

**INTERNATIONAL CONVENTIONS AND AGREEMENTS: PROGRESS REPORT FOR THE PERIOD 1ST
OCTOBER 1998 TO 31ST MARCH 1999**

**Presented to the States on 8th June 1999
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

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REPORT

This report contains a list of international treaties, conventions and agreements that have been referred formally to the Insular Authorities during the six months from 1st October 1998 to 31st March 1999, and those from earlier reports on which discussion or consultation continues to take place.

International Labour Organisation

The Island is party to a number of Conventions under the auspices of the International Labour Organisation. A number of Conventions require reports to be submitted on a regular basis.

The following reports were requested during the six month period -

Article 19 Reports

Convention 144 and Recommendation 152 (Tripartite Consultation - International Labour Standards)

Part One - new matters referred to the insular authorities

1. Small Cetaceans of the Baltic and North Seas (ASCOBANS)

Purpose: The conservation of small cetaceans of the Baltic and North Seas

Action: The Insular Authorities have expressed their interest in having the Agreement extended to Jersey. The Insular Authorities have completed the drafting of the Conservation of Wildlife (Jersey) Law which, when in force, will enable the extension of the Agreement to be undertaken.

2. Geneva Conventions (Amendment) Act 1995

Purpose: An Act to make provision for the amendment of the Geneva Conventions Act 1957 to enable effect to be given to the Protocols additional to the Geneva Conventions of 1949 done at Geneva on 10th June 1977; and for connected purposes.

Action: The Home Office Legal Advisers Branch in consultation with H.M. Attorney General have prepared a draft Geneva Conventions Act (Jersey) Order 1999, to extend certain provisions of the Geneva Conventions (Amendment) Act 1995 to the Island which will enable ratification of the 1977 Protocols on behalf of the Island.

3. OECD Convention on the Combating of Bribery of Foreign Public Officials in International Business Transactions

Purpose: To stop bribery of foreign public officials.

Action: The Insular Authorities have asked for the United Kingdom's ratification of the Convention to be extended to the Island. To implement the Convention, however, it will be necessary for legislation to be enacted and the Insular Authorities are taking the necessary steps to include this in the legislation programme.

4. Council of Europe Framework Convention for Protection of National Minorities

Purpose: The protection of national minorities and of the rights and freedoms of persons belonging to those minorities.

Action: The Insular Authorities have asked for the United Kingdom's ratification of the Convention to be extended to the Island.

5. European Community Regulation No 1901/98 Concerning Ban on Flights of Yugoslavia Carriers

Purpose: To ban flights of Yugoslav carriers between the Federal Republic of Yugoslavia and the European Community.

Action: The Insular Authorities intend to enact Regulations pursuant to Article 2 of the European Communities (Implementation) (Jersey) Law 1996 to give effect to the European Community Regulation.

6. Investment Promotion and Protection Agreements (IPPAs)

(i) Purpose: To create favourable conditions for greater investment of one Contracting Party in the area of the other.

Action: The Insular Authorities have reiterated their wish to have such agreements extended to the Island.

(ii) Purpose: To have an Agreement between the United Kingdom and the Government of the People's Republic of China extended to Jersey.

Action: The Insular Authorities have asked whether the Agreement had now been extended, given that in October 1996 the United Kingdom had stated that no Agreement was to be extended to the Channel Islands prior to the hand-over of Hong Kong to the People's Republic of China.

7. Protocols to the 1979 Convention on Long-Range Transboundary Air Pollution: (i) Heavy Metals, and (ii) Persistent Organic Pollutants

- Purpose:* (i) 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 human health or the environment.
- (ii) To control, reduce or eliminate discharges, emissions and losses of persistent organic pollutants.

Action: The Insular Authorities are committed to meeting international standards in those areas that come within the scope of the 1979 Convention. However, the Insular Authorities are aware that the Protocols on Heavy Metals and the Persistent Organic Pollutants will have a significant impact on environmental management within the Island. Consequently, consideration of the resource implications will be required before the Insular Authorities will be in a position to decide whether to formally request the extension of the United Kingdom ratification of the two Protocols.

