

STATES OF JERSEY



AIRCRAFT REGISTRY (S.R.6/2012) – RESPONSE OF THE MINISTER FOR ECONOMIC DEVELOPMENT

Presented to the States on 23rd January 2013
by the Minister for Economic Development

STATES GREFFE

**AIRCRAFT REGISTRY (S.R.6/2012) –
RESPONSE OF THE MINISTER FOR ECONOMIC DEVELOPMENT**

Ministerial Response to: S.R.6/2012

Ministerial Response required by:

Review title: Aircraft Registry

Scrutiny Panel: Economic Affairs

INTRODUCTION

The Minister for Economic Development welcomes the review findings of the Economic Affairs Scrutiny Panel on the Aircraft Registry. By way of an update, since the Review took place, further significant discussions have taken place at both Ministerial and Senior Officer level. Officials from both Islands are working together to seek to identify the best way to proceed and hope to be able to make an announcement on a final decision during November.

FINDINGS

	Findings	Comments
1	It has been proven elsewhere, in comparable jurisdictions to Jersey, that a successful Aircraft Registry project can lead to significant economic benefits, through the economic flow generated from the wealthy individuals and corporations registering their aircraft and then accessing a range of supporting services that can be sold to them.	<p>The latest statistics received, from 2007, indicate that sales of aircraft were on the increase. No further statistics have been received post the economic downturn.</p> <p>That said, it is recognised that a registry will add to the Jersey proposition for high value businesses, or wealthy residents considering re-locating to the Island. The Register will be an additional ‘tool’ that the Island and its financial services sector can use to stimulate extra business.</p>
2	Launched in May 2007, the Isle of Man Aircraft Registry announced the achievement of registering its 500th aircraft by June 2012 and has generated significant amounts of revenue for locally based associated industry.	<p>Companies that register aircraft in the Isle of Man are in a unique position which enables them to become VAT-registered. Through complicated, legal, financial structures, companies can claim back the VAT on the purchase.</p> <p>Jersey is not in such a position, and will need to determine its own unique selling proposition.</p>

	Findings	Comments
3	The concept of establishing an Aircraft Registry in the Channel Islands has been championed to the States of Jersey by some private stakeholders since at least 2005.	
4	By January 2010, the Aircraft Registry had been identified as a 'potential winner' by the Economic Development Department in Jersey and Commerce and Employment in Guernsey, as part of their project to identify areas of common interest which could deliver improvements in service or cost saving through the efficiency gains of joint working.	Discussions are currently ongoing with Economic Development and Guernsey's Commerce and Employment Department. Officials from both Islands are working together to seek to identify the best way to proceed and hope to be able to make an announcement on a final decision very shortly. Discussions with the Director of Civil Aviation and officials from Commerce and Employment have concluded that it is not insurmountable for Jersey to get up to speed on the project, as much of the legislative changes are the same in both jurisdictions.
5	It is clear that the Aircraft Registry project in Guernsey has been successful in achieving significant progress, but Jersey's part in the project has been subject to criticism for quite the opposite.	
6	Since 2005, Jersey has failed at a number of key moments in the Aircraft Registry project to either recognise or seize the opportunity to deliver the momentum required to achieve significant progress.	That is not accurate and, in any event, the economic climate today is significantly different to that in 2005.
7	The announcement of the new partnership agreement between SGI Aviation and the States of Guernsey in May 2012 marked a significant point in the Aircraft Registry project, and the context of Jersey's role within it.	Noted, please see 'Comment' in response to Point 4 above.

