



Economic Affairs Scrutiny Panel
Public Hearing with the Minister for Economic
Development

MONDAY, 9th SEPTEMBER 2013

Panel:

Deputy S.G. Luce of St. Martin (Chairman)
Connétable S.W. Pallett of St. Brelade
Connétable M.J. Paddock of St. Ouen

Witnesses:

Senator A.J.H. Maclean (Minister for Economic Development)
Chief Officer, Economic Development
Strategic Policy Manager, Economic Development

[14:38]

Deputy S.G. Luce of St. Martin (Chairman):

Good afternoon, everybody, and welcome to the Economic Affairs hearing on 9th September to discuss aircraft registry, ports incorporation and maybe just very briefly I would like to touch on the innovation fund, and maybe a couple of harbour related questions right at the end. If we could just start by introducing ourselves. My name is Deputy Steve Luce, the Chairman of the Economic Affairs Scrutiny Panel.

The Deputy of St. Martin:

Okay, thank you very much. Minister, the last time we met we discussed the aircraft registry and indeed we have discussed this on a number of occasions in the last 12 months and the last 2 official documents that we have in front of us now are a letter from yourself to Deputy Kevin Stewart, your counterpart in Guernsey, and a response from him on the 1st July, some 5 or 6 weeks ago now where it would appear that we were not as one with moving forward on one of the options and that Guernsey preferred one, the one that we did not an vice versa. Can you just update us, please, exactly how much more progress has been made since that time?

The Minister for Economic Development:

Yes, I can briefly. We have been over to Guernsey to meet, we thought it constructive to have a face-to-face discussion on this and a number of other areas that we are hoping to work more closely with Guernsey on. As a result of that meeting we have made some more progress in terms of agreeing the way in which the Island is going to work for a ships and aircraft registry, in particular an aircraft registry. Sorry, I keep saying ships, I have ships on the mind at the moment. I think we will be in a position to make a public statement before the end of this week to clarify exactly what has been agreed between the Islands.

The Deputy of St. Martin:

When we met back on 4th July for our last hearing, which was a quarterly one, and we spoke briefly about an aircraft registry, your strategic policy manager said that we had not done any work on the business case recently, are we starting to progress work on the business case on the basis that we need an updated one now that the situation is very different to what it was back in 2008?

The Minister for Economic Development:

Yes, we are. In fact a working group has been set up and established, particularly to look at the business case and also importantly the commercialisation of the opportunity. They have had an initial meeting and I am confident that it will add an important dimension to the development of the aircraft registry.

The Deputy of St. Martin:

Who is on that working party, please?

The Minister for Economic Development:

Do you want to just give a rundown on that?

Strategic Policy Manager, Economic Development:

It is being chaired by Deputy James Baker and the panel is made up of a number of representatives from industry, including both fiduciary and legal aspect. We have gentleman by the name of Mike Collett who is Chairman of Air Atlantique and he also sits on the port shadow board. We have Gordon Crawford who is a fairly new resident to the Island who has dealings with aircraft. Dave Capps from Capco Limited who has had some involvement in registering aircraft but also in registering ships. Simon Young from Bois Bois, he is one of the partners there. We have Mike King, Victoria Bell from the Law Officers Department and Rob Lever who is the G.S.T. (Goods and Services Tax) Director.

The Deputy of St. Martin:

Are we making progress with the tax officer over the various issues which may be coming in or out of aircraft registry, Minister?

The Minister for Economic Development:

I believe there is an understanding emerging to ensure that the commercial opportunity will not be lost. Mike, I think you have the latest.

Chief Officer, Economic Development:

Yes, we met with Rob Lever late last week on a different subject but we turned our attention at the end of that discussion to the aircraft registry and I think the commitment from the G.S.T. Director and indeed from the tax policy unit is that arrangements will be put in place to ensure that the differential that is created by G.S.T. is not a barrier to business being taken up. Exactly how they do that we are in the process of finalising but I have every confidence that will not be an issue, that G.S.T. is levied in Jersey but not, for instance, in Guernsey.

