

## **Written evidence from the Foreign and Commonwealth Office (OTS0132)**

Tom Tugendhat MBE MP  
Chair  
Foreign Affairs Committee  
House of Commons  
London  
SW1A 0AA

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Thank you for the opportunity to give evidence in December during your inquiry into the future of the UK's relationship with the British Overseas Territories. During the course of that, a number of issues were raised that I committed to write to you on.

In regards to British Overseas Territories Citizens fathers' inability to pass on their citizenship to any child born before 2006 if they were not married to the child's mother, this is an issue which my officials have discussed on a number of occasions with the Home Office, which is the lead department. My officials followed up again after my appearance before the Committee to discuss next steps. I understand a consultation with governors and territory governments is required before any legislative amendments can be made to address the gap in legislative provision that arose since the law changed on 1 July 2006 to allow a person to acquire citizenship through their father, regardless of his marital status. This amendment only affects children born after 1 July 2006, and while the Immigration Act 2014 inserted new provisions into the British Nationality Act 1981 to accommodate the change, the new provisions applied only to those who would have become British citizens under that Act, and not British Overseas Territories citizens. Discussions are ongoing across Government on this matter.

You requested figures for extra funding for governors offices which is attached at Annex D. This funding formed part of the Global Britain uplift which is one of three components in our expansion of the diplomatic network. These new roles and posts will help us better achieve our Global Britain ambition of maximising our presence, influence and impact as we leave the EU by reinvesting in our relationships, championing the rules-based international order, using soft power to project our values and demonstrating that we are engaged, outward facing and confident on the world stage.

Regarding the issue of the Overseas Territories being given the ability to lay a wreath at the Cenotaph on Remembrance Sunday, the current and longstanding policy is that the Foreign Secretary lays a wreath on behalf of the OTs. This policy was last reviewed in 2011, and any final decision on this matter is for the Royal Household.

The matter of allowing Governors to wear traditional uniforms in cases where Territories want their Governor to do so was also raised. The policy was last reviewed in 2011, when it was agreed that OT Governments should decide whether the Governor has a uniform and should meet the costs themselves. This policy remains valid, and I am happy to write to OT

Governments to remind them of this and ask for their views. As you may be aware, Governors of the Falkland Islands, Bermuda and Gibraltar currently wear uniforms on ceremonial occasions.

During the hearing I mentioned that I would write to you detailing the work the Government has been undertaking on Overseas Territory no-deal preparedness. I attach this at Annex A.

**LORD (TARIQ) AHMAD OF WIMBLEDON**

Minister of State for the Overseas Territories

Prime Minister's Special Representative for Preventing Sexual Violence in Conflict

Prime Minister's Special Envoy on Freedom of Religion or Belief

## **Annex A- OVERSEAS TERRITORY NO-DEAL PREPAREDNESS**

The FCO has been working consistently with counterparts across Whitehall, in close cooperation and full transparency with the governments of the Overseas Territories, to seek to ensure that the UK Government and the Overseas Territories themselves are as prepared as possible for the event that the UK leaves the EU without a deal and that, wherever possible, impacts on Overseas Territories are minimised. The scope of this work is detailed below in key areas.

### **EU funding**

The Government has long recognised the importance of EU funding to the Overseas Territories. This has been one of the primary topics of my engagement with Overseas Territory governments on the implications of EU exit, and we have always been clear on the need to provide stability and reassurance to the territories in the period leading up to our departure from the EU.

The Government announced last year that it will guarantee funding for Overseas Territory participants in specific EU projects, should it be required in the event of a no deal departure. The guarantee covers full territorial allocations to the British Overseas Territories governments from the European Development Fund (EDF) that have been agreed while we remain in the EU. It also covers paying awards under the Horizon 2020, Erasmus+, and BEST, where Overseas Territory participants successfully bid on a competitive basis while we remain a member of the EU. The guarantee is the subject of a Technical Notice, included here at [Annex C](#) and published on gov.uk, which provides fuller details on the funds and projects covered. I have also enclosed a copy of a letter I wrote to the Leaders of the territories last year on the guarantee, at [Annex B](#).

The annual Joint Ministerial Council (JMC) in December was a productive opportunity to engage with the Premiers on a range of issues, including the substance of the funding guarantee. A number of Ministerial colleagues, including Robin Walker, Parliamentary Under Secretary of State at the Department for Exiting the European Union, and Thérèse Coffey, Parliamentary Under Secretary of State at the Department for Environment, Food and Rural Affairs, and senior officials from across Government, discussed the funding guarantee with the Premiers in relation to BEST and Horizon 2020. I also had the opportunity, alongside Lord Bates, Minister of State at the Department of International Development, to discuss the guarantee with the Premiers in relation to EDF.

