



STATES OF ALDERNEY

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From the President's Office

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THE STATES OF ALDERNEY AND BREXIT: SETTING OUT ALDERNEY'S POSITION

I recently had the opportunity to speak to the chairman of the UK's House of Commons' Justice Select Committee, Bob Neill MP about Alderney's perspective on Brexit. The Committee is holding an Inquiry into the impact of Brexit on the Crown Dependencies (due to report shortly) and I presented Alderney's perspective. The Inquiry has been asked to look at:

the opportunities and risks that Brexit creates for the Crown Dependencies; and from their perspective, what the UK Government should prioritise in its negotiations with the EU about its terms of exit;

how the constitutional position of the Crown Dependencies will be affected by the UK's departure from the EU;

how effectively the UK Government, and particularly the Ministry of Justice, is engaging with the Crown Dependencies on Brexit.

My objectives for the meeting were to ensure the committee recognised Alderney's status as a self-governing jurisdiction; to demonstrate Alderney's keenness to be consulted and to engage in Brexit discussions; to flag Alderney's distinct and particular interests; and to encourage the Committee's report to support Alderney being fully engaged throughout the Brexit process - especially as the pace of discussion and negotiation accelerates.

The main points I raised against each of the Committee's three areas of interest are set out in more detail in Q and A format in the following pages.

STUART TROUGHT

INTRODUCTORY REMARKS

- ☐ First, Alderney wants to cooperate and speak with one voice with the other Crown Dependencies. And on the major issues we are all in agreement and have agreed to high-level priorities, and I expect us to remain in agreement on those. But - as a self-governing jurisdiction and equal in that respect to Guernsey, Jersey and Sark - we shall want to have a voice on anything that matters only to us, or significantly more to us than to the other islands. Particularly when we reach more detailed stages. We don't want to be treated as an add on or afterthought. To that end, this meeting is very helpful.
- ☐ Secondly, we want to be not only informed, but also actively *engaged* at all stages in the Brexit process and discussions. For us this cuts two ways – engaged not just by the UK government; but also by Guernsey. To date Guernsey *is* keeping us informed and being active in doing so. I think though that all the Crown Dependencies have an awareness that true engagement will get harder all round as the Brexit process gains momentum and UK Ministers and their officials themselves have very tight deadlines. But difficult as might be, I do want to flag the need for the timetable to allow for us to be engaged in a timely manner

Q AND A

(1) CONSULTATION

(a) How effectively is the MoJ consulting and engaging with you?

- ☐ My CEO and I have met MoJ officials and politicians – I met Sir Oliver only yesterday - and I understand regular phone catch-up meetings have been set up with my CEO. (In the past there was a tendency for officials to overlook Alderney, but there is now an increased awareness that we are a separate jurisdiction and therefore have a certain status.) We welcome MoJ's openness to engaging direct with us and look forward to building relationships further.

(b) Would you like more engagement with MoJ/other UK Departments? If so, in what and with whom?

- ☐ I think we need to work on strengthening our direct relationships – with Defra, DExEU, HMT, MoJ - so that they know and understand our status as a self-governing jurisdiction as the Brexit process gains momentum. We've just begun work on this and have recruited an extra resource to do so. We are well aware that if Government Departments understand our position it will increase the chances of them being able to engage directly and promptly with us issues that really matter to us.
- ☐ A challenge for us is to get the balance right. We can't pretend to have the resources of Guernsey and Jersey. So on some issues we would be content for Guernsey to take the lead and just keep us informed. On other issues we would

want Guernsey to represent our specific interests very explicitly as our - Alderney's - interests. And when we have a unique or a particularly strong interest we want to be able to speak for ourselves at the table. (On this last point, for example, Alderney should be represented and speak for itself in discussions of FABlink.) Equality of treatment is important to us: we'd like to be given timely opportunities to engage so that we could take pragmatic decisions about doing so

Q AND A

(2) OPPORTUNITIES AND RISKS OF BREXIT

(a) What are Alderney's priorities in the Brexit process?

- ☐ All the Crown Dependencies signed up to high level priorities to put to the British Prime Minister for when Protocol 3 ends ie
 - To maintain our relationship with the UK and continuation of free trade in goods and services, the free movement of capital and the free movement of people between us;
 - To note the Crown Dependencies' direct interest in what follows Protocol 3 and the tariff free movement of goods;
 - The grandfathering of rights for EU (and British) nationals.
- ☐ Looking ahead, we also want to be involved in identifying opportunities for the Crown Dependencies in any new UK trading relationships, whether with the EU or others.

(b) What are Alderney's particular concerns?

- ☐ On the big and broad issues we are in agreement with the other Crown Dependencies
- ☐ Concerns that are more Alderney-specific are:
 - To maintain the status of the E-gaming industry. This is of major importance to us and a major source of income generation. EU regulatory reform is a concern without the UK at the table to represent our interests.
 - To ensure there is no damage to our fishing industry: though fishing is a very small part of the UK economy, for us it's very important as part of our culture and economy. A related matter is our wish to expand our territorial waters to 12nm
 - To speak for ourselves on FABlink
 - To resist any UK proposals – for example on residency – that would hinder us in attracting more residents: our permanent population is in decline and ageing and we need to attract more young people. We don't

have restrictions on residency, unlike Guernsey and Jersey – and this might at some point become an issue.

- ☐ Finally, as a general point, as we stated in our written submission, in common with others we are concerned about EU policy development/action against low-tax jurisdictions, and in particular its work on defining “non-cooperative” tax jurisdictions

(c) Do you see any potential conflicts of interest between the three members of the Bailiwick?

