

STATES OF JERSEY



INTERNATIONAL CONVENTIONS AND AGREEMENTS: PROGRESS REPORT FOR PERIOD 1ST OCTOBER 2007 TO 30TH SEPTEMBER 2008

**Presented to the States on 20th January 2009
by the Chief Minister**

STATES GREFFE

**INTERNATIONAL CONVENTIONS AND AGREEMENTS:
Progress report for period 1st October 2007 to 30th September 2008**

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REPORT

INTERNATIONAL CONVENTIONS AND AGREEMENTS: Progress report for period 1st October 2007 to 30th September 2008

This report contains a list of international treaties, conventions and agreements that have been referred formally to the Government of Jersey during the period of 1st October 2007 to 30th September 2008.

PART ONE:

REPORTS SUBMITTED ON INTERNATIONAL TREATIES, CONVENTIONS AND AGREEMENTS

1.1 International Labour Organisation – Article 22 Reports

Jersey is included in the ratification of a number of Conventions under the auspices of the International Labour Organisation (ILO). Each year, the United Kingdom is required under Article 22 of the ILC Constitution to submit reports on the application of various ratified Conventions, some of which have been extended to Jersey.

This year, at the request of the ILO, the Government of Jersey has provided reports on the following conventions:

Article 22 Reports

Employment and Labour Conventions

- 1. Freedom of Association and Protection of the Right to Organise, 1948 (No. 87)**
- 2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)**
- 3. Paid Educational Leave Convention, 1974 (No. 140)**

PART TWO:

NEW MATTERS REFERRED TO THE GOVERNMENT OF JERSEY

2.1 United Nations Convention on the Rights of Persons with Disabilities

Purpose

The purpose of the UN Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all disabled people, and to promote respect for their dignity on an equal basis with all other people. The rights set out in the Convention derive in particular from the International Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights, and from the Conventions on the Rights of the Child and on the Elimination of All Forms of Discrimination against Women.

Action

The United Kingdom has signed the United Nations Convention on the Rights of Disabled People in respect of the metropolitan UK, and is preparing to ratify the Convention by the end of 2008. Jersey has been asked to consider whether they wish the Convention to be extended to the Island.

The Government of Jersey has indicated that it will examine the legislative and administrative implications of the Convention and inform the UK whether or not they wish it to be extended to the Island.

2.2 Council of Europe Convention on Action Against Trafficking in Human Beings

Purpose

The Convention is a comprehensive treaty mainly focussed on the protection of victims of trafficking and the safeguard of their rights. It also aims at preventing trafficking as well as prosecuting traffickers.

It applies to all forms of trafficking; whether national or transnational, whether or not related to organised crime. It applies whoever the victim: women, men or children and whatever the form of exploitation: sexual exploitation, forced labour or services, etc.

The Convention provides for the setting up of an independent monitoring mechanism guaranteeing parties' compliance with its provisions.

Action

The UK government has advised of its intention to implement legislative and administrative measures to give effect to the Convention and asked whether the government of Jersey wished to have the Convention extended to the Island at the same time as UK ratification.

The government of Jersey has indicated that it is giving the matter consideration and would wish to know what measures the UK proposes to introduce. A further response would be provided when a decision is reached.

2.3 New Council of Europe Convention on the Adoption of Children

Purpose

In May 2008 the Council of Europe adopted a new Convention on the Adoption of Children, which is designed to update the 1967 Convention in the light of social and economic developments in the last 40 years.

Action

The UK government intends to sign the Convention at an early stage. The Government of Jersey is currently considering, when the UK comes to the ratification stage, whether such ratification should extend to Jersey.

2.4 UK – US Air Services Agreement

Purpose

In March 2008 the UK-US Air Services Agreement (“Bermuda II”) was replaced by the EU-US Air Transport Agreement. Consequently, consideration has been given to new arrangements that might apply to the Crown Dependencies and Overseas Territories.

The proposed document would provide a legal framework for international air services, including fair competition, safety, security and business matters, for example between Jersey and US operators.

Action

The Government of Jersey is currently reviewing the possible benefits of any agreement and considering whether it should be extended to include Jersey.

PART THREE:

MATTERS REFERRED TO IN EARLIER REPORTS – LATEST DEVELOPMENTS

3.1 Second Additional Protocol to the European Convention on Extradition

Purpose

The Second Additional Protocol to the European Convention on Extradition was opened to signature by the member States of the Council on 17th March 1978.

The Protocol contains provisions on a number of different topics. They relate to: the extension of accessory extradition to offences carrying only a pecuniary sanction; the extension of the Convention to fiscal offences; judgments in absentia; amnesty; and the communication of requests for extradition.

Developments

Whilst the Government of Jersey had indicated, in principle, that it would wish to have ratification of the Second Additional Protocol extended to the Island, it was clear that the relevant legislation was not yet in place.

