

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

The International Trade Agreements (General Implementation) (Bailiwick of Guernsey) Ordinance, 2020 *

[CONSOLIDATED TEXT]

NOTE

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* No. ** of 2020; as amended by the International Trade Agreements (General Implementation) (Bailiwick of Guernsey) (Amendment Regulations, 2020 (G.S.I. No. ** of 2020); the International Trade Agreements (European Union) Order, 2020 (G.S.I. No. ** of 2020); the International Trade Agreements (Miscellaneous) Order, 2020 (G.S.I. No. ** of 2020).

ORDINANCE OF THE STATES OF DELIBERATION

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The International Trade Agreements (General Implementation) (Bailiwick of Guernsey) Ordinance, 2020

ARRANGEMENT OF SECTIONS

1. Schedule of international trade agreements.
2. Status and interpretation of international trade agreements.
3. International representation for the purposes of international trade agreements.
4. Collection of import or export information.
5. Record-keeping and information sharing.
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7. Interpretation.
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SCHEDULE List of international trade agreements.

(Made on 22nd December, 2020.)

The International Trade Agreements (General Implementation) (Bailiwick of Guernsey) Ordinance, 2020

THE STATES POLICY & RESOURCES COMMITTEE, in pursuance of the Resolutions of the States of the 28th February, 2019^a and 17th January, 2020^b, and in exercise of the powers conferred on the States by sections 1 and 2 of the International Trade Agreements (Bailiwick of Guernsey) Law, 2018^c, and all other powers enabling them in that behalf, and in exercise of the powers conferred on the Committee by Article 66A(1) of the Reform (Guernsey) Law, 1948^d, hereby orders:

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Schedule of international trade agreements.

1. (1) The Schedule lists international trade agreements that are binding, in full or in part, upon the Bailiwick (or any part thereof).

(2) The Policy & Resources Committee may by Order [amend] the Schedule.

(3) For the avoidance of doubt, inclusion in or omission from the Schedule does not alter or affect whether, or the extent to which, an international trade agreement is binding upon the Bailiwick (or any part thereof).

a Article I of Billet d'État No. IV of 2019.

b Article I of Billet d'État No. II of 2020.

c Order in Council No. II of 2019.

d Ordres en Conseil Vol XIII, p. 288; as amended by Order in Council No. XVII of 2015: there are other amendments not relevant to this Ordinance.

NOTES

In section 1, the word in square brackets in subsection (2) was substituted by the International Trade Agreements (General Implementation) (Bailiwick of Guernsey) (Amendment Regulations, 2020, regulation 1(2), with effect from 11 p.m. on 31st December, 2020.

The following Order has been made under section 1:

*International Trade Agreements (European Union) Order, 2020;
International Trade Agreements (Miscellaneous) Order, 2020.*

Status [and interpretation] of international trade agreements.

2. (1) No provision of any international trade agreement, or the application of such a provision to any person or circumstance, amends or modifies, or shall be deemed to amend or modify, any enactment or any rule of customary or common law in the Bailiwick (or any part thereof).

(2) No enactment or rule of customary or common law may be challenged on the basis that the enactment or rule is inconsistent with any provision of an international trade agreement.

[(3) A court or tribunal must have regard to Article COMPROV.13 (public international law) of the EU Trade and Cooperation Agreement when interpreting that agreement or any supplementing agreement.]

NOTE

In section 2, first, the word in square brackets in the heading thereto and, second, subsection (3) were inserted by the International Trade Agreements (General Implementation) (Bailiwick of Guernsey) (Amendment Regulations, 2020, regulation 1(3), with effect from 11 p.m. on 31st December, 2020.

International representation for the purposes of international trade agreements.

3. (1) The Alderney Committee and the Sark Committee shall each designate a member to act as liaison with the Policy & Resources Committee in

respect of the international representation of the Bailiwick (or any part thereof) by that Committee for the purposes of international trade agreements.

