

STATES OF JERSEY



INTERNATIONAL CONVENTIONS AND AGREEMENTS: PROGRESS REPORT FOR PERIOD 1ST OCTOBER 2004 TO 31ST MARCH 2005

**Presented to the States on 30th August 2005
by the Policy and Resources Committee**

STATES GREFFE

**INTERNATIONAL CONVENTIONS AND AGREEMENTS: PROGRESS REPORT FOR PERIOD 1ST OCTOBER
2004 TO 31ST MARCH 2005**

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**INTERNATIONAL CONVENTIONS AND AGREEMENTS: PROGRESS REPORT FOR PERIOD 1ST
OCTOBER 2004 TO 31ST MARCH 2005**

This report contains a list of international treaties, conventions and agreements that have been referred formally to the Island Authorities during the period of 1st October 2004 to 31st March 2005.

PART ONE:

INTERNATIONAL LABOUR ORGANISATION

1. The Island is party to a number of Conventions under the auspices of the International Labour Organisation. During this reporting period, the Island was not required to submit reports on any of the ILO Conventions.

PART TWO:

NEW MATTERS REFERRED TO THE ISLAND AUTHORITIES

1. UNESCO International Anti-Doping Convention and Drug Free Sport

Purpose: To develop an internationally legally-binding convention against doping in sport in order to provide a legal framework that will bind all countries, through international law, to develop anti-doping programmes in accordance with the World Anti-Doping Code of the World Anti-Doping Agency and which will set out the governments' responsibilities in the fight against doping in sport.

Action: The Department for Cultural Media and Sports (DCMS) has advised that UNESCO is currently drafting a new international convention against doping in sport.

As the Convention is still in draft form, the Island Authorities are not being asked to formally accept extension of the Convention at this stage, but to consider the draft in readiness for when the text of the Convention is finalised in 2005. The Island Authorities were also asked to consider whether in principle the Convention should be extended to cover Jersey and to confirm that the necessary legislation is in place.

The Island Authorities have stated that as it has not yet been possible to ascertain the full implications of developing a doping control programme in Jersey, they do not wish for the Convention to be ratified on the Island's behalf at the present time. The Island Authorities have asked to be kept abreast of further developments.

2. World Health Organisation Framework Convention on Tobacco Control (FCTC)

Purpose: The objective of this Convention and its Protocols is to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke by providing a framework for tobacco control measures to be implemented by the Parties at the national, regional and international levels in order to reduce continually and substantially the prevalence of tobacco use and exposure to tobacco smoke.

Action: In December 2003, the Department for Constitutional Affairs (DCA) informed the Island Authorities that the U.K.'s Legal Adviser was of the opinion that the subject matter of the Convention appeared to have some impact on trade in tobacco and customs matters. To that extent, it would be for the E.U. to negotiate and would possibly be binding on the Crown Dependencies.

The DCA also requested the view of the Island Authorities as to the extent to which the subject matter of the Convention comes within Protocol 3 and for an indication as to what extent the Island Authorities would be interested in the U.K. extending its ratification of the Convention to Jersey on the matters not falling within Community competence.

The Island Authorities are currently considering the matter.

3. Council of Europe Convention on Contact Concerning Children

Purpose: The Convention is intended to determine the general principles which are to be applied to contact orders, to fix appropriate safeguards and guarantees to ensure the proper exercise of contact and the immediate return of children at the end of the contact period; and to establish co-operation between central authorities located within national governments,

judicial authorities and other bodies in order to promote and improve contact between children and their parents and other persons having family ties with children.

Action: In June 2004, the Family Justice Division of the Department for Constitutional Affairs issued a consultation paper to seek views on whether the U.K. should sign and ratify the Contact Convention. The Island Authorities were asked to give their views on the Convention and to indicate whether they would wish for the Convention to be extended to Jersey in the event that the U.K. does decide to sign and ratify it.

A response paper summarising the responses to the consultation will be published shortly and a U.K. decision on whether or not to ratify the Convention will follow. The Island Authorities have therefore decided to await the outcome of the consultation process and the final U.K. decision before giving further consideration as to whether or not they would wish for ratification to be extended to the Bailiwick.

