservatives, including those now openly preparing for the seemingly inevitable leadership contest, were implacably opposed to the very existence of these talks. For Labour's part, the absence of an agreed position on a number of key issues within their own Party created inherent difficulties, and the precarious position of the current Prime Minister gave them little confidence that anything ultimately agreed could, in any case, be relied upon. After limited progress, therefore, the talks finally broke up on 17 May.

European Elections

On 23 May, as legally required, the UK participated in the European Parliamentary elections. The results, announced on 26 and 27 May, laid bare the fundamental split in UK public opinion and made pleasant reading for neither of the main parties.

The Nigel Farage-led Brexit Party topped the poll, with 31.6% of the vote, picking up 29 seats. Ardently Remain parties prospered too, with the Liberal Democrats gaining 20.3% and the Greens 12.1% (an increase of 13.4% and 4.2% respectively on their 2014 EU election vote-share). Both Labour and the Conservatives, however, faced negative results: 14.1% for Labour – a fall of 11.3% resulting in a loss of half of their 20 MEPs; and just 9.1% for the Conservatives – a fall of 14.8% on 2014, itself their previous worst performance, and reducing them to just 4 seats.

Resignation and leadership contest

Even in anticipation of these results, and with suggestions of a fourth 'meaningful vote' being met with extremely strong resistance within Parliament, the already considerable pressure on the Prime Minister Theresa May's position had become overwhelming. On 24 May, she announced her resignation as of 7 June, triggering a leadership contest within the Conservative Party.

With initial candidates whittled down by the Parliamentary party, the final two – former Foreign Secretary Boris Johnson, and current Foreign Secretary Jeremy Hunt – will face a vote amongst the approximately 160,000 members of the Conservative party. The winner of this contest, and therefore the next UK Prime Minister, will be announced on 23 July. The result will have significant implications for the Brexit process.

Brexit has inevitably played a prominent role in the hustings and debates throughout the leadership contest. Both candidates have distanced themselves from the current Prime Minister's deal, particularly the Northern Ireland backstop. Whilst both have stated their preference for a deal, both have made clear, too, that they are willing to countenance a 'No Deal' exit, though an apparent difference exists over their commitment to the current 31 October deadline (with Boris Johnson describing this as 'do or die', and Jeremy Hunt making clear that some flexibility may be required if a deal is in sight). As yet, however, neither have set out in detail how they propose to unlock changes to a Withdrawal Agreement that the EU firmly states will not be reopened, or how they will address Parliamentary attempts to prevent 'No Deal'.

Government of Jersey

As the synopsis above makes clear, the 6 months since the Government's most recent report to the States Assembly have continued to be dominated by uncertainty. Nor does such uncertainty show signs of abating in the near future. Nevertheless, as set out in the subsequent sections of this report, the Government of Jersey has not been, and does not intend to be, a bystander to these events. Throughout this process, we have developed extremely close relationships with UK Ministers and departments, and have actively and consistently ensured that we are as informed and prepared as we can be for all possible outcomes.

Whilst the Government of Jersey feels that a negotiated exit – including a period of transition to ensure residents and businesses can prepare – is in the best interests of all involved, officials and Ministers are cognisant that a 'No Deal' exit remains possible. A significant amount of work has already been undertaken to prepare the Island for such an outcome, ensuring too that we are directly plugged into the UK's preparations in this regard. These efforts will continue in the months towards 31 October, testing and improving our approach and our assumptions, working closely with the UK and with our counterparts in other Crown Dependencies to ensure we are as well-prepared as we possibly can be.

The Government of Jersey has also used the temporary breathing space created by the current extension to refresh the Brexit Programme for the next phase of the negotiations focusing on the future relationship with the EU and with the wider world. We will continue to work proactively over the summer months, conducting extensive and detailed analysis of our interests and our current position, and compiling the comprehensive evidence base that will ensure we are ready for negotiations whenever these commence.

SECTION II – PREPARATIONS FOR A DAY ONE NO DEAL (“D1ND”)

The Government of Jersey continues to believe that a negotiated exit is in the best interests of the Island. The inclusion of the transition period within the Withdrawal Agreement would provide for an element of continuity until the end of 2020, allowing crucial time for residents and businesses to prepare for the UK’s departure from the EU.