The Connétable of St. Brelade:

Have we had any progress on the Securities Interest legislation? That obviously is a very important part of this proposal.

Strategic Policy Manager, Economic Development:

Securities Interests relating to aircraft registration will be done separately to Securities Interests part 1, part 2, so it will be done within the actual legislation to do with aircraft specifically so it is not encompassing of the other bits because we do not want to take too long to do that. So it is in hand.

The Connétable of St. Brelade:

So it is in hand, with the Law Officers at the present time?

Strategic Policy Manager, Economic Development:

Yes.

The Deputy of St. Martin:

Is that still seen as our unique selling point or something that will set us apart from other jurisdictions?

Strategic Policy Manager, Economic Development:

No, when you set up a registry and registers a charges register is an important aspect. When we have looked at the business case beforehand one of the things we want to look at is, yes, the unique selling point for Jersey but to the money we did not see would be made directly from the register itself. The money would come from the fiduciary services and legal aspects for setting up those structures so to have a charges register is an important, hence the securities interest legislation.

The Deputy of St. Martin:

Sorry, maybe I misunderstood, I was referring specifically to factual ownership which I believe is something that is going to be slightly different and hopefully might make us ...

Strategic Policy Manager, Economic Development:

It is something which we looked at in the mix but it is something which has not been ruled out, it is something which we want to overcome. As long as the C.A.A. (Civil Aviation Authority) is happy with us going forward with factual ownership it should not be a problem.

The Minister for Economic Development:

I think it is a point worth making that first of all I think the group that has been set up to overview the business case and the commercialisation of an aircraft registry is particularly strong with good commercial private sector experience.

[14:45]

I think one of the key roles they are going to have is developing what the opportunities are to differentiate Jersey from competitors. There are a number of areas I think they are going to be focusing on and that will come out in due course. But clearly it is going to be a key remit of that group.

The Deputy of St. Martin:

Are we still talking with the SGI or are we now looking potentially at options which may take us away from them?

The Minister for Economic Development:

Well, SGI are the preferred operator at this stage. We will assume that is going to continue for the moment.

The Deputy of St. Martin:

Any more questions? On the basis that obviously once there is an official announcement it will be a lot easier for us to dive in, but I do not know if there is anything further would wish to add at this moment, Minister?

The Minister for Economic Development:

No, I do not think so. I would just re-emphasise that it is important from our perspective to reach a conclusion and to be able to be in a position where an aircraft registry can be established and then the business case and commercialisation can follow rapidly because it does offer a number of opportunities to the Island and I do not think we want to miss that in the future.

Chief Officer, Economic Development:

I think it is worth saying one other thing, Minister, and I think you have copies, Deputy, of the letter the Minister sent to his equivalent in Guernsey. That very clearly lays out what we think is optimum structure of the registry that will be both legally permissible and attractive to the market, which is why we have been very strong in our advocacy of that particular option as the way of taking it forward.

The Deputy of St. Martin:

Okay, I think it would be remiss of me not to stress a final point before we move on and that is when this panel were first constituted back 18 months ago we immediately picked up on aircraft registry and wondered why we had not moved faster, and we are still not there yet, another 18 months down the road. I can only urge you to move forward as quickly as you possibly can on this issue because we feel, like you do, that there is an opportunity here and the quicker we can get on it with the better as far as we are concerned.

The Minister for Economic Development:

I will just add to that. First of all, I thoroughly agree with the sentiments of what you just said but perhaps also comment that although it is very much in the Islands' interests to work closely together in a collaborative way when trying reach agreement on a pan-Island basis in whatever area, it does sometimes take longer than perhaps it should. We have seen that very recently in the agreement signed over an air ambulance, which I think took about 3 years to reach a conclusion. It did reach a conclusion eventually but that is a considerable period of time and sometimes there are some challenges in aligning the different political and legislative

arrangements between the Islands. It does not mean we should not do it but we have to find ways in which we can work closely together but quicker.

