Draft Order in Council laid before the House of Commons, under section 32(11) of the Taxation (Cross-border Trade) Act 2018, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

EXITING THE EUROPEAN UNION
CUSTOMS

The Crown Dependencies Customs Union (Guernsey) (EU Exit) Order 2018

Made - - - - ***

At the Court at Buckingham Palace, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 32(11) of the Taxation (Cross-border Trade) Act 2018(**1**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercising the powers conferred upon Her by section 31(4) of the Taxation (Cross-border Trade) Act 2018, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Crown Dependencies Customs Union (Guernsey) (EU Exit) Order 2018.

Customs union arrangements to have effect

2. It is declared that it is expedient that the arrangements establishing a customs union between the United Kingdom and Guernsey specified in—

(a) the Exchange of Letters set out in Part 1 of the Schedule to this Order; and

(b) the Arrangement set out in Part 2 of that Schedule

should have effect for the purposes of import duty.

(**1**) 2018 c. 22.

Name
Clerk of the Privy Council

SCHEDULE Article 2

PART 1

London, 26 November 2018

Dear Deputy Mary Lowe, President of the Committee for Home Affairs,

I have the honour to propose to you the ARRANGEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY (THE GOVERNMENT OF GUERNSEY) CONCERNING THE ESTABLISHMENT AND OPERATION OF THE UNITED KINGDOM-CROWN DEPENDENCIES CUSTOMS UNION (the ARRANGEMENT), at the Appendix to this letter.

I have the further honour to propose that, if the above is acceptable to the States of Guernsey, this letter and the Appendix together with your reply will constitute our mutual acceptance of the provisions of the ARRANGEMENT.

Mel Stride

London, 26 November 2018

Dear Financial Secretary,

I have the honour to acknowledge receipt of your letter of 26 November 2018, which reads as follows:

"Dear Deputy Mary Lowe, President of the Committee for Home Affairs,

I have the honour to propose to you the ARRANGEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE STATES OF GUERNSEY (THE GOVERNMENT OF GUERNSEY) CONCERNING THE ESTABLISHMENT AND OPERATION OF THE UNITED KINGDOM-CROWN DEPENDENCIES CUSTOMS UNION (the ARRANGEMENT), at the Appendix to this letter.

I have the further honour to propose that, if the above is acceptable to the States of Guernsey, this letter and the Appendix together with your reply will constitute our mutual acceptance of the provisions of the ARRANGEMENT."

I am able to confirm that the contents of your letter of 26 November 2018 are acceptable to the States of Guernsey, and therefore that this letter together with your letter and its Appendix constitute our mutual acceptance of the provisions of the ARRANGEMENT.

Deputy Mary Lowe, President of the Committee for Home Affairs

PART 2

ARRANGEMENT BETWEEN

THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

AND

THE STATES OF GUERNSEY (THE GOVERNMENT OF GUERNSEY)

CONCERNING THE ESTABLISHMENT AND OPERATION OF THE UNITED KINGDOM-CROWN DEPENDENCIES CUSTOMS UNION

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Guernsey (together "the Governments"),

ACKNOWLEDGING that the United Kingdom continues to be responsible for the international relations of Guernsey in international law and that this Arrangement cannot therefore create obligations which are binding under international law and is not intended to alter or affect the constitutional relationship between Guernsey and the United Kingdom,

DESIRING to enter into a customs union covering all trade in goods involving the elimination between its members of customs duty on imports and exports and of any charges having equivalent effect, and the adoption of a common customs tariff in their relations with third countries,

ACKNOWLEDGING that this Arrangement is without prejudice to the imposition of import value added tax (hereinafter referred to as "import VAT") or excise duty, or any charges having equivalent effect to import VAT or excise duty, on goods imported into the United Kingdom from Guernsey or into Guernsey from the United Kingdom,

RECOGNISING the importance of delivering a safe and fiscally secure customs regime,

RECOGNISING the importance of cooperation in delivering such a regime,

HAVE DECIDED as follows:

PARAGRAPH 1

Object

1. This Arrangement concerns the establishment and operation of the United Kingdom-Crown Dependencies Customs Union (hereinafter referred to as "the Customs Union"), the members of which are the United Kingdom, Jersey, Guernsey and the Isle of Man.

2. This Arrangement records the commitments of the Government of the United Kingdom and the Government of Guernsey in relation to the Customs Union. The Jersey Arrangement records the commitments of the Government of the United Kingdom and the Government of Jersey in relation to the Customs Union. The Isle of Man Arrangement records the commitments of the Government of the United Kingdom and Government of the Isle of Man in relation to the Customs Union.

PARAGRAPH 2

General definitions

For the purposes of this Arrangement, the following definitions apply:

(a) "the Arrangements" means, collectively, this Arrangement, the Jersey Arrangement and the Isle of Man Arrangement;

(b) "Competent Authority" means—

(i) in the United Kingdom, Her Majesty's Revenue and Customs;

(ii) in Jersey, the Minister for Home Affairs or the Minister's authorised representative;

(iii) in Guernsey, the Committee for Home Affairs or its authorised representative;

(iv) in the Isle of Man, the Customs and Excise Division of the Treasury or its authorised representative;

(c) "Customs Law" means:

(i) the law relating to import duty which includes, for the avoidance of doubt, the law relating to the transit of goods and their placing under any customs procedure;

(ii) the law relating to export duty; and

(iii) the law relating to import controls only to the extent that it relates to safety and security.

For the avoidance of doubt, "Customs Law" does not include the law relating to value added tax or excise duty;

(d) "Customs Tariff" means the system established and maintained by HM Treasury pursuant to section 8(1) of the TCTA, as modified by provision made under any of sections 9 to 15 or section 19(4) of that Act, as well as any provision made under section 39(1) of the Act for the charging of export duty, as defined in section 39(1);

(e) "GATT" means the General Agreement on Tariffs and Trade, part of Annex 1A to the agreement establishing the World Trade Organisation signed at Marrakesh on 15 April 1994 (as modified from time to time);

(f) "the Government of Guernsey" means the States of Guernsey;

(g) "Guernsey" means the Bailiwick of Guernsey, which comprises the jurisdictions of Guernsey, Alderney and Sark;

(h) "Guernsey Courts" means the Royal Court of Guernsey and the Court of Appeal of Guernsey;

(i) "the Isle of Man Annex" means the annex to the Customs and Excise Agreement 1979 between the Governments of the United Kingdom and the Isle of Man titled the "Annex concerning the Establishment and Operation of the United Kingdom-Crown Dependencies Customs Union";

(j) "the Isle of Man Arrangement" means—

(i) the Isle of Man Annex; and

(ii) "the relevant aspects of the 1979 Agreement" as defined in the Isle of Man Annex;

(k) "Jersey" means the Bailiwick of Jersey;

(l) "the Jersey Arrangement" means the Arrangement between the Government of the United Kingdom and the Government of Jersey concerning the Establishment and Operation of the United Kingdom-Crown Dependencies Customs Union;

(m) "TCTA" means the Taxation (Cross-border Trade) Act 2018 (UK);

(n) "United Kingdom Courts" means the Tax Chamber of the First-tier Tribunal, the Tax and Chancery Chamber of the Upper Tribunal, any of the Senior Courts of England and Wales, either of the Supreme Courts of Scotland, the Court of Judicature of Northern Ireland and the Supreme Court of the United Kingdom.

PARAGRAPH 3

Implementing legislation

Where necessary, the Governments will introduce legislation to implement this Arrangement in advance of its coming into effect.

PARAGRAPH 4

Prohibition of internal customs duty