(2) The Policy & Resources Committee may appoint such person or persons to represent the Bailiwick (or any part thereof) at or on any conference, committee, council or body (however described) established under or otherwise pertaining to an international trade agreement, whether or not such an agreement is binding on the Bailiwick (or any part thereof).

(3) Where the Policy & Resources Committee proposes to appoint a person under subsection (2) to represent Alderney, Sark, or Alderney and Sark, it shall consult –

- (a) the Alderney Committee,
- (b) the Sark Committee, or
- (c) both the Alderney Committee and the Sark Committee,

as the case may be; but a failure to comply with this subsection shall not invalidate an appointment made under this section.

Collection of import or export information.

4. (1) The Policy & Resources Committee may request any person to provide information for the purpose of assisting the Policy & Resources Committee to establish the number and identity of persons importing or exporting goods or services to or from the Bailiwick (or any part thereof) in the course of a trade, business or profession.

(2) For the purposes of subsection (1), goods or services are –

(a) imported into the Bailiwick (or any part thereof) if they are supplied by a person who is outside the Bailiwick, or

(b) exported from the Bailiwick (or any part thereof) if they are supplied to a person who is outside the Bailiwick.

(3) The Policy & Resources Committee may by regulations make provision about –

(a) the types of information that may be requested under subsection (1), and

(b) how the request is to be made.

(4) Where the Policy & Resources Committee proposes to make regulations under subsection (3) applying in Alderney, Sark, or Alderney and Sark, it shall consult –

(a) the Alderney Committee,

(b) the Sark Committee, or

(c) both the Alderney Committee and the Sark Committee,

as the case may be; but a failure to comply with this subsection shall not invalidate regulations made under this section.

(5) As soon as is reasonably practicable after being made, regulations made under subsection (3) shall be laid before a meeting of the States of Deliberation, and, if applying in Alderney or Sark, of the States of Alderney or the Chief Pleas of Sark (as the case may be); and shall, if at that or the next meeting the States of Deliberation, the States of Alderney, or the Chief Pleas of Sark resolve to

annul them, cease to have effect in respect of the jurisdiction in respect of which the resolution to annul was made, but without prejudice to anything done under them, or to the making of new regulations.

(6) For the avoidance of doubt, the powers conferred under this section are without prejudice to powers conferred under any other enactment, including (but not limited to) the Economic Statistics (Guernsey and Alderney) Law, 2019^e.

Record-keeping and information sharing.

5. (1) For the purposes set out in subsection (2), and subject to subsection (3) –

(a) the Policy & Resources Committee, the Alderney Committee or the Sark Committee, or other committees of the States of Guernsey, of the States of Alderney or of the Chief Pleas of Sark, may –

(i) keep, process and maintain such registers, records, statics, data or other information (however described) ("**relevant information**") that is necessary or expedient to enable the Bailiwick (or any part thereof) to –

(A) formulate, review, or revise its trade policy,

^e Order in Council No. V of 2020.

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- (B) communicate, assert or otherwise represent such trade policy to the United Kingdom or third countries, or
 - (C) discharge its obligations under an international trade agreement, and
 - (ii) exchange such relevant information with other committees of the States of Guernsey, of the States of Alderney or of the Chief Pleas of Sark, and
 - (b) the Policy & Resources Committee, the Alderney Committee and the Sark Committee may exchange relevant information with Her Majesty's Government (or any body or agency of Her Majesty's Government, however described) and, through Her Majesty's Government, with any country or territory with which the United Kingdom has, or may have, an international trade agreement or a relationship under such agreement.
- (2) The purposes referred to in subsection (1) are –
- (a) implementing any international trade agreement, which includes (but is not limited to) exchange of information, assistance and co-operation in respect of an international trade agreement,
 - (b) facilitating –

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- (i) the Policy & Resources Committee's leadership and co-ordination of the international representation of the Bailiwick (or any part thereof) for the purposes of international trade agreements,
 - (ii) the Alderney Committee's or the Sark Committee's liaison with the Policy & Resources Committee in respect of such international representation,
- (c) facilitating the United Kingdom's international representation of the Bailiwick (or any part thereof),
[...]
- (d) facilitating the exercise by an international organisation or authority, or by any other body, of its public functions relating to trade[.]
- [(e) facilitating the protection of health and safety,
- (f) facilitating the protection of consumers, or
- (g) facilitating the protection of the environment.]