Furthermore, engagement with the Overseas Territories on the issue of EU funding (and other EU exit-related issues) has been ongoing since the UK-OT Joint Ministerial Council in November 2016 and will continue as we proceed to leave the EU. Arrangements for funding and programming in the post-2020 period will be considered as part of the UK Government's next Spending Review in 2019. Engaging with the Governments of the Overseas Territories will form an integral part of this process in order to take account of their views.

### **Market access**

We recognise the significance of trade in goods for certain overseas Territories, notably the Falkland Islands and Tristan da Cunha. The UK Government has been in close and regular contact both with the Governments of these Territories and with a number of key businesses based there, and in the case of the Falkland Islands officials have undertaken an EU-exit focused visit to engage in detail with all interested parties in the Islands.

The FCO has been working across Government to ensure that, in the event of a no deal, UK market access on current terms for goods originating in the Overseas Territories can continue. This will be secured via an arrangement to be implemented under section 9 of the Taxation (Cross-Border Trade) Act. This arrangement is currently in the process of being finalised by the Department for International Trade in order to be capable of taking effect from 29 March.

The issue of market access has been discussed with the Overseas Territories on a number of occasions, including at senior and working official level through regular teleconferences with the most relevant territories, and at a Ministerial level at the JMC on EU exit on 14 June and the most recent JMC on 4-5 December.

### **Citizens' Rights**

The UK Government has explored the issue of citizens' rights in the Overseas Territories, including the effect a no deal Brexit could have on these.

British Citizen passport holders resident in the Overseas Territories will have the same rights as British Citizen passport holders in the UK post-exit, in any scenario including a no deal. British Overseas Territory Citizen passport holders will see no changes to their rights as a direct result of EU exit in either a deal or a no deal scenario. In any case, the UK Government stands ready at all times to make representations on this issue should the need arise.

The matter of citizens' rights is of particular interest to a number of territories. For this reason it has featured prominently in the FCO's regular EU exit engagement with them. This includes via meetings with the London Representatives, Ministerial and working official-level correspondence, and as part of wider engagement with Premiers at the JMCs.

### **Legislation**

A number of Government Departments are in close and regular contact with the Attorneys General of the Overseas Territories on a wide range of legislative issues relating to EU exit. This work involves seeking to ensure the Overseas Territories verify that domestic legislation in their jurisdictions can continue operating as normal from March 29 in a no deal scenario, and that it is compatible with all relevant UK exit legislation, including sanctions regimes.

In addition to the Overseas Territory Attorneys General conference in Bermuda in February 2018, chaired by the UK Attorney General, Geoffrey Cox, this engagement has consisted of close and regular contact at working official level. This includes a series of FCO-led teleconferences with the Attorneys General at which the Overseas Territories have been able to raise any legislative concerns relating to EU exit. Following these exchanges, the FCO has been able to provide funding to St Helena to assist that Territory with a review of its domestic legislation to seek to ensure EU exit readiness by 29 March.

Conversations on this issue have also taken place at Ministerial level, with the JMC on EU Exit negotiations on 14 June, as well as the annual JMC on 4-5 December, proving valuable opportunities to discuss these same matters with Premiers. Following the June JMC, the Solicitor General Robert Buckland wrote to the Overseas Territory delegates providing details of important EU exit legislation and outlining the importance of domestic legislative readiness in the Overseas Territories.

The forthcoming Overseas Territory Attorneys General conference in the Cayman Islands next month, also to be chaired by the Attorney General, Geoffrey Cox, will be an opportunity to continue this engagement.

## **Annex B**

September 2018

The Hon. Victor F. Banks  
Chief Minister of the Government of Anguilla

### **FUNDING GUARANTEE TO THE OVERSEAS TERRITORIES IF THERE IS NO BREXIT DEAL**

I look forward to seeing you in December for this year's Joint Ministerial Council, where we will discuss a range of important issues, including the Brexit negotiations and the interests of the Overseas Territories.

In the meantime I am pleased to share with you the enclosed draft Technical Notice, which is due to be published soon. This Notice makes clear that the UK government will guarantee funding for OT participants in specific EU projects, should it be required in the event of a 'no deal' departure from the EU. Further details are provided in the enclosed Notice, but the guarantee covers existing projects under the European Development Fund; Horizon 2020; Erasmus+; and the Voluntary Scheme for Biodiversity and Ecosystem Services in EU Outermost Regions and Overseas Countries and Territories (BEST).

The UK government firmly believes that it is in the interests of both the UK and EU to strike a deal, and we expect to negotiate a successful deal with the EU. This guarantee is part of our ongoing efforts to plan for all possible outcomes.

I realise how important EU funding is to many of your territories. I therefore hope that this guarantee will provide more certainty to you, your governments and other project participants as we move towards exit day. I also hope that it demonstrates the seriousness with which the government – and I personally – consider the interests of the OTs in the EU exit process.