	Findings	Comments
8	The desire to see Jersey continue to pursue a joint Channel Islands Aircraft Registry was a conclusion of the overwhelming majority of the stakeholders that engaged with the Panel during the Review.	Noted, this echoes the view of the Minister and the Department.
9	Given the initiative established by Guernsey, it is likely that a Channel Islands Aircraft Registry would be administered from Guernsey. As an administrative function however, whether it is located in Guernsey or Jersey is relatively immaterial. It is the potential to access the associated business flowing from the establishment of a Channel Islands branded and marketed Registry which is most important.	Agreed.
10	During negotiations with Guernsey, the Minister for Economic Development linked the development of a joint Channel Islands Aircraft Registry based in Guernsey to a joint Channel Islands Category 1 Shipping Registry based in Jersey.	It is the Public Services Department in Guernsey who has responsibility for the Guernsey Category 2 Shipping Registry. Economic Development's counterparts are the Commerce and Employment Department.
11	The Panel understands that the States of Guernsey do not presently intend to pursue the development of a joint Channel Islands Category 1 Shipping Registry, requiring a change of approach from the Minister for Economic Development to this and the Aircraft Registry projects.	The Public Services Department in Guernsey have intimated that they have no desire to move to a joint Channel Islands Category 1 Shipping Registry. Therefore, there appears to be no barrier to Jersey considering a move to Category 1 in isolation, creating a Category 1 Channel Islands Registry to be based in Jersey.

	Findings	Comments
12	Whilst accepted that in principle it may be possible, there is little enthusiasm for Jersey to 'piggyback' on a Guernsey Aircraft Registry, whereby Jersey would play no active role in the Registry but would seek to take advantage of proximity and attract associated business and economic flow.	Noted, please see Comment in response to Point 4 above.
13	Administrative costs, liabilities in the event of an accident, tax, and the lack of a unique selling point were all highlighted to the Panel as issues that would need to be addressed for an Aircraft Registry to be a success.	This point is noted; however, please see Comment in response to Point 4 above.
14	Whilst the UK Air Accident Investigation Branch is likely to be the designated chief investigating authority in the event of an accident involving a Channel Islands registered aircraft, a clear position to mitigate potential liability and cost implications to the States of Guernsey and Jersey has yet to be established, with consideration being given to insurance.	Noted, but this will be considered in the round, as outlined in the Comment in response to Point 4 above.
15	As Jersey has GST set at 5% and Guernsey has no comparable tax, it is clear that Jersey faces a significant competitive disadvantage to Guernsey which, unresolved, would appear to seriously undermine Jersey's chances of generating associated economic activity from an Aircraft Registry.	This has been noted, and we are confident this can be resolved.

	Findings	Comments
16	There appears to have been a lack of urgency and momentum generated by the Minister for Economic Development to explore ways of resolving the GST issues. There is some encouragement that the Minister for Treasury and Resources has, nevertheless, begun preliminary work on identifying the issues his Department faces and the possible solutions to be examined.	The Minister for Economic Development welcomes the intervention of the Minister for Treasury and Resources in identifying the GST issues and examining possible solutions. However, the Minister for Economic Development strongly refutes the allegations that there has been a lack of urgency in exploring ways of resolving the GST issues. Senior Officers from Economic Development have met Senior Treasury Officials on 2 occasions in October and November 2011 to discuss this exact same issue.
17	The issue of competitive disadvantage to the Isle of Man and other Registries presented by VAT is a challenge, but does not appear to be insurmountable. The Channel Islands Strategic Case report established that, due to the different VAT regimes, it was likely that different clients would be attracted to the Channel Islands Registry than those using the Isle of Man, depending upon their place of business and planned base of activity for their aircraft.	This will form part of the unique selling point for the registry.
18	There is some concern about the reliance on business case figures from pre-2008 that may now be outdated given the recent nature of the local/global economy. However, there remains a confidence amongst a number of stakeholders about the underlying business case and the health of markets relevant to a Channel Islands Aircraft Registry.	This concern has been raised on a number of occasions. However, the number of aircraft registered in the Isle of Man has continued to increase, in part due to new ownership structures that have been developed.