(3) A committee of the States of Guernsey, of the States of Alderney or of the Chief Pleas of Sark must ensure that there are arrangements in place to maintain appropriate confidentiality in relation to any relevant information that is kept, processed, maintained or exchanged by it.

(4) For the purposes of this section, "**relevant information**"

includes information –

- (a) collected under section 4,
- (b) about the flow of traffic, goods or services into or out of the Bailiwick (or any part thereof),
- (c) concerning the impact, or likely impact, on such flow of measures or practices relating to imports, exports, border security or transport, and
- (d) relating to the design, implementation or operation of such measures or practices.

[(4A) For the purposes of this section, "**relevant information**" also includes information relating to the safety of non-food products for the purposes of the EU Trade and Cooperation Agreement, including information supplied for the purpose of giving effect to a provision of the EU Trade and Cooperation Agreement as it has effect in the Bailiwick or any part thereof; and for those purposes, "**information relating to the safety of non-food products**" includes –

- (a) information about whether, and the extent to which, a non-food product complies, or may comply, with any –
 - (i) relevant legal requirement, or
 - (ii) other assessment that relates to product safety, and

- (b) information about developments, or potential developments, in the field of safety of non-food products.]

(5) A person who receives relevant information as a result of this section or section 4 may not –

- (a) use the information for any purpose other than a purpose mentioned in subsection (2), or
- (b) further disclose the information,

except with the consent of the Policy & Resources Committee (which may be general or specific).

(6) This section does not limit the circumstances in which information may be disclosed under any other enactment or rule of customary or common law.

(7) Subject to subsection (8), a disclosure under subsection (1) does not breach –

- (a) any obligation of confidence owed by the person disclosing the information, or
- (b) any other restriction on the disclosure of information (however imposed).

(8) Nothing in this section authorises the making of a disclosure which –

- (a) contravenes the Data Protection (Bailiwick of Guernsey) Law, 2017^f or legislation made thereunder (save that powers conferred by this section are to be taken into account in determining whether a disclosure contravenes that Law or that legislation), or
- (b) is prohibited by the Regulation of Investigatory Powers (Bailiwick of Guernsey) Law, 2003^g or legislation made thereunder.

NOTE

In section 5, first, the word omitted in square brackets at the end of subsection (2)(c) was repealed, the punctuation in square brackets at the end of subsection (2)(d) was substituted and paragraph (e), paragraph (f) and paragraph (g) of subsection (2) were inserted and, second, subsection (4A) was inserted by the International Trade Agreements (General Implementation) (Bailiwick of Guernsey) (Amendment Regulations, 2020, respectively regulation 1(4) and regulation 1(5), with effect from 11 p.m. on 31st December, 2020.

Offence.

6. (1) If a person discloses information in contravention of section 5 which relates to a person whose identity –
- (a) is specified in the disclosure, or
 - (b) can be deduced from it,

^f Order in Council No. VI of 2018; amended by Order in Council No. IV of 2018; Ordinance Nos. VIII and X of 2018; and G.S.I. No. 21 of 2018.

^g Order in Council No. XXX of 2003; amended by Ordinance Nos. XXXIII and XXIX of 2013; No. IX of 2016; No. III of 2017; Nos. XXVI and XVII of 2018; and G.S.I. No. 26 of 2004.

the person who disclosed the information commits an offence.

