IBA Global Employment Institute

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Global Corporate Relocation Treaty Working Group

Meeting Date – 21 June 2013

List of Attendees

- Graeme Kirk – Solicitor, Gross & Co Solicitors
- Tsvi Kan-Tor – Advocate – Kan-Tor & Acco
- Matthew Lynch – Solicitor, PwC Legal
- Scott Borene – Attorney At Law, Borene Law Firm
- Nicolas Rollason – Solicitor, Kingsley Napley
- Jelle Kroes – Advocate, Kroes Advocaten
- Kathleen Van der Wilk-Carlton – Executive Director, Permits Foundation
- Nathalie Hellio – EALA Director People Mobility – Employee Tax and Immigration, Accenture
- Ray Rackham – Manager Compliance, Central Immigration and Control, HSBC
- Karen Fitzgerald – Head of International Assignments, RBS
- Baba Zipkin – Senior Counsel, IBM
- Shailesh Tewary – President, HRIDAI
- Yaara Alon – Conseiller Juridique, OECD

Strategy For Treaty

Graeme opened the meeting by asking for thoughts on the strategy for taking the Global Corporate Relocation Treaty forward.

A range of possible options were put forward and can be summarised as follows;

- It is necessary to determine the fundamentals of the Treaty and what the ultimate goal of the Group is.
- It was suggested that a logical starting point would be to understand what agreements are already operating in this sphere (for example, GATS, UN Convention on the Protection of the Rights for All Migrant Workers, EU Agreements) to determine whether the Global Corporate Relocation Treaty was filling a need and whether there were specific issues that the Treaty should concentrate on.
- The involvement of the OECD was discussed and it explained that the OECD could offer support in a number of ways, for example leading the project or offering "soft" support in understanding the key issues in implementing such a Treaty. There were questions from the group concerning the point at which an international organisation should become involved and the level of support that should be considered appropriate
- There was also debate on whether the Treaty should concentrate on key countries/regions such as the EU and USA as a starting point. Given the lengthy process a Treaty would take to implement, the issue of future-proofing the Treaty to accommodate emerging markets was also discussed.

Fundamental Aspects of the Treaty

The Group debated the issues that could and should be covered by the Treaty. The main concerns raised were;

- The extent to which the Treaty should compromise between achieving limited goals (for example concentrating on specific senior level employees based upon a minimum salary/position within a company) versus covering a wider range of issues that concern business at the risk of limited or zero adoption by individual states
- Specific issues that were raised as possible obstacles to adoption were
    - Including Business Visitors rather than restricting to Work Visas
    - Whether the Treaty should include the ability of family members to work within the host country based upon the transferred employees status
    - The extent to which "family member" should be defined, for example should it include unmarried/civil partners/same sex relationships. The general consensus was that national law & culture, rather than immigration law, would dictate the definition of what constitutes a family member and a definition of family member may limit the ability of the Treaty to be adopted

OECD Involvement

Yaara explained that the OECD would be interested in the principle of a Global Relocation Treaty and the topic could be raised with the relevant directorate.

Yaara explained that it the level of support available would be determined by the aims of the group. However, OECD involvement would have definite advantages in terms of the mechanics of a Treaty being adopted

Nick explained that from his past involvement with the OECD, this was certainly the most obvious international organisation to become involved and would be more suitable than the UN

Questionnaires

Two questionnaires have been developed in relation to the Treaty focussing on two specific areas;

- A questionnaire relating to the Treaty itself
- A questionnaire to determine what multi-national companies consider their key needs in terms of immigration

The questionnaires are currently in draft form and the views of the group would be appreciated, especially as to whether there are issues that have not been included.

Electronic Copies of the questionnaires have been attached – any feedback to be provided to Matthew Lynch at matthew.lynch@pwclegal.co.uk

Future Meetings

The GEI will be meeting again on 21 & 22 November for the GEI's London Immigration Conference and therefore another meeting of the working group could be arranged if individuals had continued interest in this matter

IBA meeting in Boston in October which a number of members of the working group will be attending and will be in a position to discuss work to date.