STATES OF JERSEY

RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF JERSEY AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

Lodged au Greffe on 3rd August 2018
by the Minister for External Relations

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to ratify the Agreement between the Government of Jersey and the Government of the United Kingdom of Great Britain and Northern Ireland for the Elimination of Double Taxation with respect to Taxes on Income and on Capital Gains and the Prevention of Tax Evasion and Avoidance, as set out in Appendix 1 to the attached report of the Minister for External Relations dated 24th July 2018.

MINISTER FOR EXTERNAL RELATIONS

REPORT

Jersey has had a Double Taxation Agreement ("DTA") with the United Kingdom, its major trading partner, since 1952. Given the extent of the corporate and personal links that exist between Jersey and the United Kingdom, it has been of the utmost importance that the double taxation of corporate and personal incomes has been avoided. The existence of a DTA also provides important support for the business relationships that exist between the 2 jurisdictions which are of mutual benefit. In both respects the existing Agreement, which over the years has been subject to a number of amendments, has worked satisfactorily for both parties. However, it has a major drawback in that it is not aligned with the current OECD Model DTA Convention standard.

Jersey is committed to adopting and complying with the leading OECD standards. Jersey has 12 DTAs that have entered into force, including agreements with Guernsey and the Isle of Man, that are based on the OECD Model DTA Convention. It is therefore both timely and appropriate that Jersey's DTA with the United Kingdom – its most important trading partner – is now updated in line with current international standards.

Jersey is fully committed to the OECD Base Erosion and Profit Shifting ("BEPS") programme. Jersey signed the Multi-lateral Instrument (the "MLI") in June 2017, and was one of the first 3 jurisdictions to ratify the instrument, which is seen as a key element in implementing the OECD's anti-tax-avoidance measures. In accordance with this international commitment, Jersey is expected to incorporate the MLI tax treaty provisions into all its Tax Treaties. This builds on the provisions of the OECD Model Convention, and therefore it is not possible to meet these international obligations through amendments to the old 1952 DTA.

Jersey, together with Guernsey and the Isle of Man, who are similarly faced with a need for a DTA in accord with the OECD Model Convention, agreed with the United Kingdom that a new DTA was required, and the 3 Crown Dependencies agreed to jointly negotiate with the United Kingdom.

The new DTA that has been negotiated is in accord with the OECD Model Convention in providing for the avoidance of double taxation in respect of both corporate and personal incomes including business profits, dividends, interest, royalties, income from employment and pensions. The new DTA is much clearer than the old Agreement on the provisions for the avoidance of double taxation in respect of the payment of dividends, interest, and royalties. The DTA will also make it easier for individuals to avoid double taxation where they move between Jersey and the United Kingdom, due to the inclusion, for the first time, through Article 4(3), of a clause to determine where an individual is resident.

The DTA also provides for the exchange of information on request equivalent to that provided for in the Tax Information Exchange Agreements ("TIEAs") that Jersey has signed, which includes a TIEA signed with the United Kingdom in 2009.

Throughout the negotiation of the DTA, Jersey officials consulted with industry representatives who, among other things, were concerned to ensure that the DTA applied to zero-tax companies. This is provided for by Article 4 and by the wording of a Protocol to the Agreement (*see* **Appendix 1** to this report).

Article 27 of the new DTA provides for assistance in the collection of taxes. However, the process for the application of this Article is yet to be agreed, and therefore it has been agreed that the entry into effect of the Article should be delayed until a date to be specified in a future exchange of letters.

The new DTA meets the 2 key requirements referred to above. Firstly, the avoidance of double taxation is of great importance, given the close corporate and individual relationships that exist between Jersey and the UK, a relationship that is expected to be further enhanced when the UK withdraws from the EU. Secondly, through the new DTA, Jersey is further emphasizing that it is fully committed to compliance with the international tax standards set by the OECD.

The Minister for External Relations, Senator I.J. Gorst, finalised the negotiation of the new DTA with the United Kingdom Government through an exchange of letters with the Financial Secretary to H.M. Treasury, which took place in London on Monday 2nd July 2018. The DTA is now being presented to the States Assembly for ratification, following which it will be published and entered into the official record.

A copy of the DTA, together with the Protocol to the Agreement, is attached as **Appendix 1** to this report, and the Letters exchanged are attached as **Appendix 2**.

The Agreement will enter into force when the domestic procedures of both parties have been completed. It is expected that the new DTA will come into force at the beginning of 2019.

The States, on 8th June 2010, adopted the Taxation (Double Taxation) (Jersey) Regulations 2010. The Schedule to these Regulations lists the countries with whom Double Taxation Agreements have been entered into. The necessary Order to provide for the inclusion in the Schedule of the Agreement with the United Kingdom will be made subsequent to the ratification.

The latest position in respect of the other Taxation Agreements to which Jersey is a party is attached as **Appendix 3** to this report.

Financial and manpower implications

There are no expected financial or manpower implications for the States arising from the ratification and implementation of the Agreement.

24th July 2018

APPENDIX 1

AGREEMENT BETWEEN THE GOVERNMENT OF JERSEY AND THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jersey,

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to conclude an Agreement for the elimination of double taxation with respect to taxes on income and on capital gains without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Agreement for the indirect benefit of residents of third States or territories),

Have agreed as follows:

ARTICLE 1

Persons covered

1. This Agreement shall apply to persons who are residents of one or both of the Territories.

2. For the purposes of this Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Territory shall be considered to be income of a resident of a Territory but only to the extent that the same income is treated, for purposes of taxation by that Territory, as the income of a resident of that Territory.