- ☐ Guernsey is obviously much larger and has a stronger economy: we will want to ensure there are no trade-offs that benefit Guernsey only/disadvantages us – but at present this is just noting a theoretical possibility
- ☐ Guernsey is aware that we do not want to be dragged along without proper engagement: a task for Alderney, with far fewer resources to handle discussions, is to ensure we have sufficient time and resources to keep up as the pace increases and to be engaged when it matters most
- ☐ All three islands in time want to try to extend their territorial waters. There is the clear potential for a conflict of interest with Guernsey’s and Sark’s own ambitions here and how these waters are to be managed. If this came up in discussions we would need to be involved directly
- ☐ There is in theory a potential for tension with Guernsey about how it might use its Framework for developing the international identity of Guernsey (agreed with the UK Government in 2008). This sets out a framework for the development of Guernsey’s international identity and clarifies the constitutional relationship between the UK and Guernsey, but not the Bailiwick. I think it could be helpful for Alderney to have the same clarification
- ☐ In terms of formal process within the Bailiwick of Guernsey we have a Bailiwick Council which I think could be developed into a useful forum for the three islands to co-ordinate Brexit objectives and priorities. And Alderney and Guernsey have the Alderney Liaison Group that might also be useful. I would also support the setting up of a Channel Islands Council.
- ☐ Alderney officials have regular contact with Guernsey’s lead officials and these have been strengthened by recruiting additional resource for Alderney.
- ☐ On the issue of a 'public' register of ultimate beneficial ownership Alderney has hitherto taken a slightly different stance to either Guernsey or Jersey. Ultimately, however, if we can we would prefer to arrive at a position on this that is shared across all the Crown Dependencies and UK Overseas Territories and is aligned with the position of the UK Government

(d) Any other Brexit worries?

Apart from an on-going concern for timely engagement:

- ☐ we will want to keep an eye on any moves by the three larger islands to act on the basis of the 2007/2008 agreements that supported the principle of them (but not Alderney) further developing their international identity in case of unintended consequences for us
- ☐ we share with the other islands an underlying concern that, given our constitutional position, there might come a point in international discussions where it is not in the UK's interests to represent Alderney's or the Crown Dependencies' differing interests. That said, we know that to date Guernsey is very happy with how the UK has engaged with it; and Guernsey has been very willing to engage with us

(e) How do people on Alderney feel about Brexit?

- ☐ So far the general response has been muted, but this might change if scaremongering headlines about possible or alleged deals and outcomes appear
- ☐ We are planning to engage actively on Brexit with key stakeholders such as the Marine Forum, the Chamber of Commerce and the e-gambling sector to ensure we know and understand their positions as Brexit proceeds

(f) Where do you stand on joining the WTO?

- ☐ Hitherto UK membership of the WTO has not been extended to the Bailiwick. We are considering this and think it would be beneficial.

Q AND A

(3) CONSTITUTIONAL MATTERS

(g) How does Brexit affect Alderney's constitutional status? What about its relationship with the UK?

- ☐ The results of the referendum have not changed the constitutional relationship between Alderney and the UK, which includes the UK Government's responsibility to represent Alderney internationally. However, subsequent discussions have highlighted differences in the interpretation of the 1948 Agreement between Alderney and Guernsey. In our view the 1948 Agreement is best understood as a contract to deliver services.

(h) Does Guernsey speak for Alderney on Brexit related matters?

- ☐ Guernsey does not automatically represent Alderney on Brexit related matters. Arguments may be made in relation to this issue with regard to the policy areas that fall within the 1948 Agreement.
- ☐ In practice, to date the States of Guernsey has taken a lead in engaging the Bailiwick to arrive at a shared position where possible. Alderney will continue to work closely with Guernsey, Sark and the other Crown Dependencies but will ensure that its own position is heard when it differs from that of Guernsey and others.

(i) What about foreign affairs: does Alderney have/want a Framework for developing its international identity and letters of entrustment? Does Guernsey's Framework agreement cover Alderney?

- ☐ Yes. A framework for the development of our international identity which clarified the constitutional relationship between the UK and Alderney would be useful. [It is clear there is some lack of clarity about our status.]
- ☐ No. The Framework for Guernsey refers to "Guernsey" rather than "the Bailiwick of Guernsey". Guernsey, therefore, is not operating on behalf of the entire Bailiwick when it comes to the development of an international personality, though this is not universally understood
- ☐ An important function of the frameworks was to clarify the constitutional relationship between the UK and Jersey, Guernsey and the Isle of Man. Alderney may in future seek a similar Framework agreement to those of the Jersey, Guernsey and the Isle of Man for the purpose of clarifying its own constitutional relationship with the UK.

CONCLUDING WORDS

Thank you...

There is a technical matter that I'd like to write to you about, but I'd just like to leave you with a reiteration of three of our priorities - or "success measures" – for after the triggering of Article 50:

- (i) timely and informed engagement with Alderney directly as a self- governing jurisdiction on matters of significance to us: and the representation of the Crown Dependencies' interests by the UK government on all occasions

- (ii) the retention of our existing relationship with the UK with regard to free trade in goods and services, the free movement of capital and the free movement of people between us;
- (ii) a new Framework for developing the international identity of Alderney, to clarify our constitutional relationship with the UK

Further information about the Justice Select Committee's Inquiry into the impact of Brexit on the Crown Dependencies, including Alderney's written submission, can be found at:
<http://www.parliament.uk/business/committees/committees-a-z/commons-select/justice-committee/inquiries/parliament-2015/implications-of-brexit-for-the-crown-dependencies-16-17/>