4. **Stockholm Convention on Persistent Organic Pollutants (POPs)**

Purpose: The Stockholm Convention is a global treaty to protect human health and the environment from persistent organic pollutants (POPs). POPs are chemicals that remain intact in the environment for long periods, become widely distributed geographically, accumulate in the fatty tissue of living organisms and are toxic to humans and wildlife. POPs circulate globally and can cause damage wherever they travel. In implementing the Convention, Governments will take measures to eliminate or reduce the release of POPs into the environment.

Action In August 2004, the Department for Constitutional Affairs wrote to the Island Authorities to inform them that DEFRA was preparing for the U.K.'s ratification of the POPs Convention and had asked whether the Island Authorities would wish to be included.

The Island Authorities stated that whilst Jersey was currently developing strategies in this area there were a number of regulatory and resource issues that would need to be considered if the Convention were to be ratified on behalf of the Island. The Island Authorities therefore decided that, whilst they were generally supportive of the Convention, they did not wish to have it extended to the Island at this time and would give further consideration to the matter at a later date.

5. **U.N. Optional Protocol to the Convention against Torture**

Purpose: To help to prevent torture and inhuman treatment through visits by national and international independent monitoring committees to places of detention in signatory states.

Action: The Protocol was adopted at the U.N. General Assembly on 18th December 2002, and is open for signature, ratification and accession by states that have ratified the Convention against Torture. The U.K. Government invited the Island Authorities to consider whether the Bailiwick should be included in the U.K. ratification, or whether ratification should be extended to the Bailiwick at a later date.

The Island Authorities replied that, whilst supportive of the Optional Protocol, they do not wish for it to be extended to the Bailiwick at present due to the significant resource consequences, practical difficulties and constitutional issues arising were there to be any formal extension.

The Island Authorities re-affirmed, however, that the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment extends to the Island. The Island Authorities also confirmed that if the U.N. Sub-Committee or its

members wished to visit the Island, they would be granted full access to places of detention in Jersey and that the Island Authorities would be pleased to invite the U.K. National body to make an inspection from time to time.

PART THREE:

MATTERS REFERRED TO IN EARLIER REPORTS – LATEST DEVELOPMENTS

1. Council of Europe Criminal Law Convention on Corruption (and GRECO)

Purpose: To pursue a common criminal policy aimed at the protection of society against corruption, including the adoption of appropriate legislation and preventative measures.

Action: The Island Authorities have been asked if they still wish to have the Convention extended to the Bailiwick and if so, to confirm to the Home Office that Island Legislation meets each article of the Criminal Law Convention, excluding those articles on which reservations may be made. The Island Authorities are currently considering the matter.

2. EUROCONTROL Convention

Purpose: Eurocontrol is the European Organisation for the Safety of Air Navigation. The European Commission is working closely together with Eurocontrol to achieve the objectives of the Single European Sky initiative. The development of the Community Single European Sky rules will thus benefit from the technical expertise of Eurocontrol. Much of the work related to developing drafts for implementing rules will also be delegated through a system of mandates to Eurocontrol.

Action: The Island Authorities have been asked again to consider whether they wish to be included in the U.K.'s ratification of the accession protocol for the European Community membership.

The Island Authorities have confirmed that they wish to be included in the U.K.'s ratification subject to certain conditions. The most important of these is that the inclusion of Jersey in the U.K.'s ratification is without prejudice to the terms of the Crown Dependencies' relationship with the E.U., as set out in Protocol 3 of the U.K.'s 1973 Treaty of Accession to the E.U.

The Island Authorities also requested assurance from the U.K. that, in accordance with the established convention that the U.K. represents Jersey's interests internationally, the U.K. would express the Island's view in Eurocontrol notwithstanding that it might be at variance with the Community position.

The U.K. has since given assurance that the status of Protocol 3 will not be affected and that it will include the communication of Jersey's view in Eurocontrol.

3. RAMSAR Convention on Wetlands of International Importance

Purpose: For the conservation and wise use of wetlands to achieve sustainable development throughout the world.

Action: The U.K. Overseas Territories Conservation Forum was contracted by DEFRA in December 2003 to undertake a review of existing and potential Ramsar sites in the U.K. Overseas Territories and Crown Dependencies.

The purpose of the Review was to assist in the U.K.'s implementation of the Convention's Strategic Framework, especially through identifying sites featuring interests currently

under-represented in the List of Wetlands of International Importance in the Overseas Territories and the Crown Dependencies.