3. This Agreement shall not affect the taxation, by a Territory, of its residents except with respect to the benefits granted under paragraph 3 of Article 7, paragraph 2 of Article 9 and Articles 18, 19, 22, 24, and 25.

ARTICLE 2

Taxes covered

1. This Agreement shall apply to taxes on income and on capital gains imposed on behalf of a Territory or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property.

3. The existing taxes to which the Agreement shall apply are in particular:

(a) in Jersey, the income tax (hereinafter referred to as "Jersey tax"):

(b) in the United Kingdom:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

(hereinafter referred to as "United Kingdom tax").

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Territories shall notify each other of any significant changes that have been made in their taxation laws.

ARTICLE 3

General definitions

1. For the purposes of this Agreement, unless the context otherwise requires:

(a) the term "Jersey" means the Bailiwick of Jersey, including the territorial sea;

(b) the term "United Kingdom" means Great Britain and Northern Ireland but, when used in a geographical sense, means the territory and territorial sea of Great Britain and Northern Ireland and the areas beyond that territorial sea over which Great Britain and Northern Ireland exercise sovereign rights or jurisdiction in accordance with their domestic law and international law;

(c) the terms "a Territory" and "the other Territory" mean Jersey or the United Kingdom, as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons;

(e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

(f) the term "enterprise" applies to the carrying on of any business;

(g) the terms "enterprise of a Territory" and "enterprise of the other Territory" mean respectively an enterprise carried on by a resident of a Territory and an enterprise carried on by a resident of the other Territory;

(h) the term "international traffic" means any transport by a ship or aircraft, except when the ship or aircraft is operated solely between places in a Territory and the enterprise that operates the ship or aircraft is not an enterprise of that Territory;

(i) the term "competent authority" means:

(i) in Jersey, the Minister for Treasury and Resources or his authorised representative;

(ii) in the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative;

(j) the term "business" includes the performance of professional services and of other activities of an independent character; and

(k) the term "pension scheme" means any scheme or other arrangement which:

(i) is generally exempt from income taxation; and

(ii) operates to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.

2. As regards the application of the Agreement at any time by a Territory, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Territory for the purposes of the taxes to which this Agreement applies, any meaning under the applicable tax laws of that Territory prevailing over a meaning given to the term under other laws of that Territory.

ARTICLE 4

Resident

1. For the purposes of this Agreement, the term "resident of a Territory" means any person who, under the laws of that Territory, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that Territory and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that Territory in respect only of income or capital gains from sources in that Territory.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Territories, then his status shall be determined as follows:

(a) he shall be deemed to be a resident only of the Territory in which he has a permanent home available to him; if he has a permanent home available to him in both Territories, he shall be deemed to be a resident only of the Territory with which his personal and economic relations are closer (centre of vital interests);

(b) if the Territory in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either Territory, he shall be deemed to be a resident only of the Territory in which he has an habitual abode;

(c) if he has an habitual abode in both Territories or in neither of them, the competent authorities of the Territories shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Territories, the competent authorities of the Territories shall endeavour to determine by mutual agreement the Territory of which such person shall be deemed to be a resident for the purposes of this Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of a mutual agreement by the competent authorities of the Territories, the person shall not be considered a resident of either Territory for the purposes of claiming any benefit provided by this Agreement except those provided by Articles 22, 24 and 25.

ARTICLE 5

Permanent establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Paragraph 4 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Territory and

(a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or

(b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

6. For the purposes of paragraph 5, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises.

7. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 8 applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Territory an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Territory in respect of any activities

which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

8. An enterprise shall not be deemed to have a permanent establishment in a Territory merely because it carries on business in that Territory through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

9. The fact that a company which is a resident of a Territory controls or is controlled by a company which is a resident of the other Territory, or which carries on business in that other Territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

Income from immovable property

1. Income derived by a resident of a Territory from immovable property (including income from agriculture or forestry) situated in the other Territory may be taxed in that other Territory.

2. The term "immovable property" shall have the meaning which it has under the law of the Territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

ARTICLE 7

Business profits

1. Profits of an enterprise of a Territory shall be taxable only in that Territory unless the enterprise carries on business in the other Territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Territory.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Territory to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts

of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Territory adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Territories and taxes accordingly profits of the enterprise that have been charged to tax in the other Territory, the other Territory shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Territories shall if necessary consult each other.

4. Where profits include items of income or capital gains which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

International shipping and air transport

1. Profits of an enterprise of a Territory from the operation of ships or aircraft in international traffic shall be taxable only in that Territory.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

(b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9

Associated enterprises

1. Where:

(a) an enterprise of a Territory participates directly or indirectly in the management, control or capital of an enterprise of the other Territory, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Territory and an enterprise of the other Territory,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Territory includes in the profits of an enterprise of that Territory – and taxes accordingly – profits on which an enterprise of the other Territory has been charged to tax in that other Territory and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Territory if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Territory shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Territories shall if necessary consult each other.

ARTICLE 10

Dividends

1. Dividends paid by a company which is a resident of a Territory to a resident of the other Territory may be taxed in that other Territory.