The Connétable of St. Brelade:

As it currently stands, in terms of personnel, the comment you made from the recommendations that would be no need for personnel to be permanently based over here, is that still the current position that we can expect under a pan Channel Island registry to have staff here?

The Minister for Economic Development:

No. Do you want to ...?

Strategic Policy Manager, Economic Development:

On the model that has been discussed, the idea that the actual registry is a pan-Island one and the actual registry itself will be based in Guernsey. The services of SGI there, what they are wanting to do is go with electronically as much as possible, so people get all the information off their website so there is not a need that we have to have a presence on the Island for their part anyway.

The Deputy of St. Martin:

On the offshoots of the aircraft registry was going to be the possibility of servicing and looking after aircraft on the island and I think we are aware that there is a proposal for a new freight shed at the airport. It might be a bit unfair to ask without Doug being here but does Mike, for instance, know how quickly we are moving on that? Are we close to starting to build the freight shed so we can move the existing freight operation and knock that one down and start rebuilding?

Chief Officer, Economic Development:

I think we have made significant progress. Allied to that, as you know, Deputy, is the provision of a second F.B.O. (Fixed Base Operation) facility. It is that facility particularly that will enable us to broaden our offering to the general aviation market, including those aircraft that are registered in Jersey. So that is progressing at pace.

The Connétable of St. Brelade:

I did ask at the 4th July meeting if the worst came to the worst and we did have to go our own separate ways, how far we were behind. The Minister's comment was he did not think we would be far behind or at a great disadvantage, do you think that will still be the case if the worst came to the worst? Well, if the worst came to the worst and we did not do it together, as it were.

The Minister for Economic Development:

Never wishing to be too negative at this point but I think we have always been aware that if indeed there was not a joint registry that we would be able to move fairly quickly and I would suspect

would be very close behind any Guernsey launch, if they were to go down that route. So I do not think necessarily there would be a disadvantage. I think it is almost a case that if one signalled an intent to do that the market would be well aware of what was happening so I do not think there would be any great commercial disadvantage necessarily if that were to be future outcome.

Chief Officer, Economic Development:

I think the point worth making is just that the underlying legislation to bring the registry into being is that would be exactly the same in a joint registry as it is in a separate registry. So that work has been progressed because, you know, if we go down the route of the joint registry we would be working to the timeframe of something before the end of the year, so it is not as if we stopped work on this.

The Connétable of St. Brelade:

So if it is not joint with Guernsey, is it not a start all over again, it is very much a lot of the work has been done?

The Minister for Economic Development:

Yes, we have had to, that is just the nature of the legislative arrangements. So that has been progressed any way.

The Deputy of St. Martin:

Is the new working party looking at a business case again?

The Minister for Economic Development:

Yes.

The Deputy of St. Martin:

Yes, okay.

Chief Officer, Economic Development:

It is looking to improve and make sure we capture all of it.

The Deputy of St. Martin:

Yes, absolutely.

Strategic Policy Manager, Economic Development:

Also to re-evaluate the figures that were put in the initial business case to see if the figures still stack up.

The Minister for Economic Development:

As you rightly pointed out, time has passed so it is necessary to re-evaluate some of that.

The Deputy of St. Martin:

Yes, the world is a different place. Okay, if there is nothing further we will move on to ports incorporation, which is something which is really fuzzy at the moment. Minister, in the last couple of months there has been a fundamental change in the approach to incorporation inasmuch as we were initially going to have it in the normal 2 sections with a phase 1 and a phase 2 and it now appears we are going to have phase 1 and 2 at the same time, some time in the second quarter of next year. Could you explain to us why we have had that fundamental change of approach?