	Findings	Comments
19	Allowing the registration of aircraft under fractional ownership offers the potential for a genuine unique selling point of a Channel Islands Aircraft Registry, but the relevant work assessing the potential associated risk has yet to be undertaken.	This will be one of the issues that will need to be considered as part of the discussions on the registry.
20	It is envisaged that, initially, a limited amount of technical expertise both directly and indirectly associated with an Aircraft Registry would be required to be brought in from outside the Island. However, in addition to some immediate job opportunities for local people, others could be created through training and apprenticeships.	This will be considered as part of the longer term plan for a registry.
21	The Panel acknowledges and welcomes the expansion opportunities at the airport that have been identified as part of the development of proposals to incorporate Jersey's harbours and airport, including additional hangar facilities.	The incorporation has now been agreed in principle by the States.
22	From an aviation safety regulatory perspective, it would be highly desirable that the required aviation regulations are developed as a single, coherent and consistent code applicable throughout the Channel Islands.	That would be the Minister's preferred option.
23	A Channel Islands Aircraft Registry requires new primary and secondary legislation to enable the delegation of the performance of State responsibilities for running and regulating aircraft registration from the UK to the DCA. The need for legislative changes applies not only to Jersey and Guernsey, but also the UK.	That is correct.

	Findings	Comments
24	There appears to be confidence that the necessary law drafting can be delivered. The Economic Development Department has secured the required law drafting time and budget, and Guernsey law drafters have undertaken an initial review and scoping of the legislative changes, estimating that the process to draft, consult and enact the necessary legislation will take around 18 months from the start of the project.	That is correct.
25	Although there is a greater potential for delay in implementation and a higher draw on legal resources costs, the most appropriate solution to establish the required legislative framework for a Channel Islands Aircraft Registry is for parallel legislation that is as identical as is practical to be passed in both Islands.	There may be a legal way around this, and it will be explored.
26	Both Guernsey and Jersey have work outstanding to establish suitably developed Securities Interest legislation providing the necessary safeguards around lending to stimulate confidence in investing through a Channel Islands Aircraft Registry.	The Security Interests (Jersey) Law 2012 was sanctioned by the Privy Council on 10th July 2012, and registered in the Royal Court on 27th July 2012, but is yet to be brought into force (this will happen by means of an Appointed Day Act). Further Security Interests legislation is currently being developed. Specific requirements for aircraft and ships are now being considered by the team responsible for the delivery of the respective registries.
27	While it may not be practical for Jersey to sign up to the Cape Town Convention, the Panel acknowledges the Minister for Treasury and Resources' sentiment that there should be no activity associated with the Aircraft Registry that detracts from Jersey's reputation as a quality financial services jurisdiction.	Wholeheartedly in agreement.

RECOMMENDATIONS

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
1	To establish an appropriate single point of responsibility for the cross-Departmental and cross-Island Aircraft Registry project, the Minister for Economic Development should, through the Chief Minister, engage with Director of Civil Aviation with a view to him assuming project management responsibility on behalf of the Economic Development Department.	ED	Accept	A draft Terms of Reference has been developed by the Director of Civil Aviation. EDD has nominated a senior officer to lead on the project and a legal representative from the Law Officers' Department has been identified. A final decision will be made on the way forward for both Islands in November.	November 2012
2	The Minister for Economic Development must, without delay, seek to engage with the Minister for Commerce and Employment in Guernsey, and its strategic partner SGI Aviation, to formally secure Jersey's position in a joint Channel Islands Aircraft Registry.	ED	Accept	This is the route Economic Development wishes to follow. A final decision will be made on the way forward for both Islands in November.	November 2012
3	Through the Project Manager, the Minister for Economic Development will need to ensure that wherever the Registry is based for administrative purposes, the marketing of the associated industry opportunities available to clients is impartial and equitable to both Islands. There must also be active communication with relevant industries in Jersey to promote the opportunities available to them to engage with and benefit from the Aircraft Registry project.	ED	Accept		December 2012