2. However, dividends paid by a company which is a resident of a Territory may also be taxed in that Territory and according to the laws of that Territory, but if the beneficial owner of the dividends is a resident of the other Territory:

(a) except as provided in sub-paragraph (b), such dividends shall be exempt from tax in the Territory of which the company paying the dividends is a resident;

(b) where dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax, the tax charged by the Territory of which the company paying the dividends is a resident shall not exceed 15 per cent of the gross amount of the dividends other than where the beneficial owner of the dividends is a pension scheme established in the other Territory, where the exemption provided in sub-paragraph (a) shall apply.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as any other item which is treated as income from shares by the taxation laws of the Territory of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Territory, carries on business in the other Territory of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Where a company which is a resident of a Territory derives profits or income from the other Territory, that other Territory may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Territory or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Territory, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other Territory.

ARTICLE 11

Interest

1. Interest arising in a Territory and beneficially owned by a resident of the other Territory may be taxed in that other Territory.

2. However, interest arising in a Territory may also be taxed in that Territory according to the laws of that Territory, but if the beneficial owner of the interest is a resident of the other Territory and at least one of the conditions mentioned in paragraph 3 is met, that interest shall be taxable only in that other Territory.

3. The conditions mentioned in paragraph 2 are that:

(a) the interest is beneficially owned by:

(i) that other Territory itself, one of its political subdivisions, local authorities, its Central Bank, or its statutory bodies;

(ii) an individual;

(iii) a company in whose principal class of shares there is substantial and regular trading on a recognised stock exchange;

(iv) a company less than 25 per cent of whose shares or other rights are owned, directly or indirectly, by persons who are not residents of that other Territory;

(v) a pension scheme;

(vi) a bank or building society;

(vii) any other financial institution unrelated to and dealing wholly independently with the payer; (the term "other financial institution" here means an enterprise substantially deriving its profits by raising debt finance in the financial markets or by

taking deposits at interest and using those funds in carrying on a business of providing finance); or

(viii) any other person provided that the competent authority of the Territory which has to grant the benefits determines that the establishment, acquisition or maintenance of that person, or the conduct of its operations, does not have as its principal purpose or one of its principal purposes to secure the benefits of this Article; or

(b) the interest is paid by a Territory, one of its political subdivisions, local authorities or statutory bodies.

4. For the purposes of paragraph 3(a)(i), the term "statutory bodies" includes any institution wholly or mainly owned directly or indirectly by the Government of either Territory as may be agreed from time to time by exchange of letters between the competent authorities of the Territories.

5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures. The term shall not include any item which is treated as a dividend under the provisions of Article 10.

6. The provisions of paragraph 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Territory, carries on business in the other Territory in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Territory when the payer is a resident of that Territory. Where, however, the person paying the interest, whether he is a resident of a Territory or not, has in a Territory a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Territory in which the permanent establishment is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Territory, due regard being had to the other provisions of this Agreement.

ARTICLE 12

Royalties

1. Royalties arising in a Territory and beneficially owned by a resident of the other Territory may be taxed in that other Territory.

2. However, royalties arising in a Territory may also be taxed in that Territory according to the laws of that Territory, but if the beneficial owner of the royalties is a resident of the other Territory and at least one of the conditions mentioned in paragraph 3 is met, those royalties shall be taxable only in that other Territory.

3. The conditions mentioned in paragraph 2 are that the royalties are beneficially owned by:

(a) that other Territory itself, one of its political subdivisions, local governments, local authorities, or its statutory bodies;

(b) an individual;

(c) a company in whose principal class of shares there is substantial and regular trading on a recognised stock exchange;

(d) a company less than 25 per cent of whose shares or other rights are owned, directly or indirectly, by persons who are not residents of that other Territory; or

(e) any other person provided that the competent authority of the Territory which has to grant the benefits determines that the establishment, acquisition or maintenance of that person, or the conduct of its operations, does not have as its principal purpose or one of its principal purposes to secure the benefits of this Article.

4. For the purposes of paragraph 3(a), the term "statutory bodies" includes any institution wholly or mainly owned directly or indirectly by the Government of either Territory as may be agreed from time to time by exchange of letters between the competent authorities of the Territories.

5. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

6. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Territory, carries on business in the other Territory in which the royalties arise through a permanent establishment situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Royalties shall be deemed to arise in a Territory when the payer is a resident of that Territory. Where, however, the person paying the royalties, whether he is a resident of a Territory or not, has in a Territory a permanent establishment in

connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Territory in which the permanent establishment is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Territory, due regard being had to the other provisions of this Agreement.

ARTICLE 13

Capital gains

1. Gains derived by a resident of a Territory from the alienation of immovable property referred to in Article 6 and situated in the other Territory may be taxed in that other Territory.

2. Gains derived by a resident of a Territory from the alienation of shares, other than shares in which there is substantial and regular trading on a recognised stock exchange, or comparable interests, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Territory may be taxed in that other Territory.

3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Territory has in the other Territory, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Territory.

4. Gains that an enterprise of a Territory that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or from movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that Territory.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Territory of which the alienator is a resident.