Nevertheless, the Government of Jersey has been preparing for all eventualities – including a D1ND – since the referendum. We have been working closely with our colleagues in the UK and other Crown Dependencies over the last 3 years to ensure that the potential impacts of a ‘No Deal’ exit are mitigated as best as possible.

During the summer of 2018, all Government of Jersey departments were commissioned to prepare an assessment of expected impacts and implications of a D1ND, including a risk assessment, potential resourcing issues, objectives in the event of ‘No Deal’, and departmental governance arrangements. By the end of the year, all departments had compiled individual ‘Brexit Readiness Plans’ which had been agreed by, and peer-reviewed with, the Minister for External Relations. These readiness plans have been regularly reviewed and updated.

The individual Brexit Readiness Plans informed the development of an overall Government of Jersey ‘Contingency Plan’, aligned in format with similar UK Government D1ND contingency preparations, containing the highest impact risks from departmental submissions, which set out proposed mitigations and outlined the threats to those mitigating actions.

Key risks include those relating to supply chain disruption, impacts on our critical national infrastructure, and loss of information-sharing with the EU.

This document has been shared with the UK Government to ensure that it can both inform the ongoing contingency preparations across the UK, and support our own extensive discussions with individual departments in Whitehall, such as the Department for Health and Social Care (“DHSC”) and the Department for Transport (“DfT”). It has also supported discussions with relevant UK Local Resilience Forums, particularly Hampshire LRF; transport, retail and wholesale organisations; and other Channel Island partners.

Since the last Brexit Report to the Assembly in January, the UK’s departure date has been extended twice: from 29 March to 12 April, and from 12 April to 31 October. On each occasion, the Government of Jersey has taken a number of steps to ensure that the Island was as prepared for a ‘No Deal’ as it possibly could be, based on the comprehensive and detailed planning undertaken by officials. These preparations were ‘stepped up’ in the run up to both of these potential ‘crash-out’ dates, amidst the ongoing uncertainty in the UK and EU.

We have also engaged extensively with business and industry to ensure readiness in the private sector. Officers from across Government continue to be involved in regular discussions with key sectors, including representatives from retail, wholesale, travel, fisheries, agriculture, and financial services businesses. These two-way discussions have helped to keep officers up-to-date with the emerging issues, and to ensure that businesses have been kept abreast of developments in the Brexit process, as well as the work underway to protect vital elements of the Island’s economy. A business readiness

checklist has been prepared in close collaboration with Jersey Business and the Jersey Chamber of Commerce, along with D1ND Technical Notices across a range of topics. This engagement also provided a valuable opportunity for business and industry to raise any concerns they may have.

In March 2019, at the instruction of the Minister for External Relations, a dedicated cross-Government team was established to co-ordinate the operational and technical response to a potential D1ND. The ‘OneGov Brexit Team’ (“1GBT”), comprising officials from key departments, has focused particularly on potential issues around the supply of food, fuel and medicine to the Island, and the potential impacts on some of our most vulnerable communities.

Examples of the key pieces of work completed ahead of the UK’s anticipated departure include –

