

# Why hasn't Jersey signed a TIEA with India? Was it Jers...

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The following comes [from the blog of 'Tony, The Prof'](#) in Jersey, and seems highly pertinent, following in the wake of news that despite much prior trumpeting that it would happen Jersey failed to sign a tax information exchange agreement with India last week when an official delegation from the island was in the country.

The question really is - why did India send Jersey packing - because that's what seemed to have happened. Might it be that they saw through the charade of a tax information exchange agreement Jersey put on offer?

*The JEP reported [last week] that "TREASURY Minister Philip Ozouf today declined to comment on why the signing of an historic tax agreement with India had been called off. The signing of this tax information exchange agreement was due to be the centrepiece of the current trade mission to Mumbai and Delhi, **which has been months in the planning**. Senator Ozouf was expected to put his signature to it today, alongside the Indian Minister of State for Revenue SS Shri Palanimanickam at the Ministry of Finance, in the capital of the sub-continent. However, the ceremony was called off and the document is having to be redrafted, apparently because Indian officials were not happy with what it said." (1)*

It is clear from press released before this occurred that this was to be one of the planned highlights of the trip to India. Indeed, it is described in one report as the "culmination" of the trip, which is why no doubt Senator Ozouf went off on this trip rather than the Economic Development Minister, Alan Maclean. After all, when he was Economic Development Minister, it was Senator Ozouf rather than the Treasury Minister Terry le Sueur who jetted off to the Far East:

***A Jersey delegation consisting of States of Jersey Ministers, the Director-General of the Jersey Financial Services Commission and representatives of Jersey's finance industry arrived in India on 13th March for a five day visit designed to highlight and promote the new Jersey Finance representation in Mumbai and Delhi and which will culminate in the signing of the TIEA on 18th March. The signing of the TIEA is an important step in facilitating business flows between Jersey and India and demonstrates Jersey's commitment to***

operating within the highest international standards. The move will take the total number of similar agreements Jersey has signed to 21, including agreements with countries such as the USA, UK, France, Germany and China. (2) Jersey finance is playing this down as a "delay". Now I can't see how "refuse to sign" gets turned into "delay", but that's the new message coming from Geoff Cook, which contradicts the earlier "culmination", and puts the blame in the hands of back office officials. And didn't it "take months in the planning"?

***Jersey Finance, the body responsible for promoting Jersey's finance industry, has said that the delay in signing a Tax Information Exchange Agreement (TIEA) with India will not have an impact on business flows between Jersey and India or planned future growth. Responding to news of the delayed signing, Jersey Finance CEO, Geoff Cook, said: "TIEA's take a number of months to prepare and so it is understandable that on this occasion the formal signing could not be completed to coincide with our visit to India marking the introduction of permanent Jersey Finance representative in the country. We have every confidence that the agreement will soon be in place and when it is, the platform for growing business between Jersey and India will be strengthened further."***(3)

But there is a more obvious reason for this happening. India, according to the Economic Times of India, is looking for more teeth to the TIEAs. In 2010, this report was published:

***New Delhi is expected to present a detailed paper on the issue at the forthcoming Seoul meeting, urging that domestic laws of countries must support such agreements for effective information exchange. "These agreements should ensure that there is actual flow of information and benefits for countries entering them (agreements) in checking evasion," said a finance ministry official privy to the discussions. In some countries, for instance, domestic laws relating to privacy protection tend to come in the way of sharing information with other countries, defeating the very purpose of such pacts.***(4) And in February 19 2011 - this year, the same paper notes that:

***NEW DELHI: India will seek strong action by the Group of Twenty (G20) nations against tax havens as it feels any unilateral action can act as a deterrent against foreign investment. "Multilateral action is more effective," a finance ministry official said, ahead of the meeting of G20 finance ministers and central bankers in Paris. India also wants improvement in the quality of information that is shared under TIEAs to make such agreements more meaningful.*** India will urge the G20 to pressure tax havens into revealing more information on black money from India, the official added.

Prime Minister Manmohan Singh's government is under pressure to bring back illicit funds stashed abroad, but finds itself facing jurisdictions with which it has little leverage. A report by Washington-based think-tank Global Financial Integrity (GFI) puts such fund flows at about \$16 billion a year from 2002-2006. "Any form of curbs on a

country cannot work at unilateral level, as such an action can discourage foreign investments," the official said. India has already made a strong pitch for tax information exchange agreements (TIEAs) with greater teeth at the G20 to facilitate a meaningful exchange of information on fund flows and monies parked in such jurisdictions.(5) It is unclear exactly what this entails, but it is likely that it means more than signing to the standard clauses on TIEAs, which guard against any fishing expeditions. Interesting the recently signed agreement between India and the Bahamas has all the usual stuff, about needing the name of the individual, and what is being investigated, but also has this interesting Article 6 on Tax Examinations abroad, which might be the point at issue in the drafting and approval of the Jersey TIEA. It certainly seems to have more bite than just requests for information:

#### **Article 6: Tax Examinations Abroad**

**1. At the request of the competent authority of the requesting Party, the requested Party may allow representatives of the competent authority of the requesting Party to enter the territory of the requested Party, to the extent permitted under its domestic laws, to interview individuals and examine records with the prior written consent of the individuals or other persons concerned. The competent authority of the requesting Party shall notify the competent authority of the requested Party of the time and place of the intended meeting with the individuals concerned.**

**2. At the request of the competent authority of the requesting Party, the requested Party may allow representatives of the competent authority of the requesting Party to be present at the appropriate part of a tax examination in the requested Party, in which case the competent authority of the requested Party conducting the examination shall, as soon as possible, notify the competent authority of the requesting 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 requested 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. [6]**

#### **Links**

(1) <http://www.thisisjersey.com/2011/03/18/indian-officials-refuse-to-sign-tax-agreement/#ixzz1HAIW5Oqc>

(3) <http://www.ameinfo.com/259611.html>

(4) <http://www.jerseyfinance.je/News/Delay-to-TIEA-signing-with-India-will-not-affect-business-opportunities-say-Jersey-Finance/>

(6) <http://economictimes.indiatimes.com/news/economy/finance/India-likely-to-pitch-for-deeper-tax-information-exchange-at-G-20-meet/articleshow/6136834.cms>  
(8) <http://economictimes.indiatimes.com/articleshow/77525591.cms?prtpage=1>

[http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/MOF--Tax+Information+Exchange+Agreements--TIEA+attachments/\\$FILE/India%20Bahamas%20TIEA%2011%20February%202011.pdf](http://www.bahamas.gov.bs/bahamasweb2/home.nsf/vContentW/MOF--Tax+Information+Exchange+Agreements--TIEA+attachments/$FILE/India%20Bahamas%20TIEA%2011%20February%202011.pdf)

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