ARTICLE 14

Income from employment

1. Subject to the provisions of Articles 15, 17, and 18, salaries, wages and other similar remuneration derived by a resident of a Territory in respect of an employment shall be taxable only in that Territory unless the employment is exercised in the other Territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Territory.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Territory in respect of an employment exercised in the other Territory shall be taxable only in the first-mentioned Territory if:

(a) the recipient is present in the other Territory for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Territory; and

(c) the remuneration is not borne by a permanent establishment which the employer has in the other Territory.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Territory in respect of an employment exercised aboard a ship or aircraft operated in international traffic (other than aboard a ship or aircraft operated solely within the other Territory) shall be taxable only in that Territory.

ARTICLE 15

Directors' fees

Directors' fees and other similar payments derived by a resident of a Territory in his capacity as a member of the board of directors of a company which is a resident of the other Territory may be taxed in that other Territory.

ARTICLE 16

Artistes and sportsmen

1. Notwithstanding the provisions of Article 14, income derived by a resident of a Territory as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Territory, may be taxed in that other Territory.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Territory in which the activities of the entertainer or sportsman are exercised.

ARTICLE 17

Pensions

Subject to the provisions of Article 18, pensions and other similar remuneration paid to an individual who is a resident of one of the Territories shall be taxable only in that Territory.

ARTICLE 18

Government service

1. Remuneration, including pensions, paid by the Government of one of the Territories to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other Territory if the individual is not ordinarily resident in that other Territory or (where the remuneration is not a pension) is ordinarily resident in that other Territory solely for the purposes of rendering those services.

2. The provisions of this paragraph shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Governments for purposes of profit.

ARTICLE 19

Students

Payments which a student or business apprentice who is or was immediately before visiting a Territory a resident of the other Territory and who is present in the first-mentioned Territory solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Territory, provided that such payments arise from sources outside that Territory.

ARTICLE 20

Other income

1. Items of income beneficially owned by a resident of a Territory, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Territory.

2. Notwithstanding the provisions of paragraph 1, where an amount of income is paid to a resident of a Territory out of income received by trustees, or by personal representatives administering the estates of deceased persons, and those trustees or personal representatives are residents of the other Territory, that amount shall be treated as arising from the same sources, and in the same proportions, as the income received by the trustees or personal representatives out of which that amount is paid.

Any tax paid by the trustees or personal representatives in respect of the income paid to the beneficiary shall be treated as if it had been paid by the beneficiary.

3. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the beneficial owner of such income, being a resident of a Territory, carries on business in the other Territory through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. Where, by reason of a special relationship between the resident referred to in paragraph 1 and some other person, or between both of them and some third person, the amount of the income referred to in that paragraph exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the income shall remain taxable according to the laws of each Territory, due regard being had to the other applicable provisions of this Agreement.

ARTICLE 21

Miscellaneous rules applicable to certain offshore activities

1. The provisions of this Article shall apply notwithstanding any other provision of this Agreement.

2. In this Article the term "offshore activities" means activities which are carried on offshore in a Territory in connection with the exploration or exploitation of the seabed and subsoil and their natural resources situated in that Territory.

3. An enterprise of a Territory which carries on offshore activities in the other Territory shall, subject to paragraphs 4 and 5 be deemed to be carrying on business in that other Territory through a permanent establishment situated therein.

4. The provisions of paragraph 3 shall not apply where the offshore activities are carried on in the other Territory for a period or periods not exceeding in the aggregate 30 days in any twelve month period beginning or ending in the fiscal year concerned. For the purposes of this paragraph:

(a) where an enterprise of a Territory carrying on offshore activities in the other Territory is associated with another enterprise carrying on substantially similar offshore activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, with the exception of activities which are carried on at the same time as its own activities;

(b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of the other or if the same person or persons participate directly or indirectly in the management, control or capital of both enterprises.

5. Profits derived by a resident of a Territory from:

(a) the transportation, in connection with offshore activities, of supplies or personnel by ship or aircraft to or between places where such activities are being carried on; or

(b) the operation of ships for towing or anchor handling in connection with such activities;

shall be taxable only in that Territory.

6. Income derived by a resident of a Territory from exploration or exploitation rights and gains derived by a resident of a Territory from the alienation of such rights or from the alienation of:

(a) property situated in the other Territory and used in connection with offshore activities carried on in that other Territory; or

(b) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together;

may be taxed in that other Territory. In this paragraph "exploration or exploitation rights" means rights to assets to be produced by the exploration or exploitation of the seabed and subsoil and their natural resources in the other Territory, including rights to interests in or to the benefit of such assets.

7. Subject to paragraph 8 of this Article, salaries, wages and similar remuneration derived by a resident of one of the Territories from an employment connected with offshore activities in the other Territory may, to the extent that the duties are performed offshore in that other territory, be taxed in that other territory.

8. Salaries, wages and similar remuneration derived by a resident of one of the Territories from an employment exercised aboard a ship or aircraft undertaking transportation referred to in paragraph 5(a), or aboard a ship undertaking operations referred to in paragraph 5(b), of this Article shall be taxable only in the Territory of which the employee is a resident.

ARTICLE 22

Elimination of double taxation

1. In the case of Jersey, double taxation shall be avoided as follows:

(a) When imposing tax on its residents, Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in the United Kingdom;

(b) Where a resident of Jersey derives income which, in accordance with the provisions of this Agreement, may be taxed in the United Kingdom, Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in the United Kingdom. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in the United Kingdom.

2. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom or, as the case may be, regarding the exemption from United Kingdom tax of a dividend arising in a territory outside the United Kingdom or of the profits of a permanent establishment situated in a territory outside the United Kingdom (which shall not affect the general principle hereof):

(a) Jersey tax payable under the laws of Jersey and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Jersey (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Jersey tax is computed;

(b) a dividend which is paid by a company which is a resident of Jersey to a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;

(c) the profits of a permanent establishment in Jersey of a company which is a resident of the United Kingdom shall be exempted from United Kingdom tax when the exemption is applicable and the conditions for exemption under the law of the United Kingdom are met;

(d) in the case of a dividend not exempted from tax under sub-paragraph (b) above which is paid by a company which is a resident of Jersey to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit mentioned in sub-paragraph (a) above shall also take into account the Jersey tax payable by the company in respect of its profits out of which such dividend is paid.

3. For the purposes of paragraphs 1 and 2, profits, income and chargeable gains owned by a resident of one of the Territories which may be taxed in the other Territory in accordance with this Agreement shall be deemed to arise from sources in that other Territory.

4. The provisions of paragraph 1 shall not apply where the United Kingdom tax payable is in accordance with the Agreement solely because the profits, income or chargeable gains referred to in that paragraph are also profits, income or chargeable gains derived by a resident of the United Kingdom.

5. The provisions of paragraph 2 of this Article shall not apply where the Jersey tax payable is in accordance with the Agreement solely because the profits, income or chargeable gains referred to in that paragraph are also profits, income or chargeable gains derived by a resident of Jersey.

ARTICLE 23

Entitlement to benefits

1. Notwithstanding the other provisions of this Agreement, a benefit under this Agreement shall not be granted in respect of an item of income or capital gain if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that

granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Agreement.

2. Where a benefit under this Agreement is denied to a person under paragraph 1, the competent authority of the Territory that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or a capital gain, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1. The competent authority of the territory to which the request has been made will consult with the competent authority of the other Territory before rejecting a request made under this paragraph by a resident of that other Territory.

ARTICLE 24

Non-discrimination

1. A legal person, partnership or association deriving its status as such from the laws in force in a Territory shall not be subjected in the other Territory to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which a legal person, partnership or association of that other Territory in the same circumstances, in particular with respect to residence, is or may be subjected.

2. The taxation on a permanent establishment which an enterprise of a Territory has in the other Territory shall not be less favourably levied in that other Territory than the taxation levied on enterprises of that other Territory carrying on the same activities.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, paragraph 8 of Article 12, paragraph 4 of Article 20, or Article 23 apply, interest, royalties and other disbursements paid by an enterprise of a Territory to a resident of the other Territory shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Territory.

4. Enterprises of a Territory, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Territory, shall not be subjected in the first-mentioned Territory to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Territory are or may be subjected.

5. Nothing contained in this Article shall be construed as obliging either Territory to grant to individuals not resident in that Territory any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident or in the case of the United Kingdom to its nationals.

ARTICLE 25

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Territories result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Territories, present his case to the competent authority of either Territory. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Territory, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Territories.

3. The competent authorities of the Territories shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Territories may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

5. Where:

(a) under paragraph 1, a person has presented a case to the competent authority of a Territory on the basis that the actions of one or both of the Territories have resulted for that person in taxation not in accordance with the provisions of this Agreement; and

(b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Territory;

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Territory. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Territories and shall be implemented notwithstanding any time limits in the domestic laws of these Territories. The competent authorities of the Territories shall by mutual agreement settle the mode of application of this paragraph.

ARTICLE 26

Exchange of information

1. The competent authorities of the Territories shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of domestic laws concerning taxes of every kind and description imposed on behalf of the Territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Territory shall be treated as secret in the same manner as information obtained under the domestic laws of that Territory and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Territory may be used for other purposes when such information may be used for such other purposes under the laws of both Territories and the competent authority of the supplying Territory authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Territory the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Territory;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Territory;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

4. If information is requested by a Territory in accordance with this Article, the other Territory shall use its information gathering measures to obtain the requested information, even though that other Territory may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Territory to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Territory to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 27

Assistance in the collection of taxes

1. The Territories shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Territories may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Territories, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Territories are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Territory is enforceable under the laws of that Territory and is owed by a person who, at that time, cannot, under the laws of that Territory, prevent its collection, that revenue claim shall, at the request of the competent authority of that Territory, be accepted for purposes of collection by the competent authority of the other Territory. That revenue claim shall be collected by that other Territory in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Territory.

4. When a revenue claim of a Territory is a claim in respect of which that Territory may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Territory, be accepted for purposes of taking measures of conservancy by the competent authority of the other Territory. That other Territory shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Territory even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Territory or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Territory for purposes of paragraph 3 or 4 shall not, in that Territory, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Territory by reason of its nature as such. In addition, a revenue claim accepted by a Territory for the purposes of paragraph 3 or 4 shall not, in that Territory, have any priority applicable to that revenue claim under the laws of the other Territory.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Territory shall not be brought before the courts or administrative bodies of the other Territory.