- Extensive contingency planning on key supply chains – with contingency plans now in place supporting ongoing co-operation with significant UK partners, including the Port of Portsmouth, in order to protect the Island’s critical supply chains of food, fuel and medicine. This included comprehensive work on the traffic management of the port; the prioritisation of Channel Island-bound freight; work with prominent ferry and freight operators to increase freight capacity; and a step-by-step co-ordination plan in the unlikely event that the port becomes unusable. All of this work involved daily engagement and teleconferences with colleagues in the relevant bodies, including Portsmouth International Port, Hampshire Local Resilience Forum and DfT.
- Establishment of a ‘Vulnerable People Working Group’ – to assess the potential impacts of a D1ND on those who may be affected by a variety of factors, such as an increase in the price of goods, shortages or delays in the supply of food or medicines, or a reduction in variety. Officials are working with a range of third sector bodies, including parish representatives and charities, to ensure that a joined-up approach is established to identify and assist those who may be most susceptible to changing circumstances in the Island.
- A dedicated phone-line – operated by Customer and Local Services – has been established to help Islanders with any concerns surrounding the impact of a No Deal.
- Protecting transport and travel in the EU – through formal extension of the United Nations Vienna Convention on Road Traffic to the Island, we have ensured that in the event of a D1ND exit, Jersey vehicles will still be able to circulate in the EU, and Islanders will still be able to hire a vehicle in the EU. Additionally, the preservation of the Common Travel Area (“CTA”) will ensure that Islanders can continue to travel between the UK, Ireland and Crown Dependencies without border controls.
- Raising awareness and providing information and reassurance – through a focused communications campaign to inform Islanders of the potential implications of a D1ND Brexit. The campaign launched during the ‘Ready for Brexit’ week in January 2019, and advised Islanders on the possibility of supply chain disruption; travelling abroad; taking their pet off-Island; driving on the continent; studying in Europe; and provision of other important ‘No Deal’

information through leaflets and online resources. The campaign launch was supported by regular social media engagement; a direct contact to the Brexit Unit through 'Let's Talk Brexit'; and pop-up stands at key events over the following months, such as the Higher Education Fair.

Whilst the delay to 31 October has removed some of the intensity of these preparations, the likelihood of a D1ND outcome remains high, and the Government is committed to ensuring our readiness. The 1GBT and various working groups continue to meet regularly to discuss and assess readiness and contingency plans in line with the latest developments in the UK and EU. Officials are in contact with colleagues across Whitehall, and Jersey remains plugged-in to key information-sharing platforms and systems. The intensity of these preparations is expected to increase over the summer and into the autumn as, in the absence of a negotiated agreement between the UK and the EU, the focus of Government increasingly shifts back to preparing for a potential D1ND outcome on 31 October 2019.

SECTION III – PREPARATIONS FOR PHASE 2 OF BREXIT: FUTURE PARTNERSHIP NEGOTIATIONS

PREPARATIONS FOR FUTURE PARTNERSHIP NEGOTIATIONS

This section focuses on the Government’s preparations for the next phase of the Brexit negotiations, the ‘Future Partnership’ negotiations between the UK and EU, and the internal governance structures that have been put in place to ensure Jersey’s priorities, objectives and interests are taken into account.

The work of the Government of Jersey over the last 3 years has been largely focused on the terms of the withdrawal from the EU, on preparing legislation for the withdrawal, establishing arrangements with the UK to minimise disruption on withdrawal, and the contingency preparations required for a ‘No Deal’ outcome.

Although the possibility of a ‘No Deal’ currently remains a key aspect of our preparations, in recent months, consideration has turned to how Jersey will feed into the negotiations shaping the long-term Future Partnership between the UK and the EU.

The primary considerations at this stage have been to consider –

- **Timeframes** – regardless of whether a negotiated outcome is achievable by 31 October 2019, discussion between the UK and EU negotiators will intensify once the new UK Prime Minister is in place. The Government of Jersey is working to ensure we are fully ‘negotiation ready’ so we can move on the detail, when negotiations start.
- **Scope** – the Future Partnership negotiations will be far-reaching, complex and cross-cutting, extending well beyond that of a typical Free Trade Agreement (“FTA”). This will require a broader and more detailed response from that adopted by the Government of Jersey in Phase 1, which was around the terms of the UK’s withdrawal. Some of the topics that the UK will be looking to discuss with the EU include customs and trade facilitation; cross-border services; data protection; aviation; and health security.
- **Analysis** – we will have analysed our regulations and governance arrangements in order to establish a strong evidence base for use in the negotiations.
- **Structures for negotiations** – based on the insight we have into the extensive range of topics involved, Ministers have agreed a new One-Government structure to ensure that the Jersey can feed into the relevant UK structures and respond nimbly to what is likely to be a fast-moving and continually evolving negotiating period.