(2) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed –

(a) that the disclosure was lawful, or

(b) that the information had already lawfully been made available to the public.

(3) A person guilty of an offence under this section is liable to a term of imprisonment not exceeding two years, to a fine, or to both.

Interpretation.

7. In this Ordinance –

"the Alderney Committee", **"the Policy & Resources Committee"**, and **"the Sark Committee"** have the meanings given in the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018^h, [...]

"committee" of the States of Guernsey, States of Alderney or Chief Pleas of Sark means any committee, council, department, authority, board or like body thereof, however called[.]

[**"the EU Trade and Cooperation Agreement"** means the Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.]

^h Order in Council No. I of 2019; amended by G.S.I. No. 6 of 2020.

NOTE

In section 7, first, the word omitted in square brackets at the end of the definitions of the expressions "the Alderney Committee", "the Policy & Resources Committee" and "the Sark Committee" was repealed, second, the punctuation in square brackets at the end of the definition of the expression "committee" was substituted and, third, the definition of the expression "the EU Trade and Cooperation Agreement" was inserted by the International Trade Agreements (General Implementation) (Bailiwick of Guernsey) (Amendment Regulations, 2020, respectively regulation 1(4) and regulation 1(6), with effect from 11 p.m. on 31st December, 2020.

Extent.

8. This Ordinance has effect throughout the Bailiwick.

Citation.

9. This Ordinance may be cited as the International Trade Agreements (General Implementation) (Bailiwick of Guernsey) Ordinance, 2020.

Commencement.

10. This Ordinance comes into force on exit day, and for this purpose "**exit day**" has the meaning given by section 12(1) of the European Union (Brexit) (Bailiwick of Guernsey) Law, 2018.

SCHEDULE

Section 1

LIST OF INTERNATIONAL TRADE AGREEMENTS

Specified international agreements relating to trade.

Pursuant to section 1(2)(b), the following is specified as an international trade agreement for the purposes of the Law:

1. The Agreement Establishing the World Trade Organization and certain of its annexes as follows –

Annex 1

Annex 1A: Multilateral Agreements on Trade in Goods

General Agreement on Tariffs and Trade 1994

General Agreement on Tariffs and Trade 1947

Marrakesh Protocol to the General Agreement
on Tariffs and Trade 1994

Agreement on Agriculture

Agreement on the Application of Sanitary and
Phytosanitary Measures

Agreement on Textiles and Clothing

Agreement on Technical Barriers to Trade

Agreement on Trade-Related Investment
Measures

Agreement on Implementation of Article VI of
the General Agreement on Tariffs and Trade
1994

Agreement on the Implementation of Article
VII of the General Agreement on Tariffs and
Trade 1994

Agreement on Pre-shipment Inspection

Agreement on Rules of Origin

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Agreement on Import Licensing Procedures

Agreement on Subsidies and Countervailing
Measures

Agreement on Safeguards

Annex 1B: General Agreement on Trade in Services

Annex 1C: Agreement on Trade-related Aspects of
Intellectual Property Rights

Annex 2: Understanding on Rules and Procedures governing
the settlement of disputes

Annex 3: Trade Policy Review Mechanism

Annex 4: Plurilateral Trade Agreements

Annex 4(a) Agreement on Trade in Civil Aircraft

Free trade agreements.

[...]

Andean Countries: Trade Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Columbia, the Republic of Ecuador and the Republic of Peru, of the other part.

Canada: Agreement on Trade Continuity between the United Kingdom of Great Britain and Northern Ireland and Canada.

[Cameroon: Interim Agreement establishing an Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Cameroon, of the other part.]

CARIFORUM Trade Bloc: Economic Partnership Agreement between the CARIFORUM States, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

Central America: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Central America.

Chile: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Chile.

Côte d'Ivoire: Stepping Stone Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and Côte d'Ivoire, of the other part.