7. Where, at any time after a request has been made by a Territory under paragraph 3 or 4 and before the other Territory has collected and remitted the relevant revenue claim to the first-mentioned Territory, the relevant revenue claim ceases to be:

(a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned Territory that is enforceable under the laws of that Territory and is owed by a person who, at that time, cannot, under the laws of that Territory, prevent its collection; or

(b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned Territory in respect of which that Territory may, under its laws, take measures of conservancy with a view to ensure its collection;

the competent authority of the first-mentioned Territory shall promptly notify the competent authority of the other Territory of that fact and, at the option of the other Territory, the first-mentioned Territory shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Territory the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Territory;

(b) to carry out measures which would be contrary to public policy;

(c) to provide assistance if the other Territory has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;

(d) to provide assistance in those cases where the administrative burden for that Territory is clearly disproportionate to the benefit to be derived by the other Territory;

(e) to provide assistance if that Territory considers that the taxes with respect to which assistance is requested are imposed contrary to generally accepted taxation principles.

ARTICLE 28

Entry into force

1. Each of the Territories shall notify the other in writing of the completion of the procedures required by its law for the bringing into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in Jersey:

(i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date on which this Agreement enters into force;

(ii) in respect of income tax, for any year of assessment beginning on or after 1st January next following the date on which this Agreement enters into force;

(b) in the United Kingdom:

(i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of the second month next following the date on which this Agreement enters into force;

(ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which this Agreement enters into force;

(iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which this Agreement enters into force.

2. Notwithstanding the provisions of paragraph 1:

(a) the provisions of Article 25 (Mutual agreement procedure) and Article 26 (Exchange of information) shall have effect from the date of entry into force of this Agreement, without regard to the taxable period to which the matter relates; and

(b) the provisions of Article 27 (Assistance in the collection of taxes) shall have effect from the date specified in an exchange of letters, without regard to the taxable period to which the matter relates.

3. The 1955 Arrangement between Jersey and the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation with respect to taxes on income, as amended, shall cease to have effect in respect of relief from any tax with effect from the date upon which this Agreement has effect in respect of that tax in accordance with the provisions of paragraph 1 of this Article and shall terminate on the last such date.

ARTICLE 29

Termination

This Agreement shall remain in force until terminated by one of the Territories. Either Territory may terminate this Agreement, by giving notice in writing of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of this Agreement. In such event, this Agreement shall cease to have effect:

(a) in Jersey:

(i) in respect of taxes withheld at source, for amounts paid or credited after the date that is six months after the date on which the notice is given;

(ii) in respect of income tax, for any year of assessment beginning on or after 1st January next following the date on which the notice is given;

(b) in the United Kingdom:

(i) in respect of taxes withheld at source, for amounts paid or credited after the date that is six months after the date on which the notice is given;

(ii) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April next following the date on which the notice is given;

(iii) in respect of corporation tax, for any financial year beginning on or after 1st April next following the date on which the notice is given.

PROTOCOL

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jersey have agreed upon the following provisions which shall form an integral part of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Jersey for the Elimination of Double Taxation with respect to Taxes on Income and on Capital Gains and the Prevention of Tax Evasion and Avoidance ("the Agreement").

1. In relation to the whole Agreement:

   The Territories acknowledge that the United Kingdom continues to be responsible for the international relations of Jersey in international law. This Agreement cannot therefore create obligations which are binding under international law and is not intended to alter or affect the constitutional relationship between Jersey and the United Kingdom.

   It is understood that both Territories will apply this Agreement in the light of the Commentaries on the OECD Model Tax Convention as they may read from time to time, having regard to any observations or other positions that they may have expressed thereon.

2. In relation to Article 4:

   It is understood that the term "liable to tax" in paragraph 1 will be interpreted by the Territories in accordance with the principles set out in paragraph 8.6 of the Commentary on Article 4 of the OECD Model Tax Convention as it read on 15 July 2014.

3. In relation to Articles 11, 12 and 13:

   It is understood that the term "recognised stock exchange" means:

   (a) the London Stock Exchange (including the Alternative Investment Market);

   (b) the International Stock Exchange;

   (c) any of the stock exchanges in the member States of the European Union;

   (d) the Australian Securities Exchange, the Toronto Stock Exchange, the Stock Exchange of Hong Kong Limited, the Tokyo Stock Exchange, the Oslo Stock Exchange (Oslo Bors), the Singapore Exchange Limited, the JSE Limited (formerly the Johannesburg Stock Exchange), the SIX Swiss Exchange, or the NASDAQ system and any stock exchange in the United States of America which is registered with the US Securities and Exchange Commission as a national securities exchange under the US Securities and Exchange Act of 1934, the Stock Exchange of Mauritius; and

   (e) any other stock exchange agreed upon by the competent authorities of the Territories.

APPENDIX 2

HM Treasury, 1 Horse Guards Road, London, SW1A 2HQ

Senator Ian Gorst
Minister for External Relations
Cyril Le Marquand House
St Helier
Jersey
JE4 8QT

2nd July 2018

Dear Ian

I have the honour to propose to you the AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF JERSEY FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE (the AGREEMENT), at Appendix 1 to this letter, and the PROTOCOL, at Appendix 2 to this letter, which shall form an integral part of the AGREEMENT, and that both shall together have effect in accordance with Article 28 of the AGREEMENT.

I have the further honour to propose that, if the above is acceptable to the Government of Jersey, this letter and Appendices 1 and 2 together with your reply will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL.

Mel Stride.