The structure of the Brexit Programme for Phase 2 comprises 3 key ‘clusters’: Goods and Borders; Services and Digital; and Immigration and Security, which will consider the technical, legal and policy impacts of negotiations. Sitting above these clusters – to enable strategic input, oversight and ensure that cross-cutting impacts are considered – are the following –

- **Brexit Unit** – to lead on the Future Partnership negotiations with the UK Government and provide programme management for Phase 2. The Unit will have sight of the wider, ‘horizontal’ issues that cut across all 3 clusters, and impact on the wider negotiating position of the Island;
- **Clearing House** – a small group of officials that, as the name suggest, ‘clear’ work and papers to be escalated for Ministerial consideration;
- **Brexit Strategic Group** – senior officers to provide direction on broader negotiation issues that have implications for the Island’s position in the future relationship. Will consider likely trade-offs, such as market access versus regulatory requirements;
- **Brexit Ministerial Group** – comprises relevant Ministers to provide key strategic oversight and decision-making.

The structure is designed to build upon the many examples of effective cross-Governmental work during Phase 1, including ways in which we can maximise the resource available to the Government of Jersey to ensure that we can meet the demands of the Future Partnership negotiations, and balance this with the need to be agile and flexible as the negotiations progress. The table below illustrates how these groups will form our wider governance structure for Phase 2 –

EXTERNAL RELATIONS (Brexit Unit)	BREXIT MINISTERIAL GROUP			
	BREXIT STRATEGIC GROUP / CORPORATE STRATEGY BOARD			
	CLEARING HOUSE			
	GOODS & BORDERS WORKING GROUP	SERVICES & DIGITAL WORKING GROUP	IMMIGRATION & SECURITY WORKING GROUP	1GBT ‘NO DEAL’ PLANNING

A number of meetings and workshops on Phase 2 have already taken place with UK Government, with two-way visits to ensure that effective relationships can be established between lead officers and a broad understanding of context can be achieved. Further engagement is planned throughout the summer.

The Government of Jersey remains confident that our interests will be taken into consideration during the Phase 2 negotiations. We have worked co-operatively and effectively with UK Government throughout the Brexit process, and we do not see this relationship changing. The governance structures that have been created are designed to ensure that the Island’s key interests – for the Public, business and the Island as a whole – are taken into account throughout these negotiations, and that Jersey is in the strongest possible position for when we eventually enter a post-Brexit world.

SECTION IV – BEYOND BREXIT

EXTENSION OF THE UK'S WORLD TRADE ORGANISATION MEMBERSHIP TO JERSEY

As stated in the previous Brexit Report to the States Assembly in January 2019, territorial extension of the UK's WTO membership to Jersey has been a longstanding objective of the Government of Jersey. Brexit has provided a catalyst for change.

WTO membership, in the post-Brexit context, can bring benefits to Jersey in terms of access to markets, access to dispute resolution mechanisms, as well as wider reputational and relationship added value.

Should the UK exit the EU without a negotiated settlement, then the UK-EU trading relationship will fall back on the WTO rules.

Since the EU referendum in 2016, the Brexit Ministerial Group has provided strategic input to the Government's work towards WTO extension, which has broadly progressed through the following stages –

- **Evidence-gathering** – on the implications of WTO membership, involving input from stakeholders on the value of membership across a range of key policy areas, including agriculture and fisheries, financial services, intellectual property and global markets.
- **Compliance assessment** – assessments across a range of disciplines to test Jersey compliance with the WTO agreements, and whether any policy or legal changes were required.
- **Identification of key principles** – through the Brexit Ministerial Group, Ministers agreed that any extension should be underpinned by a set of key principles, referencing Jersey's rights and privileges, international identity, and longstanding constitutional relationship with the UK, to inform discussions and manage expectation for any bilateral agreement.

UK and Jersey officials are currently working towards finalising arrangements – focusing on future WTO relations and co-operation between the administrations – that would pave the way to an extension of the UK's membership of the WTO to Jersey.

Such arrangements will further Jersey's global outreach and ability to engage with countries around the world, placing the Island in a stronger position when the UK leaves the EU.

