# **STATES OF JERSEY**



## RATIFICATION OF THE AGREEMENT BETWEEN THE GOVERNMENT OF JERSEY AND THE GOVERNMENT OF THE REPUBLIC OF CHILE FOR THE EXCHANGE OF INFORMATION ON TAX MATTERS

Lodged au Greffe on 30th August 2016 by the Minister for External Relations

**STATES GREFFE** 

## PROPOSITION

## THE STATES are asked to decide whether they are of opinion -

to ratify the Agreement between the Government of Jersey and the Government of the Republic of Chile for the Exchange of Information on Tax Matters, signed by the Minister for External Relations on 26th July 2016.

MINISTER FOR EXTERNAL RELATIONS

#### REPORT

### Background

- 1. In February 2002, Jersey entered into a political commitment to support the OECD tax initiative on transparency and information exchange through the negotiation of Tax Information Exchange Agreements ("TIEAs") to an agreed international standard.
- 2. In September 2009, the Global Forum on Transparency and Information Exchange for Tax Purposes, a body of which some 116 jurisdictions are now members, agreed a peer review process to assess compliance with the international standard. To oversee this process, a Peer Review Group was set up, chaired by France, with 4 vice-chairs from India, Japan, Jersey and Singapore.
- 3. Successive G20 summits have encouraged jurisdictions to make progress in agreeing, implementing and abiding by the necessary TIEAs. In response, Jersey has maintained an active programme of negotiating Agreements with EU, OECD and G20 member jurisdictions. This has served to enhance the Island's international personality, and generally has helped to engender a more favourable view of the Island amongst the international community.
- 4. There are occasions when an approach is made to or received from a jurisdiction that is not an EU, OECD or G20 member, expressing a wish to enter into the negotiation of a TIEA. In accordance with the terms of reference of the peer review process set by the Global Forum, jurisdictions are required to enter into a TIEA with any jurisdiction that considers itself to be a relevant partner. The views of the finance industry, on the extent to which a TIEA with the jurisdiction concerned would be supportive of business development, are also taken into account when deciding what degree of priority to attach to the negotiations.
- 5. The international tax information exchange standard can be met through either a Tax Information Exchange Agreement (TIEA) or a Double Taxation Agreement or Convention ("DTA" or "DTC"). The latest position in respect of the programme of negotiating Tax Agreements is attached as **Appendix 2** to this report. A total of 39 TIEAs and 12 DTAs have now been signed, of which 34 TIEAs and 8 DTAs are in force. Almost without exception, the delay in bringing Agreements into force is due to the length of time taken by the other parties to the Agreements to complete their domestic procedures for the ratification of the Agreements.
- 6. Jersey is party to the Peer Review process of assessment of compliance with the international standards, and has been assessed as largely compliant, a rating common to the U.K., the U.S.A., and Germany, amongst others.

### The Agreement with the Republic of Chile

7. The TIEA entered into with the Republic of Chile ("the Agreement") is a continuation of the ongoing programme of entering into Tax Agreements to the international standard set by the OECD. The signed Agreement is attached as **Appendix 1** to this report.