Accordingly, it was decided that extension could not proceed at present and that the Government of Jersey would inform the UK when it was considered appropriate.

3.2 UNESCO World Heritage Convention

Purpose

The Convention concerning the Protection of the World Cultural and Natural Heritage was adopted by the General Conference of UNESCO in 1972, and is founded on the premise that certain places on Earth are of “outstanding universal value” and as such should form part of the common heritage of humankind.

Developments

The United Kingdom Government has carried out a consultation regarding the UNESCO World Heritage Convention, which was extended to Jersey in 1996.

The Government of Jersey informed the UK that they were currently reviewing the Island’s interests in the subject.

3.3 Multilateral Investment Guarantee Agency Convention

Purpose

The Convention establishes the Multilateral Investment Guarantee Agency (MIGA). It is part of the World Bank and is intended to encourage and facilitate foreign direct investment into developing countries.

Developments

Records indicate that in 1998, and on previous occasions, the Island Authorities indicated their in principle intention to have the MIGA convention extended to Jersey. However, it appears that the final text of the Convention was not received for consideration by the Island Authorities. In order to give effect to obligations under the Convention, certain legislation would be required.

The Government of Jersey is currently reviewing the position and considering whether or not the relevant legislation should be enacted to enable extension of this Convention.

PART FOUR:

MATTERS WHERE A DECISION REGARDING A CONVENTION HAS BEEN MADE BY THE GOVERNMENT OF JERSEY

4.1 International Convention on Civil Liability for Bunker Oil Pollution Damage

Purpose

The Bunkers Convention establishes strict liability on the ship-owner for preventive measures and pollution damage arising from all types of oil used in ships and requires all registered owners of vessels over 1,000 gross tonnage to maintain insurance, certified by State Party to the Convention.

The Convention also introduces a provision that entitles claimants to claim directly from the owner's insurer or enter into litigation proceedings against both the owner and or insurer.

Decision

The Government of Jersey agreed in principle that it wishes the Convention to be extended to Jersey and that the necessary legislative measures should be given effect under the Shipping (Jersey) Law 2002. However, the legislation is not yet in place to give effect to the obligations, and the government of Jersey will inform the United Kingdom when it is in a position to request extension.

4.2 Corruption Conventions:

- (a) UN Convention Against Corruption**
- (b) OECD Convention on Combating Bribery of Foreign Public Officials in International Transactions**
- (c) Council of Europe Criminal Law Convention on Corruption**

Purposes

- (a)** The United Nations Convention Against Corruption (UNCAC) is the first legally binding, international anti-corruption instrument. The Convention gives the global community the opportunity to begin establishing an effective set of benchmarks for effective anti-corruption strategies. The Global Programme against Corruption (GPAC) is a catalyst and a resource to help countries effectively implement the provision of the UN Convention.
- (b)** The purpose of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions is to require Parties to the Convention to criminalize bribery of foreign public officials in order to obtain or retain business or other improper advantage in the conduct of international business.
- (c)** The Criminal Law Convention on Corruption addresses the measures to be taken by the Council of Europe's member states at the national level, which includes fighting against bribery, money laundering and account offences. The Convention also organizes the monitoring of implementation and the modalities of international cooperation in the area for matters related to corruption within the Council of Europe area.

Decision

The Government of Jersey had previously indicated to the United Kingdom, in February 2006, that they would be willing to consider extension of the UN Convention Against Corruption to Jersey once the

necessary legislation was in place. Consideration was also given to the provisions of the Corruption (Jersey) Law 2006 to ensure that it would implement the requirements of the OECD Convention on Bribery and the Council of Europe Convention on Corruption. Amendments were introduced by the Corruption (Amendment to Definitions) (Jersey) Regulations 2007 to achieve this, and administrative measures were subsequently reviewed as required.

On 3rd December 2007 the Government of Jersey confirmed that the necessary legislation and administrative measures to give effect to these 3 conventions had been implemented, in particular the Corruption (Jersey) Law 2006, as amended.

Accordingly, the Government requested that ratification of these three Conventions should be extended to Jersey at the earliest opportunity.

4.3 UN Convention Against Transnational Organised Crime

- **Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children**
- **Protocol Against the Smuggling of Migrants by Land, Sea or Air**

Purpose

The UN Convention against Transnational Organized Crime (UNCATOC – Palermo 2000) is the main international instrument in the fight against transnational organized crime. The Convention is further supplemented by three Protocols, which target specific areas and manifestations of organized crime: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; the Protocol against the Smuggling of Migrants by Land, Sea and Air; and the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition.

The Convention represents a major step forward in the fight against transnational organized crime and signifies the recognition by Member States of the seriousness of the problems, as well as the need to foster and enhance close international cooperation in order to tackle those problems.

Decision

The Government of Jersey informed the United Kingdom on 2nd July 2008 that it had implemented the necessary legislative measures, including the Crime (Transnational Organised Crime)(Jersey) Law 2008, and administrative actions to implement the Convention and its first two Protocols.