8. 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 Insular Authorities are currently compiling information in the format required by the United Kingdom Department of the Environment, Transport and the Regions/Ramsar Bureau. This information will be presented to a meeting of a Ramsar Steering Group in April, to review the scientific evidence available against the established Ramsar criteria, and to make a firm recommendation to the Planning and Environment Committee. The Insular Authorities expect to be in a position to confirm the designation of the Ramsar site in June.

Part Two - those matters referred to in earlier reports where there has been no action since the previous reports

1. Note: Correction to previous reports

There was an error in previous reports concerning the Bern Convention and the Habitats Directive. The Habitats Directive is the European Union legislation to implement the Bern Convention. The correct title is the Bern Convention on the Conservation of European Wildlife and National Habitats. Its aims include, inter alia, the conservation of wild fauna and flora.

The Habitats Directive is not directly applicable to Jersey but the proposed Conservation of Wildlife (Jersey) Law will fulfil its requirements at the same time as meeting the requirements of the Bern Convention.

2. United Nations Convention on Independent Guarantees and Standby Letters of Credit (UNCITRAL)

Purpose: To establish uniform rules on guarantees and to examine the desirability and feasibility of any future work towards a uniform law.

Action: This matter remains under consideration.

3. United Nations Convention on Pyschotropic Substances

Purpose: To monitor trade between the European Community and third countries in substances frequently used for the illicit manufacture of narcotic drugs and psychotropic substances for the purpose of preventing the diversion of such substances.

Action: A response is awaited to the view of the Insular Authorities that the Misuse of Drugs (Jersey) Law, as amended, is sufficient to permit ratification of the Convention to be extended to the Island.

4. European Community Distance Selling Directive

Purpose: To approximate European Union Member States laws on contracts between suppliers and consumers for goods and services solicited and concluded at a distance as part of a sales or service provision scheme which do not involve the seller and consumer coming into face to face contact. Designed to perfect the internal market for goods and services.

Action: Discussions are continuing with the Law Officers Department on the application of the Directive to the Island.

5. Energy Charter Treaty

Purpose: To liberalise energy markets across Europe and the former Soviet Union and to promote investment in the energy sectors of the new democracies in Eastern Europe and the Republics of the former Soviet Union.

Action: The Insular Authorities do not consider that local legislation is required to give effect to the Supplementary Treaty, but if this should be necessary it can be done by Regulations under Article 2(2) of the European Communities Legislation (Implementation) (Jersey) Law 1996. Furthermore, the Insular Authorities are engaged in the drafting of legislation which will provide for intellectual property rights and enable the Island to be a party to the World Trade Organisation. If any commitment in a joint declaration on intellectual property rights is to be interpreted as a commitment to future action, rather than a statement of present ability, the Insular Authorities would be able to join in that commitment. Otherwise it would not be appropriate for a joint declaration to be made on behalf of Jersey.

It should be noted that the Insular Authorities have been informed that negotiations on the Supplementary Treaty have been stalled because of the withdrawal by the French Government from negotiations on the Multi-lateral Agreement on Investment.

6. Brazil Extradition Treaty

Purpose: To allow extradition to be established with Brazil.

Action: The Insular Authorities are of the view that the Brazil Treaty should not be extended until the 1989 Extradition Act has been modified in its application to the Island.

7. The Plant Protection Products Regulations 1995, The Plant Protection Products (Amendment) Regulations 1996. European Union Directive 91/414/EEC

Purpose: To provide the market with plant protection products.

Action: The Insular Authorities have indicated that they would be content for the United Kingdom Pesticides Safety Directorate to inspect plant protection products on behalf of Jersey applicants and in due course would amend the Pesticides (Jersey) Law 1991, to take account of this change.

8. United Nations Convention on the Rights of the Child and Juvenile Employment

Purpose: To promote human rights by extending special safeguards on care and protection of children.

Action: This matter remains under consideration by the Law Officers.

9. Agreement on Trade Related Aspects of Intellectual Property Rights - TRIPS Legislation

Purpose: To provide a modern system for the protection of international property rights at least matching the internationally accepted minimum levels laid down by the Agreement.

Action: The Insular Authorities are currently taking steps to enact legislation in the area of intellectual property which will be compatible with the Agreement on Trade Related Aspects of Property Rights (TRIPS). This will enable the World Trade Organisation Agreement to be extended to Jersey.