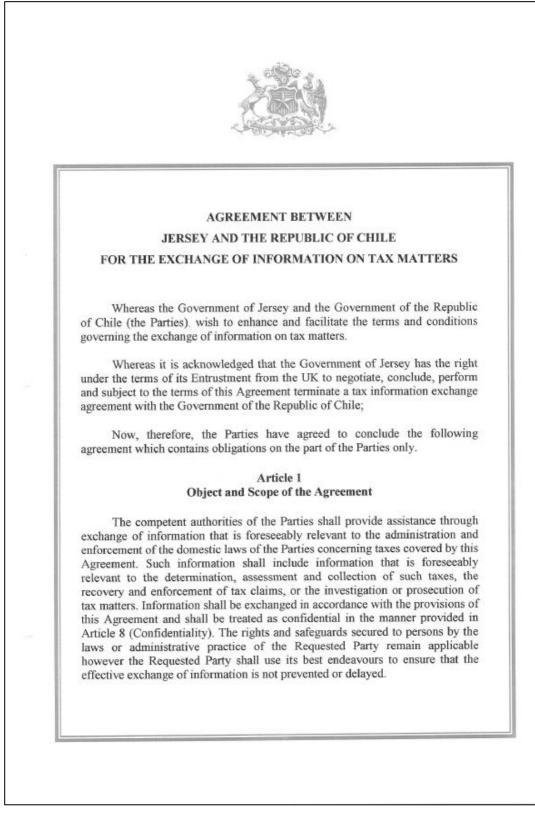
- 8. The Agreement is in line with the OECD Model TIEA, and provides for information exchange on request to the agreed international standard. It is consistent with such Agreements signed previously with other jurisdictions, and which the States have ratified.
- 9. The Republic of Chile is a member of the OECD. In October 2016, the Republic of Chile will also join Jersey as a party to the OECD Convention on Mutual Administrative Assistance in Tax Matters. Both are members of the OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes. Both Jersey and Chile secured "Largely Compliant" ratings when last reviewed by the Global Forum. The signing of the TIEA with the Republic of Chile continues Jersey's firm and longstanding commitment to the international standards of transparency and information exchange. The signing of the Agreement is also to be welcomed as evidence of the strengthening political and business relationship between Jersey and the Republic of Chile.

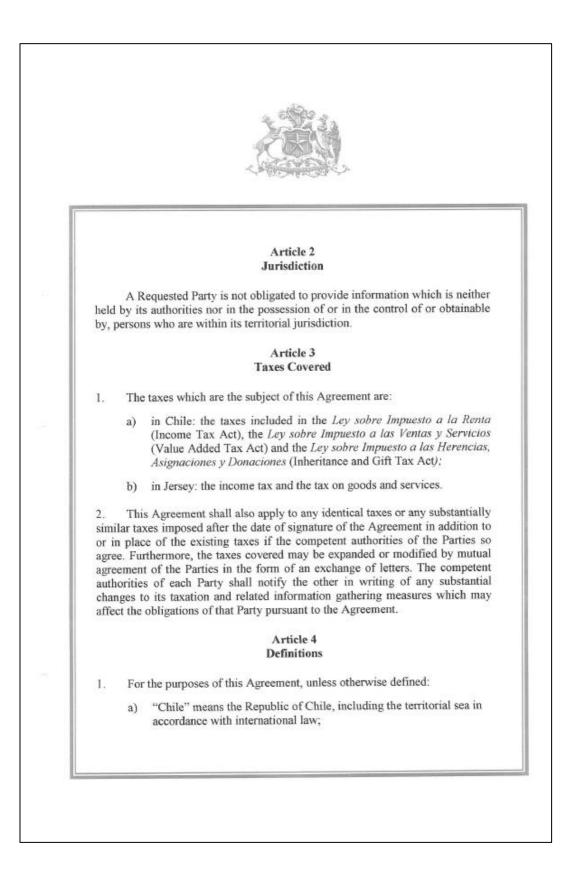
### Procedure for signing and ratifying the Convention