RT HON MEL STRIDE MP

Minister for External Relations
Ministry of External Relations
Cyril Le Marquand House
St Helier
Jersey, Channel Islands
JE4 8QT

Government of JERSEY

The Rt. Hon. Mel Stride MP
Financial Secretary to the Treasury and Paymaster General
HM Treasury
1 Horse Guards Road
London
SW1A 2HQ

2nd July 2018

Dear Mel,

I have the honour to acknowledge receipt of your letter of 2 July 2018, which reads as follows –

"I have the honour to propose to you the AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF JERSEY FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS AND THE PREVENTION OF TAX EVASION AND AVOIDANCE (the AGREEMENT), at Appendix 1 to this letter, and the PROTOCOL, at Appendix 2 to this letter, which shall form an integral part of the AGREEMENT, and that both shall together have effect in accordance with Article 28 of the AGREEMENT.

I have the further honour to propose that, if the above is acceptable to the Government of Jersey, this letter and Appendices 1 and 2 together with your reply will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL."

I am able to confirm that the Government of Jersey is in agreement with the contents of your letter of 2 July 2018 and this letter will constitute our mutual acceptance of the provisions of the AGREEMENT and PROTOCOL.

Yours Sincerely,

Senator Ian Gorst
Minister for External Relations

APPENDIX 3

STATES OF JERSEY

A. TAX INFORMATION EXCHANGE AGREEMENTS (TIEAs)

1. TIEAs signed (Note: dates in brackets are current best estimates)

Countries	Date Signed	Ratified by Jersey	Ratified by other Party	Entry into Force
U.S.A.	Nov. 2002	May 2006	Nov. 2002	23 May 2006
Netherlands	June 2007	Feb. 2008	Dec. 2007	1 March 2008
Germany	July 2008	Jan. 2009	July 2009	28 Aug. 2009
Sweden	Oct. 2008	March 2009	Nov. 2009	23 Dec. 2009
Norway	Oct. 2008	March 2009	Sep. 2009	7 Oct. 2009
Iceland	Oct. 2008	March 2009	Oct. 2009	3 Dec. 2009
Finland	Oct. 2008	March 2009	Dec. 2008	3 Aug. 2009
Denmark	Oct. 2008	March 2009	March 2009	6 June 2009
Greenland	Oct. 2008	March 2009	March 2009	6 June 2009
Faroes	Oct. 2008	March 2009	June 2009	21 Aug. 2009
U.K.	March 2009	July 2009	Nov. 2009	27 Nov. 2009
France	March 2009	July 2009	July 2010	11 Oct. 2010
Ireland	March 2009	July 2009	April 2010	5 May 2010
Australia	June 2009	Nov. 2009	Jan. 2010	5 Jan. 2010
New Zealand	July 2009	Nov. 2009	Sep. 2010	27 Oct. 2010
Portugal	July 2010	Sep. 2010	March 2011	9 Nov. 2011
People's Republic of China	Oct. 2010	Jan. 2011	Oct. 2011	10 Nov. 2011
Turkey	Nov. 2010	Feb. 2011	August 2013	11 Sep. 2013
Mexico	Nov. 2010	Feb. 2011	Feb. 2012	22 March 2012
Canada	Jan. 2011	March 2011	Dec. 2011	19 Dec. 2011
Indonesia	April 2011	July 2011	Sep. 2014	22 Sept 2014
Czech Republic	July 2011	Nov. 2011	March 2012	14 March 2012
South Africa	July 2011	Nov. 2011	Jan. 2012	29 Feb. 2012
Argentina	July 2011	Sep. 2011	July 2011	9 Dec. 2011
India	Nov. 2011	April 2012	Jan. 2012	8 May 2012
Japan	Dec. 2011	April 2012	June 2013	30 Aug. 2013
Poland	Dec. 2011	April 2012	August 2012	1 Dec. 2012
Italy	March 2012	May 2012	Jan. 2015	26 Jan. 2015
Austria	Sep. 2012	Nov. 2012	March 2013	1 June 2013
Latvia	Jan. 2013	March 2013	Dec. 2013	1 March 2014
Brazil	Jan. 2013	March 2013	(2nd half 2018)	(2nd half 2018)
Switzerland	Sep. 2013	Dec. 2013	Oct. 2014	14 Oct. 2014
Slovenia	Nov. 2013	Feb. 2014	June 2014	23 June 2014
Hungary	Jan. 2014	March 2014	Oct. 2014	13 Feb. 2015
Belgium	March 2014	June 2014	July 2017	26 July 2017
Romania	Dec. 2014	Feb. 2015	Dec. 2015	5 Feb. 2016
Korea	July 2015	Nov. 2015	Nov. 2016	21 Nov. 2016
Spain +	Nov. 2015	June 2018	(2nd half 2018)	(2nd half 2018)
Chile	July 2016	Oct. 2016	(2nd half 2018)	(2nd half 2018)

+ Note: the delay in ratification arose because, subsequent to the TIEA being signed with Spain, an amendment was required to insert a missing word. This has now been agreed through an exchange of letters with the Spanish authorities, and ratification is proceeding.

2. TIEAs where negotiations are well advanced with a draft Agreement exchanged:

- Bulgaria
- Kenya
- Lithuania
- Slovakia.

Note: Bulgaria, Lithuania and Slovakia have signed and entered into force the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Kenya is a signatory to the Convention and it should enter into force shortly. As the Convention provides for the equivalent exchange of information on request with immediate effect, it is expected that all the jurisdictions mentioned will rely on the Convention and will not proceed further with the negotiation of a TIEA.

