

2.4 Deputy J.M. Maçon of St. Saviour of the Chief Minister regarding the involvement of the Isle of Man in negotiations with the E.U:

Will the Chief Minister seek to bring in the Isle of Man when negotiating with the European Union, as has been done with Guernsey, and, if not, why not?

Senator T.A. Le Sueur (The Chief Minister):

Yes, I can confirm that both at Ministerial and officer level we are doing everything possible to work as close together with each of the Crown Dependencies on this matter. We do not negotiate directly with the E.U. (European Union). The United Kingdom is responsible for our interest at E.U. Code Group meetings. However, by talking to key E.U. Member States, we hope to gain a better understanding of their guiding principles while explaining to them our position.

2.4.1 Deputy T.M. Pitman of St. Helier:

With assurances of E.U. compliance and Zero/Ten strategy now revealed as little more than wishful thinking, would the Minister not concede that such a far tighter joint approach as Deputy Maçon recommends would have been highly beneficial?

Senator T.A. Le Sueur:

The basic premise of Deputy Pitman's question is debateable anyway but certainly in the proposal as far as arrangements for new corporate tax arrangements, commonly known as Zero/Ten, the 3 Islands did work together and have very similar arrangements. They are only a matter of detail but the basic principles of a zero rate and a 10 per cent rate were common to all 3 Islands.

2.4.2 Deputy G.P. Southern:

Will the Chief Minister explain to Members why on 6th July 2005 in a statement to the media the then President of the Finance and Economics Committee, a certain Senator Le Sueur, stated clearly: "My committee has ensured that its proposals comply with the E.U. code on business taxation", why did he make that statement back in 2005?

Senator T.A. Le Sueur:

The statement that was made was in respect of a comment by E.C.O.F.I.N. (The Council of Economics and Finance Ministers of the European Union) where it was stated that both the zero rate and the 10 per cent rate met the objectives commonly known as "rollback" of the harmful tax measures outlined in 2002. For that reason I was quite prepared to make that commitment.

2.4.3 Deputy G.P. Southern:

Is the Chief Minister prepared to come to the House with a letter clearly stating that from E.C.O.F.I.N., because I believe that never happened?

Senator T.A. Le Sueur:

E.C.O.F.I.N. does not issue letters like that; it is done in a different way but the statement was nonetheless clearly made.

2.4.4 Deputy P.V.F. Le Claire of St. Helier:

I know for certain on many occasions I asked whether or not this Zero/Ten issue was a compliance issue that had been approved, and the Chief Minister had confirmed to this Assembly that it was compliant as we move forwards into a new tax structure.

Having just stated this morning in his answer to the first question that we do not negotiate directly with the European Union, can he please outline for us now for our satisfaction how we can ensure that his information to us is watertight, where will it come from, so that we know that information that he is presenting to the States Assembly is guaranteed before we make any more changes to our tax structure?

Senator T.A. Le Sueur:

I do not think we can ever expect to get 100 per cent guarantees in the way that the Deputy and maybe other Members would like. What we can get is clear indications and those indications clearly showed at the time that the zero rate and the 10 per cent rate were acceptable methods of achieving what was commonly known as the need for rollback. But times have changed and we have to accept that as times change views change and Jersey has to be prepared to move with the times as well.

2.4.5 Deputy P.V.F. Le Claire:

I appreciate the answer that the Chief Minister gave me and I appreciate that times have changed. What I would like to know as an elected representative for this Island, and I am sure my colleagues in the States would also like to know, is when the message comes back that it is compliant or it is not compliant, who gives that message, how is it delivered and who is the final arbiter on these things? Is it the United Kingdom Government and if so, if we cannot negotiate with the European Union on our own, at what time does he envisage that we will be able to?

Senator T.A. Le Sueur:

The European Union works by consensus rather than any final arbitration. The United Kingdom represents our interests at such meetings and we get feedback from the meetings of the general sense of Member States. But feelings change from time to time; the feelings that we received from Member States at the time we brought in Zero/Ten was very favourable, it is now less favourable and we have to react to that changed situation.

2.4.6 Deputy R.G. Le Hérissier of St. Saviour:

Could the Chief Minister define in relation to E.C.O.F.I.N. what is meant “in a different way”?

Senator T.A. Le Sueur:

Sorry, I need a bit of explanation; in a different way with regards to what?

Deputy R.G. Le Hérissier:

The Chief Minister mentioned that E.C.O.F.I.N. does not write letters, it communicates in a different way. **[Laughter]**

Senator T.A. Le Sueur:

As I say, it is a consensual arrangement and it is the expressions of consensus which individual Member States pick up, and in our case it is the United Kingdom that picks them on our behalf that get transmitted back to us. So it is inevitably going to be a question of just interpreting people’s views rather than anything written down in hard and fast legislation. It makes life a bit more difficult for us, but in the normal course of events one can live with that as one has lived with it for years. In the present situation, I think given the different economic climate, some Member States are now

becoming a bit more concerned about certain aspects; primarily that of the need to move towards greater tax harmonisation.