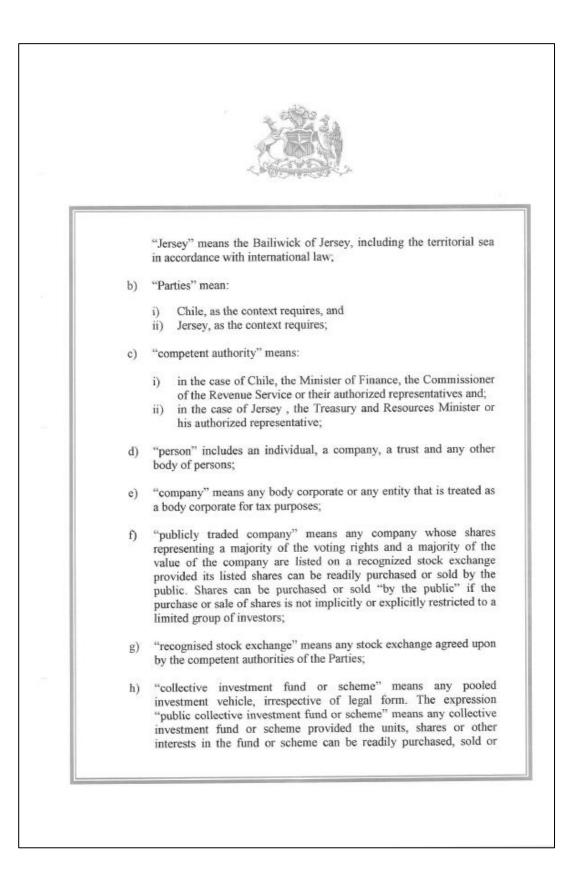
- 10. The Agreement was signed for the Chilean Government in Santiago, Chile, on 24th July 2016; and on behalf of the Government of Jersey was signed in St. Helier, Jersey, on 26th July 2016 by the Minister for External Relations, in accordance with the provisions of Article 18(2) of the States of Jersey Law 2005 and paragraph 1.8.5 of the Strategic Plan 2006 2011 (adopted by the States on 28th June 2006). The Council of Ministers has authorised the Chief Minister, in concurrence with the Minister for External Relations, to sign Tax Agreements on behalf of the Government of Jersey.
- 11. The Agreement is now being presented to the States for ratification, following which it will be published and entered into the official record. The Agreement will enter into force when the domestic procedures of both parties have been completed.
- 12. The States, on 29th January 2008, adopted the Taxation (Exchange of Information with Third Countries) (Jersey) Regulations 2008. The Schedule to these Regulations lists the third countries, and includes the taxes covered by the Agreements being entered into. As further Agreements are entered into, the Regulations are amended to include in the Schedule the jurisdiction and the taxes concerned. The necessary Regulations to provide for the inclusion in the Schedule of the Agreement with the Republic of Chile and the relevant taxes will be brought to the States for adoption following the ratification of the Agreement.

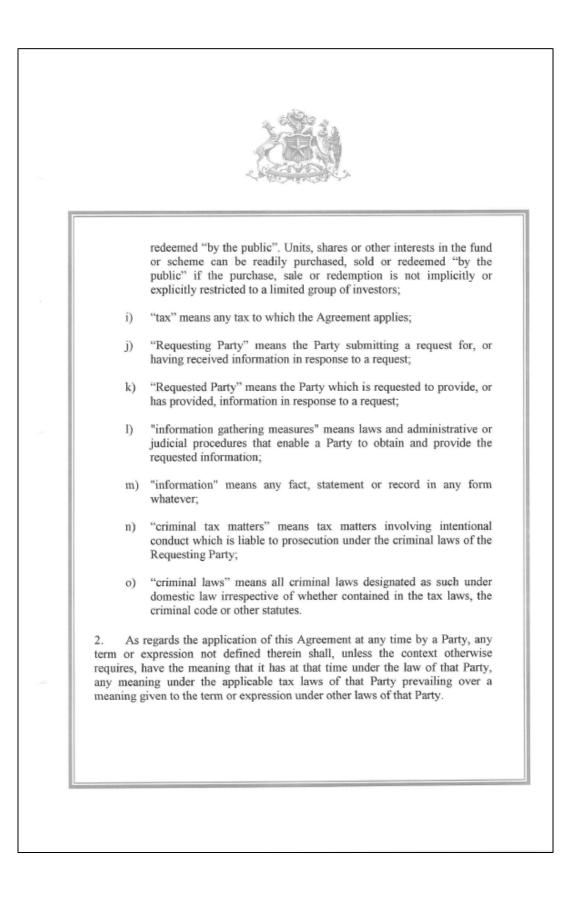
#### **Financial and manpower implications**