3. Jurisdiction with which there has been some contact, but on which no further action has been taken to-date:

- Russia.

Note: Russia has signed and entered into force the Multilateral Convention on Mutual Administrative Assistance in Tax Matters and therefore does not need a TIEA to make requests for information.

B. DOUBLE TAXATION AGREEMENTS(DTAs)[1]

1. DTAs signed:

- Malta – signed January 2010
  ratified by Malta February 2010
  ratified by Jersey June 2010
  in force – 19 July 2010

- Estonia – signed December 2010
  ratified by Jersey March 2011
  ratified by Estonia December 2011
  in force – 30 December 2011

- Hong Kong China – signed February 2012
  ratified by Jersey May 2012
  ratified by Hong Kong June 2013
  in force – July 2013

[1] The DTAs listed are those that are to the standard of the OECD Model Convention. In addition there is a DTA with the United Kingdom entered into in 1952 and a number of partial DTAs, details of which can be found on the Taxes Office website – http://www.gov.je/TaxesMoney/InternationalTaxAgreements/DoubleTaxation/Pages/PartialDoubleTaxation.aspx A new DTA is in the process of being negotiated with the United Kingdom which will meet the standard of the OECD Model Convention.

- Qatar – signed March 2012
  ratified by Jersey May 2012
  ratified by Qatar November 2012
  in force – 22 November 2012

- Singapore – signed October 2012
  ratified by Jersey January 2013
  ratified by Singapore May 2013
  in force – 2 May 2013

- Guernsey – signed January 2013
  ratified by Jersey June 2013
  ratified by Guernsey May 2013
  in force – 9 July 2013

- Isle of Man – signed January 2013
  ratified by Jersey June 2013
  ratified by the Isle of Man May 2013
  in force – 10 July 2013

- Luxembourg – signed April 2013
  ratified by Jersey July 2013
  ratified by Luxembourg July 2014
  in force – 5 August 2014

- Rwanda – signed June 2015
  ratified by Jersey October 2015
  ratified by Rwanda April 2016
  in force – 27 June 2016

- Seychelles – signed July 2015
  ratified by Jersey October 2015
  ratified by Seychelles December 2016
  in force – 5 January 2017

- United Arab Emirates – signed April 2016
  ratified by Jersey September 2016
  ratified by UAE February 2017
  in force – 15 February 2017

- Cyprus – signed July 2016
  ratified by Cyprus August 2016
  ratified by Jersey October 2016
  in force – 17 February 2017

- Mauritius – signed March 2017
  ratified by Mauritius February 2018

- United Kingdom – signed July 2018

2. DTAs ready for signing:

None.

3. Jurisdictions where DTA negotiations have been requested/initiated/draft agreements have been exchanged:

- Bahrain
- Botswana
- China (People's Republic)
- Ghana
- India
- Kenya
- Lesotho
- Liechtenstein
- Malawi
- Nigeria
- Saudi Arabia
- South Africa
- Swaziland
- Uganda
- Zambia.

4. Jurisdictions with whom Jersey does not have a bilateral TIEA or DTA, but who are party (i.e. have signed and entered into force) to the OECD/ Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which provides for exchange of information on request on the same basis as the bilateral TIEAs:

- Albania
- Andorra
- Azerbaijan
- Bahamas (01-08-18)
- Bahrain (01-09-18)
- Barbados
- Belize
- Bulgaria
- Cameroon
- Colombia
- Cook Islands
- Costa Rica
- Croatia
- Georgia
- Ghana
- Greece
- Grenada (01-09-18)
- Guatemala
- Israel
- Kazakhstan

- Lebanon
- Liechtenstein
- Lithuania
- Macau (01-09-18)
- Malaysia
- Marshall Islands
- Moldova
- Monaco
- Nauru
- Nigeria
- Niue
- Pakistan
- Panama
- Peru (01-09-18)
- Russia
- Saint Kitts and Nevis
- Saint Lucia
- Saint Vincent and the Grenadines
- Samoa
- San Marino
- Saudi Arabia
- Senegal
- Slovak Republic
- Tunisia
- Uganda
- Ukraine
- Uruguay.

Jersey became a party to the Convention on 1st June 2014. Some jurisdictions with whom TIEA negotiations have been engaged may decide not to progress the latter and rely on the Multilateral Convention.

5. Jurisdictions with whom Jersey has signed a TIEA or DTA who are also party to the Multilateral Convention (i.e. it is signed and in force):

- Argentina
- Australia
- Austria
- Belgium
- Brazil
- Canada
- Chile
- China (People's Republic)
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France

- Germany
- Hong Kong (01-09-18)
- Hungary
- Iceland
- India
- Indonesia
- Ireland
- Italy
- Republic of Korea
- Japan
- Latvia
- Luxembourg
- Malta
- Mauritius
- Mexico
- Netherlands
- New Zealand
- Norway
- Poland
- Portugal
- Romania
- Seychelles
- Singapore
- Slovenia
- South Africa
- Spain
- Sweden
- Switzerland
- Turkey
- United Arab Emirates (01-09-18)
- United Kingdom.

Enquiries concerning the above should be directed in the first instance to – Mr. C. Powell, Adviser – International Affairs, Chief Minister's Department, telephone: 44(0)1534 440414; e-mail: c.powell@gov.je.

Colin Powell
Adviser – International Affairs **27 July 2018**