Eastern and Southern Africa (ESA) Trade Bloc: Agreement establishing an Economic Partnership Agreement between the Eastern and Southern Africa States and the United Kingdom of Great Britain and Northern Ireland.

Egypt: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Arab Republic of Egypt.

[European Union: Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.]

Faroe Islands: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Denmark in respect of the Faroe Islands.

Georgia: Strategic Partnership and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and Georgia.

Iceland and Norway: Agreement on Trade in Goods between Iceland, the Kingdom of Norway and the United Kingdom of Great Britain and Northern Ireland.

Israel: Trade and Partnership Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the State of Israel.

Japan: Agreement between the United Kingdom of Great Britain and Northern Ireland and Japan for a Comprehensive Economic Partnership.

[...]

Kenya: Economic Partnership Agreement between the Republic of Kenya, a Member of the East African Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

Kosovo: Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland the Republic of Kosovo.

Lebanon: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Lebanon.

Liechtenstein: Additional Agreement between the United Kingdom of Great Britain and Northern Ireland, the Swiss Confederation of the Principality of Liechtenstein extending to the Principality of Liechtenstein certain provisions of the Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation.

Mexico: Trade Continuity Agreement between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States.

[Moldova: Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic

of Moldova.]

Morocco: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Morocco.

North Macedonia: Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of North Macedonia.

Pacific states: Interim Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Pacific States, of the other part.

Palestinian Authority: Interim Political, Trade and Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Palestine Liberation Organization (PLO) for the benefit of the Palestinian Authority of the West Bank and the Gaza Strip, of the other part.

Singapore: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Singapore.

South Korea: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Korea (with Exchange of Notes).

Southern Africa Customs Union and Mozambique (SACUM) Trade Bloc: Economic Partnership Agreement between the Southern African Customs Union Member States and Mozambique, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.

Switzerland: Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Swiss Confederation.

Tunisia: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Tunisia.

[Turkey: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Turkey.]

Ukraine: Political, Free Trade and Strategic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland and Ukraine.

Vietnam: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Socialist Republic of Vietnam.

NOTES

In the Schedule,

first, the words omitted in the first pair of square brackets in the paragraph headed "Free trade agreements" were repealed, second, the words in the second pair of square brackets therein after the entry "Canada: Agreement on Trade Continuity between the United Kingdom of Great Britain and Northern Ireland and Canada.", being the entry for "Cameroon: Interim Agreement establishing an Economic Partnership Agreement between the United Kingdom of Great Britain and Northern Ireland, of the one part, and the Republic of Cameroon, of the other part." were inserted, third, the words omitted in the fourth pair of square brackets in that paragraph were repealed, fifth, the words in the fifth pair of square brackets in that paragraph after the entry "Mexico: Trade Continuity Agreement between the United Kingdom of Great Britain and Northern Ireland and the United Mexican States.", being the entry for "Moldova: Strategic Partnership, Trade and Cooperation Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Moldova." was inserted and, sixth, the words in the sixth pair of square brackets in that paragraph after the entry "Tunisia: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Republic of Tunisia.", being the entry for "Turkey: Free Trade Agreement between the United Kingdom of Great Britain and Northern Ireland and the Republic of Turkey." were inserted by the

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International Trade Agreements (Miscellaneous) Order, 2020, article 1, respectively paragraph (2), paragraph (3), paragraph (4), paragraph (5) and paragraph (6), with effect from 11 p.m. on 31st December, 2020;

the words in the third pair of square brackets in the paragraph headed "Free trade agreements" after the entry "Egypt: Agreement establishing an Association between the United Kingdom of Great Britain and Northern Ireland and the Arab Republic of Egypt.", being the entry for "European Union: Trade and Cooperation Agreement between the European Union and the European Atomic Energy Community, of the one part, and the United Kingdom of Great Britain and Northern Ireland, of the other part.", were inserted by the International Trade Agreements (European Union) Order, 2020, article 1, with effect from 11 p.m. on 31st December, 2020.