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
4	The work being undertaken by the Minister for Economic Development to develop a Category 1 Shipping Registry is welcomed, but should no longer be linked to negotiations with Guernsey on Jersey's role within a possible Channel Islands Aircraft Registry.	ED	Accept	This is no longer the case, as Guernsey's Public Services Department have indicated that they do not wish to proceed with this initiative.	–
5	It is particularly important that work is undertaken by the Aircraft Registry project team to establish an acceptable solution to both Islands in mitigation against possible cost liabilities associated with an accident involving a Channel Islands registered aircraft. The potential to insure against such an eventuality should be given thorough consideration.	ED	Accept	This will form part of the discussions in the establishment of the Terms of Reference	November 2012
6	The Minister for Economic Development must engage at the earliest opportunity with the Minister for Treasury and Resources to achieve a solution, satisfactory to both, to overcome the clear competitive disadvantage undermining Jersey's position in a Channel Islands Aircraft Registry.	ED	Accept	While the Minister concurs with this, the Minister would also like to reiterate that senior officers from his Department have held several meetings with senior officials from Treasury and Resources to discuss this issue, and have entered into new discussions owing to changes in personnel within this area.	December 2012
7	It will be necessary for the Minister for Economic Development to establish up-to-date figures relating to the target market(s) of the Channel Islands Aircraft Registry and the impact, if any, this may have on projected economic flow and	ED	Agreed		December 2012

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	the business case. Indeed, this may be required quickly to assist negotiations with the Minister for Treasury and Resources regarding a solution over the GST issue.				
8	With the agreement of Guernsey, the Minister for Economic Development should request the Director for Civil Aviation to undertake the necessary work to establish a recommendation on the issue of allowing fractional ownership within a Channel Islands Aircraft Registry.	ED		Further background work will be required before commitment is made to this. This will form part of the Terms of Reference for the Working Group.	January 2013
9	Limited inward migration for certain key technical positions may be necessary and acceptable in the short term as the Aircraft Registry project develops. However, the Minister for Economic Development must develop a longer term plan in conjunction with relevant industry representatives and States Departments that is consistent with Strategic Plan priorities to manage inward migration and encourage employment opportunities for the locally qualified.	ED	Agreed	This will be fleshed out with the Working Group. However, the Minister is fully aware of the States Strategic Plan priorities and is a member of the Skills Executive, and their priorities.	January 2013
10	In setting up the legislative framework for a Channel Islands Aircraft Registry, the Minister for Economic Development should ensure a collaborative approach, through the Aircraft Registry project leadership, to develop parallel legislation that is as identical as is practical to be passed in both Islands.	ED	Agreed	Subject to both: <ul style="list-style-type: none"> • possible legal shortcuts that would allow legislation in one jurisdiction to be acceptable in another; • a final decision will be made on the way forward for both Islands in December. 	December 2013

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
11	In the event that Jersey cannot be a signatory, the Minister for Economic Development must ensure that the updated Securities Interest legislation is at the very least compatible with the principles established by the Cape Town Convention on International Interests.	ED	Agreed	The Security Interests legislation relating to aircraft will form part of the new Aircraft Registry legislation.	February 2013

CONCLUSION

Following the initial piece of co-funded research by Jersey and Guernsey, entitled ‘Strategic Case for a Channel Islands Aircraft Registry, and Jersey’s independent research, much discussion and communication has taken place at both political and senior officer level. Following the Jersey election, and changes at senior officer level at Commerce and Employment, and prior to the Guernsey election, agreement was reached by Commerce and Employment to sign a partnership agreement with SGI, a Dutch-based aviation service provider, to develop the business case and deliver the implementation plan for an aircraft registry to be based in Guernsey. Significant work has been undertaken in Guernsey – to date, primarily around new legislation and amendments to existing legislation.

Recent discussions at both political and senior officer level have centred around Jersey’s and the DCA’s preferred option of having a joint aircraft registry, based in Guernsey, and the idea of having a joint Channel Islands Category 1 Shipping Registry, based in Jersey, as a *quid pro quo* is no longer part of the thinking. A final decision will be made on the way forward for both Islands in December.