10. Draft United Kingdom Maritime Bill to address sub-standard and universal ships-oil pollution response. International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC)

Purpose: To respond to and co-operate in oil pollution incidents.

Action: The Insular Authorities are considering whether the Convention should be extended to Jersey and if it should be implemented by local legislation or by extension of United Kingdom legislation through Order in Council.

11. Sea Carriers Liability for Claims arising from the carriage by sea of Passengers and their luggage

Purpose: To ensure that adequate compensation is available to meet claims arising from the carriage by sea of passengers and their luggage.

Action: The Insular Authorities have made no comment on what is proposed but have asked that they be kept informed of any further developments.

12. European Community Regulation to set limits for Lead and Cadmium in Foodstuffs

Purpose: To set maximum limits for lead and cadmium in foodstuffs.

Action: The European Commission has proposed maximum limits for lead and cadmium in foodstuffs. The Insular Authorities have indicated that when firm proposals are agreed they would wish to see similar standards adopted in Jersey.

13. Customs Convention on the International Transport of Goods under Cover of the TIR Carnets 1975

Purpose: To standardise the conditions governing the international transport of goods under cover of the TIR convention.

Action: Amendments have been made to the TIR Convention which was extended to Jersey and these came into force on 17th February 1999.

Part Three - those matters referred to in earlier reports where there has been a decision since the previous report

1. United Nations Convention on Contracts for the International Sale of Goods

Purpose: The Convention, which was adopted by a diplomatic Conference in Vienna, April 1980, and came into force in January 1988, provides a uniform law for the international sale of goods. It enables the United Nations to play a more active role in reducing or removing legal obstacles to the flow of international trade.

Action: The Insular Authorities have completed a consultation process to ascertain whether it would be desirable for the Convention to be extended to Jersey. The Insular Authorities have concluded that a sufficient case cannot be made at this time for the extension of the United Kingdom's ratification of the Convention to be requested. However, the Insular Authorities will be keeping this matter under constant review.

2. Council of Europe Cultural Convention

Purpose: To achieve a bilateral cultural Convention between members of the Council as well as to pursue a policy of common action designed to safeguard and encourage the development of European culture. It covers the study of languages, history and civilisation which is common to all European States.

Action: The Insular Authorities have asked for extension of the United Kingdom's ratification. The United Kingdom has lodged a letter under the provisions of Article 10 of the European Cultural Convention with the Secretary General of the Council of Europe, to have the United Kingdom's ratification of the Convention extended to the Island. The Insular Authorities are awaiting notification of the date the Convention will take effect.

3. European Agreement on Reciprocal Arrangements for Orange Badge Holders

Purpose: To standardise disabled parking permits across the European Union.

Action: The Insular Authorities informed Her Majesty's Government that the adoption of a new format for the parking badge for disabled people in Jersey, similar to that to be adopted in the European Community, has been approved in principle; and are to discuss an appropriate design for the badge, based on the European models with the Department of Environment, Transport and the Regions presently.

4. Locarno Agreement Establishing an International Classification for Industrial Designs

Purpose: The Agreement establishes a classification for industrial design.

Action: The Patent Office has indicated that should the Insular Authorities decide at any point in the future that the Paris Convention should be extended to Jersey, there may also be scope for the Locarno Agreement to be extended should the Insular Authorities so agree.

The Insular Authorities have advised that provision is being made for a Locarno Agreement classification to be added to the Registered Design (Jersey) Law 1957 when it is reviewed.

5. The Montreal Amendments of the Vienna Convention for the Protection of the Ozone Layer

Purpose: To extend trade controls to methylbromide prohibiting its trade with non-parties, to require that all parties have a licensing system in place for imports/exports of controlled substances, and to require Parties in non-compliance to ban exports of used, recycled and reclaimed controlled substances.

Action: The Insular Authorities have asked that the Island be included in the United Kingdom's ratification of the Montreal Amendment to the Vienna Convention for the protection of the environment.

6. Council of Europe Convention on Protection of Farm Animals

(European Community Directive 98/58 concerning the Protection of Animals for farming purposes.)

Purpose: To introduce general rules to protect animals kept for farming purposes.

