

**INTERNATIONAL CONVENTIONS AND AGREEMENTS: PROGRESS REPORT FOR THE PERIOD 1ST
APRIL 1999 TO 30TH SEPTEMBER 1999**

**Presented to the States on 2nd November 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 April 1999 to 30th September 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 22 Reports

- (1) Labour Inspection Convention, 1947 (No. 81)
- (2) Abolition of Forced Labour Convention, 1957 (No. 105)
- (3) Workmen's Compensation (Agriculture) Convention, 1921 (No. 12)
- (4) Workmen's Compensation (Occupational Diseases) Convention (Revised), 1934 (No. 42)
- (5) Workmen's Compensation (Accidents) Convention, 1925 (No. 17)
- (6) Right of Association (Agriculture) Convention, 1921 (No. 11)
- (7) Freedom of Association and the Right to Organise Convention, 1948 (No. 87)
- (8) Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- (9) Labour Statistics Convention, 1985 (No. 160)

International Covenant on Civil and Political Rights (ICCPR)

The Island is obliged to report periodically on various human rights instruments which have been extended to the Bailiwick. As such, every five years, the Insular Authorities are asked to report on measures adopted to give effect to the rights recognised in the ICCPR. In May 1999, the Fifth Report under the ICCPR was completed, and will be incorporated in the United Kingdom Fifth Periodic Report which is presented to the United Nations.

Once the United Kingdom Report is presented to the United Nations the Jersey Report will be published. The United Nations presentation is expected some time in October.

Part One - new matters referred to the insular authorities

1. Investment Promotion and Protection Agreements (IPPAs)

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 for: Nepal, Ecuador, Turkmenistan, Romania, Indonesia, Malta, Kazakhstan, Ecuador, Panama.

2. Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR)

Purpose: The Protocol provides that the death penalty may not be inflicted in a State which is a party to the Protocol.

Action: Given that the death penalty had been abolished under Jersey Law for all offences, the Insular Authorities were content for the ratification of the Protocol to extend to the Island.

3. Agreement on the Conservation of Bats in Europe (EUROBATS) - linked to the Bonn Convention on the Conservation of Migratory Species of Wild Animals

Purpose: To protect migratory species of wild animals (i.e. bats).

Action: The Conservation of Wildlife Jersey Law was adopted in 3rd reading on 20th July 1999, which will enable the EUROBATS Convention to be extended to the Island.

4. EC Regulation No. 1294/99

Purpose: A freeze of funds and a ban on investment in relation to the Federal Republic of Yugoslavia (FRY).

Action: Necessary steps have been taken to ensure that the measures adopted in the Regulation have been implemented in the Island.

5. Merchant Shipping (Ships Names) (Revocation) Regulations 1999

Purpose: To replace the Merchant Shipping (Ships' Names) Regulations 1979 with the 1999 Regulations.

Action: The Insular Authorities were content with most of the proposals but have asked for clarification on some of the changes from the DETR.

6. Bay of Granville Fishing Agreements

Purpose: To: define the maritime boundary between Jersey and France; provide for tighter conservation and management controls in the fisheries; extend the areas of exclusive access for Jersey fishermen to Jersey waters; and define and secure rights of access by Jersey fishermen.

Action: The Agreement had been approved by the Policy and Resources Committee and by the Agriculture and Fisheries Committee. It is the intention of those Committees to put the Agreement to the States for approval, but the Insular Authorities have been advised that this should not be done until formal French approval and United Kingdom ministerial approval to the Agreement is forthcoming.

7. EC Association Agreements with Jordan, Korea and Mexico

Purpose: Agreements established between the European Community and its Member States and a third country.

Action: The Insular Authorities agreed to be included in the United Kingdom's ratification of the Agreements. However, the Agreements apply to the Island only to the extent that the matters contained within the Agreement fall within the provisions of Protocol 3 of the Treaty of Accession of the United Kingdom to the European Community. For those aspects of the Agreement which relate to customs matters, current legislation is adequate to implement the Agreement.

8. The United Kingdom Export Control and Non-Proliferation Bill

Purpose: Designed to cover areas such as the export of "intangibles" (for example, electronically transmitted information) which were currently not covered by existing legislation.

Action: The Insular Authorities requested that a permissive extent clause be included in the Bill which would enable the Bill's provisions to be extended to the Bailiwick by Order in Council, should the Insular Authorities consider that the circumstances justified such a step in due course.

9. Privileges and Immunities (Diplomatic, Consular, etc.) (Jersey) Law 1998

(i) European Bank for Reconstruction and Development (Immunities and Privileges) (Jersey) Regulations 1999

(ii) Organisation for Economic Co-Operation and Development (Immunities and Privileges) (Jersey) Regulations 1999

Purpose: To make provision for certain privileges, immunities and facilities to be accorded to certain international organisations, and their representatives, to which organisations the Island is a party.

Action: Regulations to provide for both measures have been approved by the States, given effect under Article 12 of the Privileges and Immunities (Diplomatic, Consular etc.) (Jersey) Law 1998.

10. Convention on the Protection of the European Communities' Financial Interests

Purpose: To protect the European Communities' financial interests from fraud.

Action: As the Island is not a Member State of the European Union, receiving no benefit from, nor making

contributions to European Community funds or financial interests, the Convention has no relevance. As such, the Insular Authorities have indicated that they do not wish to have the United Kingdom's ratification of the Convention extended to the Island.

11. Conventions on corruption

(i) European Union Convention on the Fight Against Corruption Involving Officials of the European Communities or Officials of Member States of the European Union

(ii) Council of Europe Convention on Corruption ("the European Convention")

Purpose: To stop corruption of public officials.