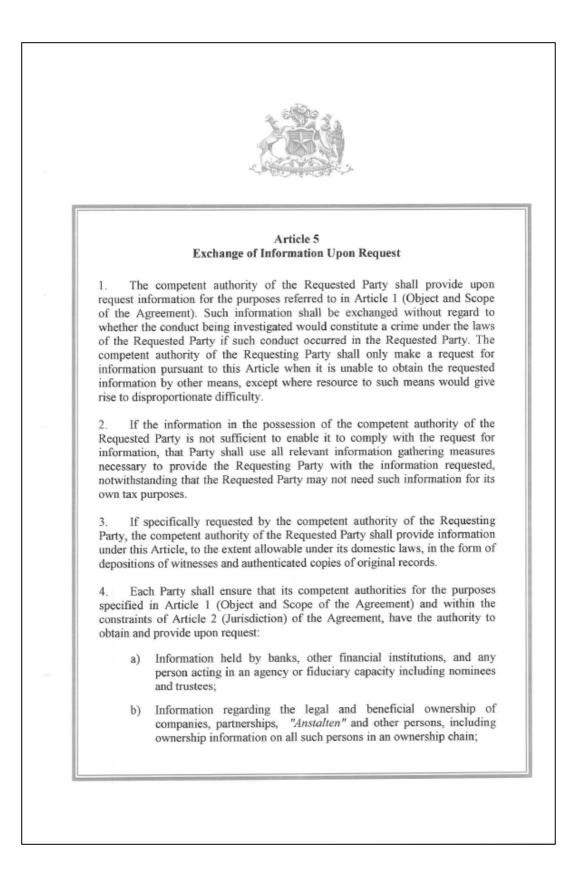
13. There are no implications expected for the financial or manpower resources of the States arising from the ratification and implementation of the Agreement.