Action: The Home Office Legal Adviser initially took the view that the European Community Directive was not applicable to Jersey. He has subsequently reversed his position, but the Insular Authorities remain convinced that the Directive is not applicable. Notwithstanding this difference of opinion, the Insular Authorities confirm that the new Animal Welfare Legislation being enacted will enable the Island to implement protections to at least the minimum requirements of both the European Convention for the Protection of Animals kept for Farming Purposes and the Directive.

7. European Community Directive concerning the Placing of Biocidal Products on the Market

Purpose: To control the authorisation and the placing on the market for the use of biocidal products within the member of States of the European Union.

Action: The Insular Authorities remain unconvinced that the proposed directive is applicable to the Bailiwick of Jersey. Notwithstanding this, it would appear that the objective of the Directive could in practice be met by prohibiting imports, bearing in mind that there is not, and never is likely to be, a producer of biocidal products in the Island. Any new producer could not become established without obtaining a consent under the legislation governing the establishment of any new undertaking in the Island.

Part Four - matters where a decision has been made by the insular authorities - extension awaited

1. United Nations Framework on Climate Change

Purpose: The monitoring of emissions of green house gasses.

Action: The Insular Authorities have indicated that they wish Jersey to be included in the United Kingdom's ratification of the Kyoto Protocol to the United Nations Convention on Climate Change. This Protocol sets targets for Europe to reduce its emission of the six main gases that cause climate change to eight per cent below 1990 levels to between 2008 to 2012.

2. UNESCO Unidroit Convention on Stolen or Illegally Exported Cultural Objects

Purpose: To curb illicit trade in cultural property in a way which achieves a proper balance between the interest of the legitimate trade in such property and the victims of illicit activity.

Action: The Insular Authorities are of the view that it would be in Jersey's best interests to be included in the United Kingdom's ratification of this convention. It is preferred however that Jersey waits until the United Kingdom has decided on the form of legislation it proposes to introduce, before making a final decision on the form of the domestic legislation in order to implement the Convention.

3. European Convention for the Protection of Animals for Slaughter

Purpose: To introduce general rules governing the movement, lairaging, restraint, stunning and slaughter of domestic solipeds, ruminants, pigs, rabbits and poultry with a view to harmonising these practices in Member States of the Council of Europe.

Action: The Insular Authorities have requested that Jersey be included in the United Kingdom's ratification of this Convention.

4. European Convention on the use of information technology for Customs purposes - (the Customs information System (CIS) Convention)

Purpose: To strengthen Customs co-operation between Member States to combat the increased the risk resulting from the completion of the Single Market and the abolition of routine Customs checks on goods and people crossing frontiers.

Action: The Insular Authorities have expressed the wish to be included in the United Kingdom's ratification of the Customs Information System Convention, which is the legal basis for intergovernmental information exchanges between Member States relating to Customs matters which are outside Community competence, such as illicit drug trafficking.

Part Five - matters where a decision has been made by the insular authorities - awaiting legislation

1. Convention on the Prohibition of the Development, Production, Stockpiling and use of chemical weapons - Chemical Weapons Act, 1996

Purpose: To achieve effective progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction.

Action: The Chemical Weapons Act 1996 was extended to Jersey by Order in Council on 21st December 1998. The Department of Trade and Industry have confirmed that the Open General Import Licence has now been extended to Jersey.

2. United Kingdom Trade Marks Act, 1994 and United Kingdom Trade Marks Act, 1998

Purpose: (i) The first Act introduced a number of new provision and in particular made provision for international trade marks and for Community Trade Mark System.

(ii) The second Act seeks to accommodate both Community and Madrid Protocol Trade Marks.

Action: The Law Draftsman has produced a first draft of a Law to make provisions for the recognition of trade marks arising out of the European Community and the Madrid Protocol in the new Trade Marks (Jersey) Law. This approach is consistent with the current dependent status of the Jersey registry, as well as with the Island's obligations to the European Community and to the United Kingdom with regard to the Madrid Protocol, and having regard also to the Island's special position constitutionally.

Part Six - matters resolved

1. Bonn Convention on Conservation of Migratory Species - New Agreement on the Conservation of African-Eurasian Migratory Waterbirds

Purpose: To protect particular species of migratory waterbirds which are under threat.

Action: The Foreign and Commonwealth Office confirmed that the Bailiwick of Jersey has been included in the ratification of the Agreement, done at London on 28th January 1999.