**LORD (TARIQ) AHMAD OF WIMBLEDON,  
MINISTER OF STATE**

## **Annex C**

### **Funding for British Overseas Territories if there's no Brexit deal**

Delivering the deal negotiated with the EU remains the government's top priority. This has not changed.

However, the government must prepare for every eventuality, including a no deal scenario. For 2 years, the government has been implementing a significant programme of work to ensure that the UK is prepared to leave the EU on 29 March 2019.

It has always been the case that as we get nearer to that date, preparations for a no deal scenario would have to be accelerated. We must ensure plans are in place should they need to be relied upon.

In the summer, the government published a series of 106 technical notices setting out information to allow businesses and citizens to understand what they would need to do in a no deal scenario so they can make informed plans and preparations.

This technical notice offers guidance for continued planning in the event of no deal.

Also included is an overarching framing notice explaining the government's approach to preparing the UK for this outcome in order to minimise disruption and ensure a smooth and orderly exit.

We are working with the devolved administrations on technical notices and we will continue to do so as plans develop.

#### **Purpose**

This notice provides an overview of how the UK government's guarantee for EU-funded programmes applies to the British Overseas Territories, if the UK leaves the EU with no deal.

It covers all British Overseas Territories governments and organisations that are eligible to bid into the following EU funding programmes:

- European Development Fund
- Horizon 2020
- Erasmus+
- Voluntary Scheme for Biodiversity and Ecosystem Services in EU Outermost Regions and Overseas Countries and Territories (BEST)

For Gibraltar, it also covers:

- EU Structural Funds, specifically the European Regional Development Fund (ERDF)
- the European Social Fund (ESF)
- European Territorial Cooperation programmes

This notice should be read in conjunction with the notices relating to individual funding programmes.

#### **Before 29 March 2019**

Until the UK leaves the EU, the UK remains a member state, with all the rights and obligations that includes. The UK and our Overseas Territories, including Gibraltar, will continue to participate in EU programmes while the UK remains a member of the EU.

As agreed as part of our financial settlement with the EU, we will continue to take part in all EU programmes after 29 March 2019 for the rest of the 2014 to 2020 Multiannual Financial Framework. The financial settlement has been agreed by both UK and European Commission negotiators in a draft Withdrawal Agreement and welcomed by the other 27 EU countries at the March European Council.

### **After March 2019 if there's no deal**

In the unlikely event of a no deal, the UK will leave the EU Budget in March 2019. Without further action, this would mean governments and other organisations in our Overseas Territories could lose future funding for existing projects under EU programmes. However, the Chancellor has agreed that the UK government will guarantee funding for specific EU projects. This will provide certainty for British Overseas Territories governments and participating organisations over the course of our EU exit.

This guarantee covers:

- Full territorial allocations to the British Overseas Territories governments from the European Development Fund (EDF) that have been agreed while we remain in the EU. It also includes projects agreed under the EDF regional and humanitarian allocations. The exceptions are the finance interest subsidies and technical assistance through the European Investment Bank's Overseas Countries and Territories Investment Facility, which are not covered by this guarantee.
- Paying awards under the Horizon 2020, Erasmus+, and BEST, where Overseas Territory participants successfully bid on a competitive basis while we remain a member of the EU.
- Funding successful bids where Overseas Territory organisations are able to participate as a third country in competitive grant programmes from exit day until the end of 2020. This would only apply to programmes that Overseas Territory organisations already participate in, and if the European Commission agrees that the Overseas Territories are eligible to participate from exit day until the end of 2020 in a particular programme.
- As set out in the notices on the Horizon 2020 and Erasmus+ programmes, the government is seeking discussions with the European Commission to agree how consortia and projects with UK participants can continue after our exit. These discussions would also cover the UK's and Overseas Territories' continued participation in these programmes, for example as a third country.
- EU Structural Funds that Gibraltar receives as part of the 2014-20 Multiannual Financial Framework allocation – the European Regional Development Fund (ERDF) and the European Social Fund (ESF), and European Territorial Cooperation programmes (a sub-fund of Structural Funds that involves cross-border projects). The notices issued by BEIS provide further detail.

### **Implications**

The government's guarantee ensures that British Overseas Territory participants, such as governments and organisations, will continue to receive funding over a project's lifetime if they successfully bid into EU-funded programmes while the UK remains a member of the EU, and, where access (for example as a third country) is available, before the end of 2020.

Over the coming months we will set out the precise arrangements for how our guarantee will operate for British Overseas Territories for the specific programmes outlined in this notice. These will include administrative and governance arrangements



## **Annex D**

### Costs

<b><u>Territory</u></b>	<b><u>Amount</u></b>
Ascension	£139,152.86
Anguilla	£135,407.56
Bermuda	£121,075.29
BVI	£143,199.01
Grand Cayman	£140,021.94
Montserrat	£218,133.51
St Helena	£98,725.01