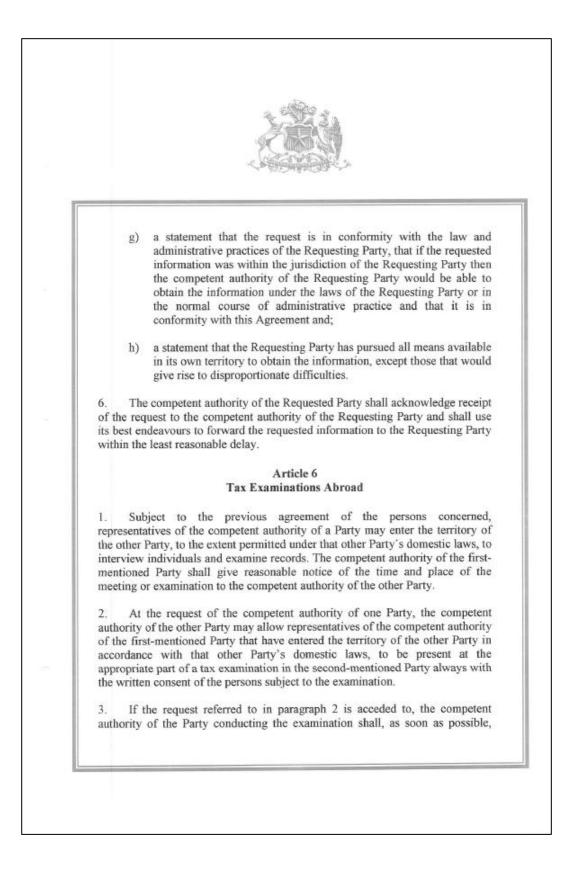




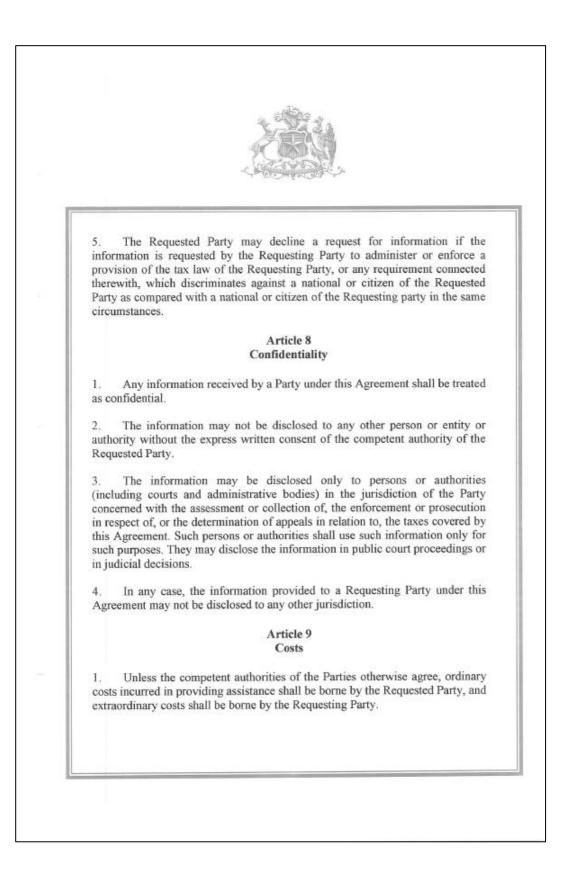


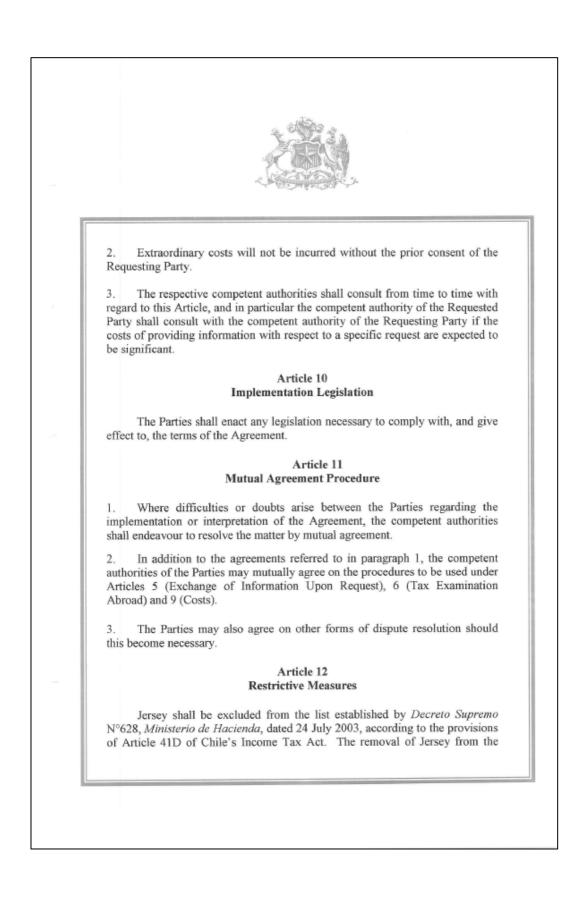


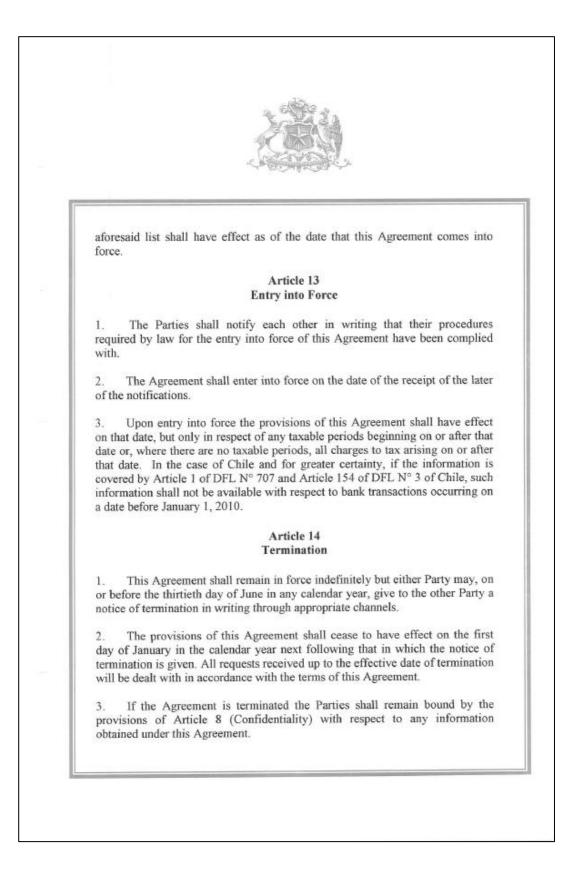
c)	In the case of trusts, information on settlors, trustees, protectors and beneficiaries;					
d)						
e)	In the case of collective investment funds or schemes, information on shares, units and other interests.					
an obliga respect to schemes	twithstanding the preceding paragraphs, this Agreement does not create tion on either Party to obtain or provide ownership information with publicly traded companies or public collective investment funds or unless such information can be obtained without giving rise to tionate difficulties.					
the follow when mal	e competent authority of the Requesting Party shall provide in writing wing information to the competent authority of the Requested Party king a request for information under the Agreement to demonstrate the le relevance of the information to the request:					
a)	the identity of the person under examination or investigation;					
b)	the period for which the information is requested;					
c)	the nature of the information requested and the form in which the Requesting Party would prefer to receive it;					
d)	the tax purpose for which the information is sought;					
e)	the grounds for believing that the information requested is held in the Requested Party or is in the possession of or in the control of or obtainable by a person within the jurisdiction of the Requested Party;					
f)	to the extent known, the name and address of any person believed to be in the possession of or in the control of or able to obtain the requested information;					



