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for Exiting the
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Lord Boswell of Aynho
Chair, European Union Committee
House of Lords
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Dear Lord Boswell,

Thank you for your letter of the 22 November 2017, following my update in response to your Committee's report on my department's engagement with the Crown Dependencies. I am grateful to the Committee for considering my response and for continuing to engage with the important issues raised by Exit for the Crown Dependencies. I am aware the report was debated in the House of Lords on 23 January. Please accept my apologies for the delay in responding.

Contingency planning

It is the UK Government's overriding objective to agree with the EU the foundations for a deep and special future relationship, taking in both economic and security cooperation. We are confident that this future partnership is in the interests of both sides and so we approach these negotiations anticipating success, however, a responsible government should prepare for all potential outcomes. Plans are being developed and have been designed to provide the flexibility to respond to a negotiated agreement, as well as preparing us in the event of leaving without a deal.

While the Crown Dependencies are constitutionally separate from the United Kingdom with their own democratically elected governments, and so are responsible for undertaking their own contingency planning, departments across Government have been working with them to inform this work across the priority sectors. This support has included the provision of policy and legal advice around the UK's programme of legislation, from which the Crown Dependencies will need to enact their own complementary legislation to remain compliant with UK law.

EU Tax Blacklisting and ‘Paradise Papers’

The Crown Dependencies are self-governing; they have their own elected representatives, and do not have direct representation in the UK Parliament. Their own governments are therefore responsible for their domestic fiscal policy, including tax administration.

The UK Government has long been providing advice and technical assistance to assist the Crown Dependencies in countering tax evasion or abuse. As a result of our efforts, the CDs and the OTs started exchanging taxpayer information with us in 2016, a year before other jurisdictions joined the system. Following the Paradise Papers, we have accepted an invitation from the Government of the Isle of Man to conduct an assessment of their VAT practices for the importation of business jets.

Whilst the Paradise Papers have placed renewed focus on the global fight against tackling tax avoidance and evasion, there has not been a direct impact on the EU process of drawing up a list of non-cooperative jurisdictions for tax purposes (hereafter referred to as the ‘EU list’).

The Government recognises its obligation to seek to take the interests of the Crown Dependencies into account - and the same is true for Overseas Territories. We have taken a balanced approach in discussions on the EU list, acknowledging their independence on tax matters. Throughout the process, we have continued to press for an outcome that is fair and proportionate for all jurisdictions within scope of the EU listing process.

The first EU list was agreed on 5 December at the monthly meeting of EU Economic and Financial Ministers (ECOFIN). None of the Crown Dependencies - or indeed Overseas Territories - are on the EU list, which contains 17 jurisdictions. A further 47 cooperative jurisdictions made commitments to reform relevant aspects of their tax systems and we welcome their commitments and cooperation with the EU; Jersey, Guernsey, Isle of Man, Bermuda, Cayman Islands and Gibraltar are within this group. The Council Conclusions of the meeting set out the detail of the list which can be found at: <http://www.consilium.europa.eu/media/31945/st15429en17.pdf>.

For listed jurisdictions, we expect that the main risk could be reputational damage. Furthermore, EU Member States have also agreed to apply defensive measures (effectively sanctions) against listed jurisdictions. Coordinated measures that have been agreed by all Member States include restrictions to EU investment and increased scrutiny by tax administrations. There are also a number ‘legislative’ tax

measures such as withholding taxes where application will be up to EU Member States.

While the UK is still a member of the EU, we will continue to fulfil all our rights and obligations as a Member State, and to engage fully with ongoing EU business, including discussions on the EU list. Exit negotiations will be kept separate from ongoing EU business, and shall not interfere with progress on ongoing EU business.

Ministerial and official-level engagement

You will be aware from my previous letter that the Parliamentary Under-Secretary of State for Exiting the European Union, Robin Walker MP, chairs quarterly formal meetings with other departmental officials and the Chief Ministers of the Crown Dependencies; the fourth of these took place on 13 November.

In addition, less formal meetings have taken place at November's British-Irish Council, and at official-level through the extensive programme of technical engagement referenced in your letter. On the technical roundtables, I note that Senator Gorst, Chief Minister of Jersey, referenced these working groups as a model of engagement and consultation in the Committee's report, "*Brexit: The Crown Dependencies*". While the Ministry of Justice is responsible for managing the constitutional relationship with the Crown Dependencies, other UK Government Departments have also been fulfilling their responsibility to engage directly on Crown Dependencies' Exit priorities through a programme of roundtables, including on: free movement and the Common Travel Area; financial services; market access; and agriculture and fisheries.

This engagement will continue with a further programme of technical working groups in 2018. Taken together, these forums for ministerial and official level discussions embody the constructive nature of the historic and special relationship between the Crown Dependencies and UK Government.

Post-Exit opportunities

The UK's exit from the EU provides an important opportunity to reconnect with old friends and cement relationships with new allies by boosting our global trading relationships, and we will continue to take account of the Crown Dependencies' trade priorities in this respect.

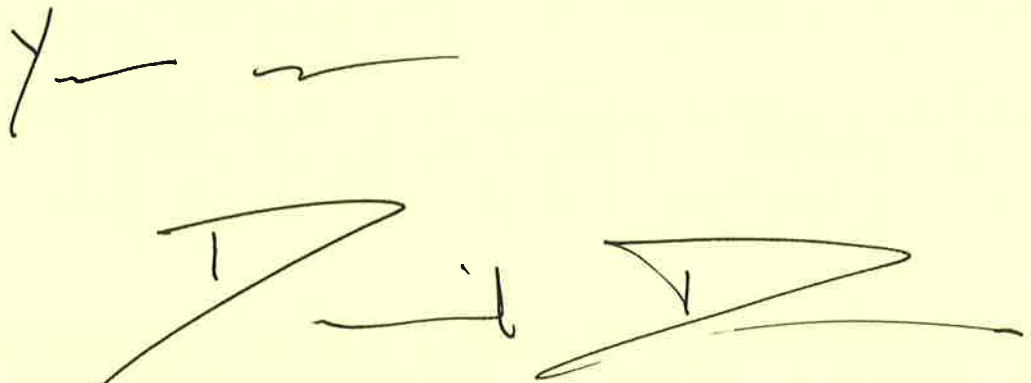
The Department for International Trade has been active in discussions with the Crown Dependencies and intends to consult them further on their involvement in future trade deals. These discussions are important because outside the EU we will

have greater freedom to pursue our long standing advocacy for free trade and to push for more open global trade, supported by strong global institutions like the WTO.

Officials at the Department for International Trade have been actively discussing the practicalities of extending the UK's WTO membership with their counterparts in the Crown Dependencies; including visits to each jurisdiction and hosting various in-depth discussions in London on specific WTO Agreements. It is the view of the Department for International Trade that a thorough assessment of the Crown Dependencies' compliance with the UK's WTO obligations is needed as part of this process. The Department's officials will therefore be moving to a more technical stage in the process to complete this assessment.

Overall, the programme of technical roundtables, combined with extensive engagement with DExEU at official and ministerial level, demonstrate that the UK is focused on achieving the best possible deal not just for the UK but for all British jurisdictions, including the Crown Dependencies.

The UK Government remains fully committed to continuing to work closely with the governments of the Crown Dependencies to ensure their priorities are taken into account throughout the Exit process.

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a horizontal line and a final flourish.

RT HON DAVID DAVIS MP
SECRETARY OF STATE FOR EXITING THE EUROPEAN UNION