JOINT CUSTOMS ARRANGEMENT

The historic signing of the Jersey-UK Customs Arrangement in November 2018, establishing a post-Brexit customs union between Jersey and the United Kingdom, is the latest iteration of the practice over several centuries that neither the UK nor Jersey has imposed import tariffs on goods produced in the other's territory.

Maintaining the close customs and free trade relationship with the UK remains a key Brexit objective for the Government of Jersey and there has been significant work in this area, including the following:

Work to enable Jersey's accession to the **Common Transit Convention**. Three Orders have been drafted to meet Jersey's obligations under the new arrangement and will be brought into force when the UK leaves the EU –

- (1) the Customs and Excise (Customs Tariff and Import Duty) (Jersey) Order that means Jersey will apply the UK Customs Tariff to trade with territories not included in the Customs Union;
- (2) the Customs and Excise (Customs Transit Procedures) (Jersey) (Order) that allows goods to transit countries party to the convention in duty suspension; and
- (3) the Customs and Excise (Safety and Security) (Export) (Jersey) Order that enables essential security checks to be undertaken on goods leaving the Customs Union.

Memoranda of Understanding have been drafted in preparation for the UK's departure from the EU –

- (1) the Memorandum of Understanding on Customs Co-operation and Mutual Assistance between HMRC and JCIS;
- (2) the Memorandum of Understanding on Safety and Security Measures between HMRC and JCIS; and
- (3) the Memorandum of Understanding in respect of the Tariff Application Programme between DIT and JCIS.

A draft amendment has been made to the Customs and Excise (Import and Export Control) (Jersey) Order 2006 to refer to the UK's Export Control Order 2008 to ensure that any modifications to the **Category A, B and C goods** list can be read for the purposes of licensing criteria under Jersey law.

A further amendment has been made to the Customs and Excise (Import and Export Control) (Jersey) Order 2006 Open General Export Licence to allow the export, without a licence, of **dual-use items** to the British Islands, or to the European Union.

The **Jersey freight management system (CAESAR)** has been upgraded to accommodate all the customs measures determined by the UK Tariff.

Finally, ahead of the first meeting of the Joint UK-Crown Dependencies Customs Committee, **Terms of Reference** have been drafted to underpin the relationship, focusing on the remit, operations and reporting of the committee.

FUTURE TRADE AND ‘LET’S TALK TRADE’

High-level discussions are currently ongoing with the UK Department for International Trade (“DIT”) on the UK’s approach to Future Trade Agreements post-Brexit, and future trade policy more generally.

With our recent agreement to form part of the UK Customs Union, and discussions ongoing to seek extension of the UK’s WTO membership, Jersey could be impacted if it decides to participate in future UK trade agreements.

To better understand how residents and businesses view international trade – and what they feel the Government should prioritise to deliver such work – we will shortly be launching a ‘Let’s Talk Trade’ campaign.

The planned engagement on trade has 4 primary aims –

- to **inform** stakeholders about what Brexit-related changes mean for Jersey;
- to **understand** the areas that stakeholders see as priorities for future trade;
- to **seek input** on a set of principles to underpin the Government’s engagement with the UK Government; and
- to continue the **dialogue** between the Government of Jersey and stakeholders on Brexit generally.

Following on from the success of the ‘Ready for Brexit’ campaign in January of this year, and as indicated in the last Brexit Report, ‘Let’s Talk Trade’ will look to engage with the Public, businesses and industry bodies through consultation, focus groups, surveys and events. Further details will be announced shortly.

This work will also be informed by our extensive external engagement with European partners and with markets outside of Europe. Recent **European** and **Global Markets** engagement includes –

- Delivering the commitments set out in a Memorandum of Understanding (“MOU”) on Financial Co-operation signed by the Minister for External Relations and Kenyan Treasury Minister during a December 2018 visit.
- Joint Channel Island Ministerial visits to Paris and Brussels in January.
- Inbound visit to Jersey from Head of German Consular section, German Embassy London in February and, shortly, from the Dutch Ambassador to the UK.
- The Minister for External Relations attended the 7th World Government Summit from 10–12 February in Dubai. The Minister joined politicians, business leaders and academics for 3 days of discussion on wellbeing, technology and government.