	notify the competent authority of the other Party about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the first-mentioned Party for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the Party conducting the examination.				
	4. For the purposes of this Article the term "domestic laws" refers to laws or instruments governing entry into, or exit from, the territories of the Parties.				
	Article 7 Possibility of Declining a Request				
	1. The competent authority of the Requested party may decline to assist:				
	a) where the request is not made in conformity with this Agreement;				
	<li>b) where the Requesting Party has not pursued all means available in its own territory to obtain the information, except where recourse to such means would give rise to disproportionate difficulties or;</li>				
	<ul> <li>where the disclosure of the information requested would be contrary to the public policy (Ordre Public) of the Requested Party.</li> </ul>				
	2. This Agreement shall not impose upon a Party the obligation to provide items subject to legal privilege or which would disclose any trade, business, industrial, commercial or professional secret or trade process, provided that information described in Article 5, paragraph 4 shall not by reason of that fact alone be treated as such a secret or trade process.				
	3. A request for information shall not be refused on the ground that the tax claim giving rise to the request is disputed.				
	4. The Requested Party shall not be required to obtain and provide information which, if the requested information was within the jurisdiction of the Requesting Party, the competent authority of the Requesting Party would not be able to obtain under its laws or in the normal course of administrative practice.				
L					







In witness whereof, the undersigned, being duly authorized thereto, have signed the Agreement. DONE in duplicate, in Santiago, Chile, 24, JUNE, 2016, and in Saint Helier, Jersey, on **21** June, 2016, in the Spanish and English language, both texts being equally authentic, FOR JERSEY Phing Brinks FOR THE REPUBLIC OF CHILE N

## **STATES OF JERSEY**

## A. TAX INFORMATION EXCHANGE AGREEMENTS (TIEAs)

## **1.** TIEAs signed (Note: dates in brackets are current best estimates)

U.S.A.         Nov. 2002         May 2006         Nov. 2002         23rd May 2006           Netherlands         June 2007         Feb. 2008         Dec. 2007         1st March 2008           Germany         July 2008         January 2009         July 2009         28th August 2009           Sweden         October 2008         March 2009         Nov. 2009         23rd Dec. 2009           Norway         October 2008         March 2009         October 2009         3rd Dec. 2009           Finland         October 2008         March 2009         Dec. 2008         3rd August 2009           Denmark         October 2008         March 2009         March 2009         6th June 2009           Greenland         October 2008         March 2009         March 2009         21st August 2009           VLK.         March 2009         July 2009         Nov. 2009         21st August 2009           VLK.         March 2009         July 2010         11th Nov. 2009         7th Nov. 2009           France         March 2009         July 2010         5th January 2010         April 2010         5th May 2010           Australia         June 2009         Nov. 2009         Sep. 2010         27th Nov. 2011         Portugal         July 2010         Sep. 2011         April 201			Ratified by	Ratified by	
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Spain         Nov. 2015         (2nd half 2016)         (2nd half 2016)         (2nd half 2016)					
	Chile	July 2016	(October 2016)	(2nd half 2016)	(2nd half 2016)

- 2. TIEAs where negotiations are well advanced with a draft Agreement exchanged:
  - Bulgaria
  - Kenya
  - Lithuania
  - Slovakia
- Note: Bulgaria, Lithuania and Slovakia have signed and entered into force the Multilateral Convention on Mutual Administrative Assistance in Tax Matters. Kenya is a signatory to the Convention and it should enter into force shortly. As the Convention provides for the equivalent exchange of information on request with immediate effect, it is expected that all the jurisdictions mentioned will rely on the Convention and will not proceed further with the negotiation of a TIEA.
- **3.** Jurisdiction approached but on which no further action has been taken to date:
  - Russia