2.4.7 Deputy R.G. Le Hérisier:

A supplementary, if I may. Is the Chief Minister saying that rather like the choice of a Pope he awaits the white smoke? **[Laughter]** How does he determine what message is coming from E.C.O.F.I.N.?

Senator T.A. Le Sueur:

White smoke has the advantage of giving a definite answer. This is, I am afraid, an ongoing situation where we are going to have to just react to changing market situations, do what is best for the Island at any particular time. What was best for the Island in 2006 was to move towards Zero/Ten. What would be best in 2016 is a different matter which we will have to resolve over the years to come.

2.4.8 Deputy M. Tadier:

I was going to ask the question to the Chief Minister whether he regrets not listening to the sceptical and informed voices which warned him before that this would not be compliant but I will not ask that; I suspect that may come later during question time. My question is simply to pick up on 2 things that the Chief Minister said in his response: firstly that we do not deal directly with the E.U., it is done through the U.K., and then slightly after that: the U.K. represents our interests. Can the Chief Minister inform the House whether the situation is changing, or it has changed, and whether we can still rely on the U.K. to represent our interests in Europe or will we have to fend for ourselves from now on?

Senator T.A. Le Sueur:

I believe that the United Kingdom would be very sympathetic to our needs and provided we demonstrate our continued compliance with international standards, obligations and best practice, they will continue to reflect those interests in negotiations they have on our behalf with the E.U.

2.4.9 Deputy M. Tadier:

I would simply say that that is not what is being reported and it sounds like we are getting mixed messages, and I believe it may have even come from the Chief Minister's own mouth, that we can no longer rely on the U.K. and that we are having to negotiate our own position from now on in the E.U. Can the Minister perhaps reconfirm?

Senator T.A. Le Sueur:

I think some Members may be looking for alliance in the same way as they look for legislation or words of comfort. The United Kingdom is inevitably in a difficult situation having to represent both our interests and those of its own country. To the extent that they can do that on our behalf, they will continue to do that to the best of their ability and I have confidence, having had discussions recently with the Financial Secretary to the Treasury, of their goodwill and co-operation, provided we equally maintain our good international standards and our commitment to move with the current economic climate.

The Bailiff:

The Deputy of St. John, then the Deputy of Grouville and a final question from Deputy Maçon.

2.4.10 The Deputy of St. John:

Given the Minister's answer regarding E.C.O.F.I.N., would the Minister agree that he did not read the U.K. messages correctly and this being the case, is it not time that the Minister started looking seriously at full independence for the Island?

Senator T.A. Le Sueur:

I did read the message fully and correctly. I do not believe it is time to consider independence; I believe it is a far different situation. What we have to do is to continue to be good international players, maintain up-to-date, modern, reputable standards and show the rest of the world that we are capable of delivering on those standards.

2.4.11 The Deputy of St. John:

Given the Minister mentions good standards, can it be right that we find ourselves in the position that we do today, given the Chief Minister, who was the Minister for Treasury and Resources of the day, and the agreements that he believes we had signed up to, to do with our tax arrangements, is it right that the Minister is not reading the messages correctly?

Senator T.A. Le Sueur:

When messages change you have to read the current message. The message has changed; I am reading the current message and I read the message back in 2006.

2.4.12 The Deputy of Grouville:

Would it be fair to say that Jersey has complied with the letter of the law but not the essence of the law?

Senator T.A. Le Sueur:

It is always easier to comply with something which is down in writing and certainly tax law over the years has been based on clarity on legislation and understanding so that all parties know their obligations. In a situation like this where nothing is written and one has to do it on the basis of understanding, it becomes far more difficult. Certainly, I am convinced, based on the wording coming out back in 2006, that we did comply with the letter of the law to the extent that there was a law; it was not a law, but we did comply with what was set out at that time. But what has changed, as I tried to indicate, is the spirit which is a far more difficult thing to understand, and certainly as a former tax practitioner, it is very difficult to deal with tax arrangements based simply on feelings which can change from year to year.

2.4.13 The Deputy of Grouville:

Can I ask a supplementary? What would the Minister say is the spirit of the law now?

Senator T.A. Le Sueur:

I think I understand the Deputy's question even though I am reminded there is no law. It is very difficult to understand the spirit, particularly when you are dealing at third hand. That is why I wanted to work more closely with key European countries so that I can get a better idea of their feelings now and in the future. We have to plan not only for what is right for us today but what may be emerging views in the years to

come. That is why I wanted to seek greater understanding with the E.U. countries recognising that we will not be able to deal with them directly.

The Bailiff:

A final question from Deputy Maçon.

2.4.14 Deputy J.M. Maçon:

While I welcome the move for all Crown Dependencies to work together, if we do not have the backing and support of the U.K., is any communication with the E.U. States futile? What efforts is the Chief Minister making to get the full backing of the United Kingdom?

Senator T.A. Le Sueur:

I repeat, I believe I have the full backing of the United Kingdom as demonstrated in the meetings I had last week at Her Majesty's Treasury. We will continue to do that and we, equally, will need to continue to demonstrate our resolve to meet good international standards, meet good international practice and comply with good standards of regulation. Those standards have been amply validated by external sources and we will need to continue to do that work for years to come.