- A significant programme of French engagement, including the Agricultural Salon in Paris in February, Ile et Vilaine Summit in May, Peace Forum in Caen in June.
- An officer-level scoping trip to the USA in March, covering New York, New Jersey and Washington D.C. As a result of engagement with the US Department of Commerce, the Deputy Chief Minister attending the ‘SelectUSA’ inward investment summit in Washington D.C. in June. Furthermore, the SelectUSA Roadshow plans to visit Jersey in September to discuss opportunities with Jersey businesses.
- The Minister for External Relations attended the World Economic Forum (“WEF”) on the Middle East and North Africa (“MENA”) in Jordan from 6–7 April and spoke with a variety of interlocutors from countries in attendance.
- A delegation from Bahrain visited Jersey on 2 May. The delegation consisted of representatives from the Economic Development Board (“EDB”) and Women in Fintech Group. During their visit, they signed a Memorandum of Understanding with Digital Jersey to further digital collaboration.
- The Minister for External Relations participated in the Leaders’ Summit as part of UK-India Week on 25 and 26 June, and gave a keynote speech on the subject of the development of financial services in Jersey.
- In June 2019, the Government of Jersey signed an Addendum with Government of Rwanda which strengthens co-operation between the 2 jurisdictions before Rwanda’s hosting of the Commonwealth Heads of Government meeting in 2020.
- In July 2019, the Government of Jersey (“GoJ”) agreed a partnership programme with the Commonwealth Enterprise and Investment Council.
- Officials visited Nigeria from 8–12 July 2019 to expand the network of in-country contacts and to discuss opportunities for Jersey companies in the country. The visit took place alongside a Jersey Finance Ltd. trade delegation visit to Lagos.

Future engagement includes hosting a visit in September from the UK India Business Council, and the Chief Minister’s planned visit to China in November.

SECTION V – CONCLUSIONS

When the UK voted to leave the European Union on 23 June 2016, very few could have envisaged the developments that were to take place over the next 3 years. We are living in unprecedented political times, with numerous moving parts, and the uncertainty that has dominated the last 3 years shows no signs of abating.

In the concluding comments of the last report, in January 2019, it was noted that there were ‘fewer than 90 days’ to the formal date of Brexit, which at the time of writing was 29 March 2019. That date came and went, and was replaced by 2 further extensions – to 12 April and 31 October 2019 respectively. As it stands, the UK is due to leave at the end of October, with or without a deal. The EU has warned that there will be no further extensions, and with the potential for an incumbent Prime Minister determined to leave on this date, we could be entering the final few weeks and months of this phase of Brexit.

The prospect of a ‘No Deal’ has been ever-present throughout this process, and is now potentially at its most likely since the referendum. While there is a narrow but stable majority against this outcome within the current House of Commons, ‘No Deal’ on 31 October remains the legal default, and there is no clear Parliamentary mechanism to prevent this. As such, whilst the spotlight will once again shine on Parliament in the early autumn, the procedural creativity of Parliamentarians opposed to a ‘No Deal’ will be sorely tested, with the spectre of a vote of No Confidence and a subsequent General Election overhanging proceedings.

As a responsible Government, therefore, it has undoubtedly been the correct decision to have the prospect of a ‘No Deal’ Brexit as the baseline for all of our preparations. Since initial scoping work began in June 2016, assessing what a ‘No Deal’ may mean for Jersey, there have been considerable efforts across Government to identify and mitigate potential risks, in order to protect the Island as far as possible from potential disruption. Officials have conducted an extensive analysis of the Island’s critical supply chains; identified potential impacts on vulnerable members of our community; put in place arrangements to maintain trade and movement between Jersey and the UK, which is so vital to Islanders and our economy; and engaged with Islanders and businesses on what Brexit may mean for them.

Whilst a considerable amount of work has already gone into ‘No Deal’ preparations, we are not complacent. Our contingency plans will be continually assessed and refreshed, and we will continue to co-ordinate closely with the UK, responding to developments as appropriate. As such, whilst considerable uncertainty remains, Jersey will be in the best possible position to react to whatever outcome may arise later this year.