### **B. DOUBLE TAXATION AGREEMENTS (DTAs)**<sup>1</sup>

#### 1. DTAs signed:

- Malta signed January 2010 ratified by Malta February 2010 ratified by Jersey June 2010 in force – 19th July 2010
- Estonia signed December 2010 ratified by Jersey March 2011 ratified by Estonia December 2011 in force – 30th December 2011
- Hong Kong China signed February 2012 ratified by Jersey May 2012 ratified by Hong Kong June 2013 in force – July 2013

<sup>&</sup>lt;sup>1</sup> The DTAs listed are those that are to the standard of the OECD Model Convention. In addition, there is a DTA with the United Kingdom, entered into in 1952, and a number of partial DTAs, details of which can be found on the Taxes Office website – <u>http://www.gov.je/TaxesMoney/InternationalTaxAgreements/DoubleTaxation/Pages/PartialD</u> <u>oubleTaxation.aspx</u>

- Qatar signed March 2012 ratified by Jersey May 2012 ratified by Qatar November 2012 in force – 22nd November 2012
- Singapore signed October 2012 ratified by Jersey January 2013 ratified by Singapore May 2013 in force – 2nd May 2013
- Guernsey signed January 2013 ratified by Jersey June 2013 ratified by Guernsey May 2013 in force – 9th July 2013
- Isle of Man signed January 2013 ratified by Jersey June 2013 ratified by the Isle of Man May 2013 in force – 10th July 2013
- Luxembourg signed April 2013 ratified by Jersey July 2013 ratified by Luxembourg July 2014 in force – 5th August 2014
  - Rwanda signed June 2015 ratified by Jersey October 2015 ratified by Rwanda April 2016
- Seychelles signed July 2015 ratified by Jersey October 2015
- United Arab Emirates Signed April 2016
- Cyprus Signed July 2016

## 2. DTAs ready for signing:

• Mauritius

# **3.** Jurisdictions where DTA negotiations have been requested/initiated/draft Agreements have been exchanged:

- Bahrain
- Botswana
- Ghana
- Lesotho
- Liechtenstein
- Malawi
- Nigeria
- Saudi Arabia
- Swaziland
- Uganda
- Zambia
- 4. Jurisdictions with whom Jersey does not have a bilateral TIEA or DTA, but who are party (i.e. have signed and entered into force) to the OECD/ Council of Europe Multilateral Convention on Mutual Administrative Assistance in Tax Matters, which provides for exchange of information on request on the same basis as the bilateral TIEAs:
  - Albania
  - Azerbaijan
  - Belize
  - Cameroon
  - Colombia
  - Costa Rica
  - Croatia
  - Cyprus
  - Georgia
  - Ghana
  - Greece
  - Kazakhstan
  - Lithuania
  - Mauritius
  - Moldova
  - Nigeria
  - Russia
  - San Marino
  - Saudi Arabia
  - Slovak Republic
  - Tunisia
  - Uganda (01-09-2016)
  - Ukraine

Jersey became a party to the Convention on 1st June 2014. Some jurisdictions with whom TIEA negotiations have been engaged may decide not to progress the latter and rely on the Multilateral Convention.

# 5. Jurisdictions with whom Jersey has signed a TIEA or DTA who are also party to the Multilateral Convention (i.e. it is signed and in force):

- Argentina
- Australia
- Austria
- Belgium
- Brazil (01-10-2016)
- Canada
- China (PR)
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Hungary
- Iceland
- India
- Indonesia
- Ireland
- Italy
- Republic of Korea
- Japan
- Latvia
- Luxembourg
- Malta
- Mexico
- Netherlands
- New Zealand
- Norway
- Poland
- Portugal
- Romania
- Seychelles
- Singapore
- Slovenia
- South Africa
- Spain
- Sweden
- United Kingdom

#### Enquiries concerning the above should be directed in the first instance to: Adviser – International Affairs Chief Minister's Department [tel. 44(0)1534 440414; e-mail: <u>c.powell@gov.je</u>]

Adviser – International Affairs

#### 18th July 2016