Action: The Insular Authorities are currently reviewing what legislation will be needed to embrace these related Conventions. In this respect, they wish to ensure that the legislation would be consistent with the equivalent legislation in the United Kingdom.

12. United Kingdom/Australia Social Security Convention

Purpose: Exchange of Notes to amend the original Convention of social security reciprocity.

Action: The Insular Authorities confirmed that they were content for the signing of the Exchange Notes.

13. Council of Europe/UNESCO Convention on Recognition of Qualifications concerning Higher Education in the European Region

Purpose: To create wider recognition by different countries within the European Union to each other's higher education entry and exit qualifications.

Action: The Insular Authorities have asked to be included in the United Kingdom's ratification of the Convention.

14. International Telecommunications Union (ITU)

Purpose: To accept Amendments to the ITU Constitution and Convention that were adopted at the Plenipotentiary Conference in October/November 1998.

Action: The Insular Authorities have indicated that they wish to have the United Kingdom ratification of the instruments extended to the Island.

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

1. 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.

2. 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 rôle 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 an 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.

Note: The United Kingdom has not yet ratified the Convention.

3. 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.

4. EC 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 within the Law Officers' Department on the application of the Directive to the Island.

5. 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.

6. The Montreal Amendment 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.

7. Council of Europe Convention on Protection of Farm Animals
(EC 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 EC 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.

8. 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.

9. 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.

10. The Plant Protection Products Regulations 1995, The Plant Protection Products (Amendment) Regulations 1996. EU 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.

11. 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.

12. Draft United Kingdom Maritime Bill to address sub-standard and uninsured 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.

13. 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.

14. EC 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.

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

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 human health or the environment;

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.

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

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

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

Action: The Conservation of Wildlife (Jersey) Law was adopted in 3rd reading on 20th July 1999, which will enable the extension of the Agreement to be undertaken.

2. 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 are currently reviewing what legislation will be needed to embrace the Convention. In this respect, they wish to ensure that the legislation would be consistent with the equivalent legislation in the United Kingdom.

3. EC 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: Draft Community Provisions (Prohibition of Flights of Yugoslav Carriers) (Jersey) Regulations 1999 was lodged au Greffe on 11th May 1999, and approved by the States on 25th May 1999.

4. 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: A Note of Declaration from the Directorate of Legal Affairs of the Secretariat General of the Council of Europe confirmed the entry into force in respect of the Bailiwick of Jersey, as of 19th March 1999.

5. European Agreement on Reciprocal Arrangements for Orange Badge (Disabled) Holders

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

Action: The Insular Authorities reiterated to Her Majesty's Government that a new blue badge, in line with the European badge, was adopted in principle, and subject to the availability of law drafting resources, the scheme will be introduced from the year 2000.

6. 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 States of the European Union.

Action: The Insular Authorities were asked to consider a Health and Safety Executive Consultation Document for the proposals to implement the Directive in the United Kingdom. The Insular Authorities had no comment to make and stated that they have no further plans to enact similar legislation in Jersey.

7. United Nations Convention on Psychotropic 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: The Home Office Action Against Drugs Unit has confirmed that Jersey Drugs Legislation contains all necessary provisions to enable the United Kingdom's ratification of the Convention Arrangements to be extended to the Island.

8. RAMSAR - United Nations Convention on Wetlands of International Importance

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

Action: A report and proposition, together with supporting documentation, proposing designation of the Island's first RAMSAR site was lodged "au Greffe" on 28th September 1999 by the Planning and Environment Committee.

9. 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, but given the regular requests from the Home Office for information on progress made, the Policy and Resources Committee has asked the Education Committee and Law Officers' Department to bring the matter to a conclusion without further delay.

10. European Convention for the Protection of Vertebrate Animals used for Experimental and other Scientific Purposes

Purpose: The Convention establishes the scientific purposes and conditions in which experiments on protected animals may be authorised.

Actions: The Insular Authorities declined ratification of the Convention until the new Animal Welfare Law has been drafted. This Law will specify that relevant scientific procedures will be banned except when under special licence.

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 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 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.

5. International Coffee Agreement 1994

Purpose: An extension of the 1994 International Coffee Agreement which expired on 30th September 1999.

Action: The Insular Authorities confirmed their wish to have the United Kingdom's extension of the Agreement extended to the Island until 30th September 2001.

6. 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: A report was presented to the States on 11th May 1999, and the Insular Authorities await ratification of the Convention to be extended to the Island.

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

1. International Convention on Liability and Compensation for Damage in Connection with the Carriage by Sea of Hazardous and Noxious Substances 1996 Protocol (The HNS Convention)

Purpose: To provide for enhanced compensation and to establish a simplified procedure for updating the limitation of liability for Maritime Claims.

Action: The United Kingdom ratified the 1996 Protocol on 11th June 1999, and extension to the Island can only be accorded to the Insular Authorities when legislation is in place. The Insular Authorities envisage that the proposed Merchant Shipping (Jersey) Law, which will give effect to the 1996 Protocol in Jersey, will be presented to the States early next year.

2. Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

Purpose: To control the movement of hazardous wastes.

Action: Law drafting instructions are nearly complete for waste management legislation, which will enable the United Kingdom to ratify the Convention on the Island's behalf. Pending the enactment of this legislation, the Insular Authorities have agreed a Memorandum of Understanding with the United Kingdom Government to provide for the shipment of hazardous wastes between the Island and the United Kingdom.