Yet even with this uncertainty, we are looking ahead at the next phase of Brexit, to ensure that the interests of Jersey are protected and promoted in the future relationship with the EU. The next phase of negotiations, whether these take place following a deal or in a ‘No Deal’ scenario, will be broad, cross-cutting and complex. Officials have already begun scoping work and analysis in key areas to identify policy interests and issues, resource implications, and possible legislative changes. We will be engaging with the UK Government over the summer through a series of workshops, visits and teleconferences to continue discussions on Phase 2, and to build a robust, coherent and comprehensive negotiating position.

As we do so, we must continue to recognise that the decisions we are taking during the Brexit process will have impacts, not just on our relationship with the EU, but also with the UK and with the wider world. That is why, during this first phase, we have already sought to future-proof these relationships, ensuring that not only is vital trade maintained, but that the Island is also well-placed to seize the opportunities stemming from the UK's departure from the EU. The signing of the Jersey-UK Customs Arrangement, for example, has guaranteed the continuation of frictionless trade with our most important trading partner; the ongoing work on WTO extension aims to provide further certainty in relation to Jersey's trade with other international partners; and discussions have already begun regarding Jersey's participation, where feasible and appropriate, in the Free Trade Agreements the UK is seeking post-Brexit. At the same time, the work of our Global Markets team continues to ensure that we have in place the bilateral relationships and agreements the Island needs to support trade with existing and growing markets around the world.

We should recognise, too, that our successful preparations to date are, to a great degree, down to the co-operative and effective working relationships we have had with UK Government, local businesses and industry, and the Public over the last 3 years.

Never before in our longstanding relationship have we engaged so extensively and regularly with the UK on such a wide range of important issues. Throughout Phase 1, officials across Government have worked closely with colleagues in the UK, ensuring that the Island's interests are understood and protected. From Customs to Financial Services, Immigration to Agriculture, this work has drawn on the resources and expertise of departments across the Government of Jersey, and on those of their counterparts in Whitehall. A positive consequence of this work is that the understanding throughout the UK Government of Jersey, its interests and its constitutional position, has rarely been greater or more widespread. These relationships and this understanding, amongst Ministers and officials, leaves us well-placed as we look towards 31 October and to any negotiations beyond.

In addition, we have proactively engaged with business and industry, as well as with the Public, to uncover and to take into account the views and concerns of key stakeholders. The successful 'Ready for Brexit' week earlier this year will shortly be followed up by the 'Let's Talk Trade' campaign throughout the summer and, beyond that, further engagement on future immigration impacts. We will continue our Brexit campaigns across a range of communications media as we approach 31 October, enabling us to advise and inform Islanders of any potential impacts and necessary preparations in the run-up to any 'No Deal' exit.

Preparing for Brexit has been complex, challenging and, at times, daunting. The work undertaken by officials across Government has, in many cases, been the first of its kind in Jersey, with no blueprint or guidance to look to. As a Government and as an Island, we are in uncharted territory. However, 3 years of preparation has culminated in the largest cross-government programme of work ever undertaken by the Government of Jersey. A tremendous effort has been made thus far, and more will be required. Yet through this, whilst uncertainty over the ultimate Brexit destination continues, the Island is – and will be – prepared for all possible outcomes.

16 JULY 2019

KEY ACTIVITY TIMELINE

Key	
	Milestone Event
	Government of Jersey internal meeting/co-ordination
	Engagement with UK Government
	Engagement with EU Member States and Bodies
	Engagement with States Assembly and Scrutiny
	Public engagement
	Brexit legislation