The Island Authorities proposed 3 sites for Ramsar designation. These were: Les Pierres de Lecq, Les Minquiers and Les Écréhous & Les Dirouilles. The Department for Environment, Food and Rural Affairs wrote to confirm that they were satisfied that the sites meet the relevant criteria and that they therefore had asked the Ramsar Secretariat to add them to the list of Wetlands of International Importance on 2nd February 2005

4. **Convention on Long-Range Transboundary Air Pollution – Heavy Metal Protocol and Gothenburg Protocol**

Purpose: To control emissions of heavy metals caused by anthropogenic activities that are subject to long-range transboundary atmospheric transport and are likely to have significant adverse effects on health or the environment.

The Gothenburg Protocol deals with abatement of acidification, eutrophication and ground-level ozone.

Action: The Island Authorities were informed that the U.K. anticipated being in a position to ratify the Heavy Metal Protocol by the end of 2004 and were asked when they hoped to have the necessary measures in place to enable the extension of the Protocol to the Bailiwick.

The Island Authorities stated that there would be a number of regulatory and resource issues for the Island if the Protocols were to be ratified on the Island's behalf. They also recognised that the Island emissions would be relatively insignificant in the overall context of the world emissions and that there is no local manufacturing industry for the production of pig iron, steel, copper, lead or zinc; neither is there a metal foundry.

In view of the above, the Island Authorities replied that, while being supportive of the Protocol, they did not wish for the Protocol to be extended on the Island's behalf at present and that they would contact the Department for Constitutional Affairs when the matter could be reconsidered.

PART FOUR:

MATTERS WHERE A DECISION HAS BEEN MADE BY THE ISLAND AUTHORITIES – AWAITING LEGISLATION

1a. Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage 1992 (“Supplementary Fund Protocol”)

Purpose: To establish a fund which increases the compensation available to victims of oil pollution damage under existing international compensation regimes. Under the Protocol the amount payable to victims of oil pollution damage increases to a maximum of some £650 million.

1b. International Convention on Liability and Compensation for Damage in Connexion with the Carriage of Hazardous and Noxious Substances by Sea 1996 (“HNS Convention”)

Purpose: To ensure the availability of adequate, prompt and effective compensation for damage resulting from shipping incidents involving the carriage of hazardous and noxious substances.

1c. Protocol of 2002 to amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (“Athens Protocol”)

Purpose: The purpose of the Protocol is to amend the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea. It: will increase the limit of liability of the carrier for death and personal injury claims, will allow for states to determine the limit of liability providing it is higher than the Protocol, introduces compulsory insurance cover for any ship licensed to carry more than 12 passengers, and shifts the burden of liability.

1d. International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 (“Bunker Convention”)

Purpose: To rectify a lacuna in the current arrangements for compensation for oil pollution by providing for compensation and liability for pollution caused by discharge of a ship’s bunker fuel.

Action: The U.K. authorities, in June 2004, asked the Island Authorities for their view on the extension of the 4 instruments above, which the U.K. intended to ratify. Further to consultation with the relevant States’ Departments, the Island Authorities agreed that the Conventions and Protocols would be advantageous to Jersey and decided to advise the Department for Constitutional Affairs that, subject to the necessary legislation being in place, the Island Authorities would in due course be requesting extension of the instruments to Jersey.

PART FIVE:

CONFIRMATION OF RATIFICATION OF MATTERS REFERRED TO IN EARLIER REPORTS

Protocols 13 and 14 to the Convention for the Protection of Human Rights and Fundamental Freedoms

Protocol 13

Purpose: Protocol 13 abolishes the use of the death penalty in all circumstances, including for crime committed in times of war and under imminent threat of war. This goes further than Protocol 6 which abolishes the death penalty except in times of war.

Confirmation: The Department for Constitutional Affairs informed the Island Authorities that the United Kingdom ratification of Protocol 13 was extended to Jersey by means of a Note Verbale to the Secretary General of the Council of Europe on 13th April 2004, following the agreement of the Island Authorities.

Protocol 14

Purpose: Protocol 14 amends the control system of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Confirmation: The Department for Constitutional Affairs informed the Island Authorities that the United Kingdom signed Protocol 14 to the Convention on 13th July 2004 and that it proposes to ratify shortly. The U.K. declaration included the Crown Dependencies and the Protocol will enter into force upon ratification by all forty-five member states.