Accordingly, the Government of Jersey requested that ratification of the Convention should be extended to the Island, with certain declarations, at the earliest opportunity.

4.4 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds of Crime

Purpose

One of the purposes of this Convention is to facilitate international co-operation as regards investigative assistance, search, seizure and confiscation of the proceeds from all types of criminality, especially serious crimes, and in particular drug offences, arms dealing, terrorist offences, trafficking in children and young women and other offences which generate large profits.

Another main purpose of the new Convention is to complement other instruments, drawn up within the

framework of the Council of Europe.

The Convention seeks to provide a complete set of rules, covering all the stages of the procedure from the first investigations to the imposition and enforcement of confiscation sentences and to allow for flexible but effective mechanisms of international co-operation to the widest extent possible in order to deprive criminals of the instruments and fruits of their illegal activities.

States give each other assistance in order to secure evidence about instrumentalities and proceeds. States are also called upon to co-operate, even without a request, when they learn about events in relation to criminal activity which might be of interest to another State.

Decision

The Government of Jersey requested the United Kingdom government on 22nd May 2008 to seek extension of the Convention to Jersey, with certain reservations and declarations. The request confirmed that the relevant legislative provisions, namely the Proceeds of Crime (Jersey) Law 1999 and the Criminal Justice (International Co-operation) (Jersey) Law 2001, supported extension of the Convention.

4.5 International Convention for the Suppression of Terrorist Bombings

Purpose

The Convention expands the existing legal framework for international cooperation in the investigation, prosecution, and extradition of persons who engage in terrorist activities by establishing a regime of universal jurisdiction to punish the crime of terrorist bombings.

It provides a uniform mechanism for ensuring a consistent global application of the penalization of the offences set out in the Convention. Each State party must adopt such measures as necessary to establish the offences as a criminal offence under its domestic law punishable by appropriate penalties that take into account the grave nature of the offences.

Decision

The Government of Jersey confirmed on 22nd May 2008 that its legislation enables it to meet the obligations of the Convention and accordingly requested the ratification should be extended to Jersey at the earliest opportunity.

4.6 Tax information exchange agreements

Purpose

In 2002 the States of Jersey entered into a political commitment to comply with the OECD's principles on transparency and information exchange on tax matters through the negotiation of tax information exchange agreements (TIEAs) with OECD member states.

Decisions

TIEA with the Kingdom of the Netherlands

On 29th January 2008 the States made the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008.

These Regulations give legal effect in Jersey to the agreement between the Jersey and the Kingdom of the Netherlands signed in the Hague on 20th June 2007, and which following completion of domestic ratification procedures by each Party, came into force on 1st March 2008.

TIEA with the Federal Republic of Germany

On 4th July 2008 in Berlin, Jersey and the Federal Republic of Germany signed an agreement for the Exchange of Information Relating to Tax Matters. The agreement comprises 3 components:

- a tax information exchange agreement;
- an agreement on co-operation in tax matters and the avoidance of double taxation; and
- a Political Declaration.

The Agreements with Germany do not come into force until both of the Parties concerned have completed their own domestic ratification procedures.

PART FIVE:

CONFIRMATION OF RATIFICATION OF MATTERS REFERRED TO IN EARLIER REPORTS

5.1 UN Convention on the Suppression of the Financing of Terrorism

Purpose

The International Convention for the Suppression of the Financing of Terrorism requires each state party to criminalize the funding of terrorist activities under its domestic law and to identify, detect, and seize or freeze funds used or allocated for terrorist purposes.

States parties are also required to prosecute or extradite individuals suspected of unlawful and wilful involvement, direct or indirect, in the financing of terrorism and to cooperate with other states parties in the investigation and/or prosecution of such suspects. In addition, states parties must ensure that their domestic laws require financial institutions to implement measures that identify, impede, and prevent the flow of terrorist funds.

Action

The United Kingdom Government confirmed that extension of the Convention to Jersey had taken effect from 24th September 2008.

5.2 Council of Europe Convention on Mutual Assistance in Criminal Matters and Additional Protocol

Purpose

The purpose of the Convention is to adopt common rules in the field of mutual assistance in criminal matters, and the purpose of the additional protocol is to extend mutual assistance to include criminal matters involving tax or other fiscal offences. The United Kingdom ratified the European Convention on Mutual Assistance in Criminal Matters, 1959, ('the Convention') and the Additional Protocol, 1978, on 29 August 1991.

Action

Since implementation of the Criminal Justice (International Co-operation) (Jersey) Law 2001, Jersey is in a position to fulfil the terms of the Convention. Jersey currently adopts the practice of mutual co-operation in criminal matters, and extension of the Convention is a demonstration of Jersey's commitment in this regard.

The United Kingdom Government confirmed that extension of the Convention and the Additional Protocol had taken effect from 2nd October 2008 (subject to notifications from Italy and Spain).