2019	
January	
14–18	‘Ready for Brexit Week’
15	‘Meaningful vote’ on the Withdrawal Agreement in the House of Commons
16	Jersey-UK ‘table-top’ planning exercise for a ‘No Deal’ Brexit
24	Brexit Working Group (#20)
24	Jersey-UK Partnership Group (“JPTG”) meeting (#07)
28	Quarterly meeting with Robin Walker, MP
31	Brexit Ministerial Group (#22)
February	
04	Diplomatic Dinner in London
15	Formal Scrutiny session with the Brexit Review Panel
18	Visit of Head of Consular Department at the German Embassy
21	Brexit Working Group (#21)
26	Portsmouth International Port (“PIP”) visit to Jersey
26	Jersey-UK Partnership & Trade Group (#08)
27–28	Jersey officials attend UKG contingency planning exercises
March	
01	Brexit Ministerial Group (#23)
12	Second ‘meaningful vote’ on the Withdrawal Agreement in the House of Commons
12	Draft European Union (Amendment – Withdrawal Agreement) (Jersey) Regulations 201- [P.10/2019] debated in States Assembly and adopted
12	Draft European Union (United Kingdom Exit – Animal Health and Welfare) (Jersey) Regulations 201- [P.9/2019] debated in States Assembly and adopted

12		Draft Immigration (Relevant Biometric Information) (Jersey) Regulations 201- [P.12/2019] debated in States Assembly and adopted
12		Draft European Union (Financial Services – Miscellaneous Amendments) (Jersey) Regulations 201- [P.11/2019] debated in States Assembly and adopted
14		Brexit Working Group (#22)
22		Jersey-UK Partnership Group (JPTG) meeting (#09)
26		Draft European Union (Wines, Spirits, Milk and Dairies – Savings) (Jersey) Regulations 201- [P.14/2019] debated in States Assembly and adopted
26		Draft European Union (United Kingdom Exit – Alternative Investment Funds) (Jersey) Regulations 201- [P.15/2019] debated in States Assembly and adopted
26		Draft Restriction on Smoking (Warning Notices) (Amendment for UK Exit from EU) (Jersey) Regulations 201- [P.16/2019 (re-issue)] debated in States Assembly and adopted
26		Brexit Working Group (#23)
27		Draft Sanctions and Asset-Freezing (Transitional Provisions) (Jersey) Regulations 201- [P.35/2019] debated in States Assembly and adopted
27		House of Commons vote on series of ‘indicative votes’ on Brexit alternatives
27		Engagement with third sector (Parishes and Charities) on Vulnerable People
28		Brexit Ministerial Group (#24)
29		Third ‘meaningful vote’ on the Withdrawal Agreement in the House of Commons
April		
01		Second round of ‘indicative votes’ in House of Commons
02		Engagement with the Parishes on Vulnerable People
05		Engagement with third sector (Parishes and Charities) on Vulnerable People
09		Training of CLS staff for Brexit phone service
10		Brexit Ministerial Group (#25)
10		Brexit extension to 31 October 2019 agreed at emergency EU Summit
24		Jersey-UK Partnership Group (JPTG) meeting (#10)
24		Café Scientifique Talk on Brexit and trade by Brexit Unit officials
May		
1		Brexit Constitutional Officers Group (“BCOG”) meeting
13		Quarterly meeting with Robin Walker, MP
15		Brexit Ministerial Group (#26)
16		Ile et Vilaine Summit
22		Jersey-UK Partnership Group (“JPTG”) meeting (#11)

23		MEP Elections take place in the UK
24		Prime Minister Theresa May announces her resignation
31		Brexit Working Group (#24)
June		
10		Conservative Leadership contest begins
10		UK-CD Future Partnership workshop
13		Brexit Ministerial Group (#27)
21		Jersey-UK Partnership Group (JPTG) meeting (#12)
21		EU Summit
24		MER courtesy call with George Hollingbery, Minister of State for Trade policy at DIT
24		UK-CD Future Partnership workshop
27–28		British-Irish Council in Manchester
July		
03		Launch of Brexit Phase 2 Programme
05		Brexit Ministerial Group (#28)
08		Summer Reception in London
16		Draft Sanctions and Asset-Freezing (Amendment) (Jersey) Law 201- [P.58/2019] due to be debated in States Assembly
23		Conservative Leadership contest concludes – new Prime Minister appointed
23		Jersey-UK Partnership and Trade Group meeting (#13)
24–25		Department for International Trade visit to Jersey