The Minister for Economic Development:

Yes, I hope so. You are right we were going to first of all bring forward the primary legislation and then follow that when approved and through Privy Council with the regulations. A number of reasons, probably the top of the list would be the fact that there was a great deal of interest and sensitivity, I suppose I could describe it as, from many stakeholders including States Members about the detail of the incorporation and, of course, to do the primary legislation first it is not getting into the detail, it is merely establishing the legislation, the detail would follow in the regulations. We felt there was greater clarity in bringing it together so that the debate could be had with all the information available. I should perhaps add that I do recognise the difficulty and challenges that would present or does present from your perspective, a scrutiny point of view. In a sense it would have been easier to do the legislation first because you could have sensible bite sizes, and I think what I would like, if we can, is get to a position where we can seek to accommodate the challenge that you are faced with in having it all in one lump and probably later. We need to try and have some dialogue between ourselves and perhaps with officers as to how we can best accommodate what you need to do in terms of what you wish to scrutinise.

The Connétable of St. Brelade:

Do you think there is a difficulty, though, in that regard inasmuch as to get feedback from stakeholders they really need to know what the full picture is and what the end of the ... what the final proposal will be. Trying to do it piecemeal - I do not mean it in a derogatory way - doing it section by section or in part does not give everybody the full picture and will not allow them to really comment on what the final picture will be. I think there is an issue with scrutiny that we would be asking questions of people when they do not know what the final version will be.

The Minister for Economic Development:

That was our concern about bringing the primary law legislation first because of course you would be basically repeating what we have already done. We have had a debate on the principle, okay,

this is a step further because you are putting the legislative framework in place at the same time but you are again not ... if you remember that debating principle, it started to go down the channels of, well which properties are included, which is not, how are we going to deal with it and that is not in the primary legislation, it follows in the regulation. So we were trying to seek to deal with that, to provide everything in a package. The trouble is areas like the property are hugely complex and time-consuming in terms of putting them together, how you deal with the historic tenancy agreements and such like. Purely the conveyancing element is far from straightforward.

The Connétable of St. Brelade:

Just for the record, there are different work streams that are part of the incorporation process, could you explain a little bit about how these work streams are progressing and what they are set up to do, and what they are?

The Minister for Economic Development:

Well, that is a ... I do not know, Chris, whether you would be better placed to give the detail?

Strategic Policy Manager, Economic Development:

There are 9 work streams. It is almost like a bit jigsaw puzzle, various areas, it is to with staffing, it is to do with property, the assets and so on and basically they are all coming together for form part of the business case but working at different speeds. As the Minister has just said, one of the big areas of the actual assets, issues with long term tenancies, how you overcome that, what comes from the incorporation. As we saw when we did the tour of the courts, the issues of some of the assets from one side road compared to the other side of road, so there is a number of work streams. It is how those all are going to gel together at the end and when is the issue.

The Connétable of St. Brelade:

Currently what level of consultation with stakeholders have you built in to the process?

Chief Officer, Economic Development:

I think it is fair to say, just to reiterate what Chris has just said, the incorporation project as a whole is a massive project management exercise which has been undertaken as a single project management exercise with work streams underneath. On the specific subject of consultation, what we are seeking to do is, by bringing everything together, to be able to consult on the basis that the entire picture is painted rather than doing consultation in pieces. Because what you cannot do, and we found this very clearly, is you cannot disaggregate all the different work streams from one another and say: "This is about the people, this is about the assets, this is about the law." So it is bringing it altogether as a single package including, and I think this is something that Deputy Luce mentioned in his letter to the Minister, the business case. That has to be brought

together because you may change assumptions in the business case as a function of work that you do on the people or the assets, particularly assets and those that are transferred into the incorporated entity, and you run that out over the life of the business case and the financial model and it has quite significant impact. So it does need to be brought together. So people can see that complete picture and see what it is you are trying to do.

The Connétable of St. Brelade:

Just looking from a timetable point of view, the date of May 2014 has been looked at for a lodging period hoping to debate it before the start of the summer recess. I am concerned, and I think the panel are concerned, about what time that leaves to allow consultation to take place and us to review ... to be able to debate it in that period of time. If the consultation is not going to start until, and I could understand it would not start until the whole thing is in place because you need to understand the whole portfolio of what is going on, how that is going to fit in. Because obviously this is a bit piece of work as you have already said. It is going to be a big piece of work for scrutiny to try to get to the core of what you are trying to do. We are just a little concerned about timetable and whether we can ... for us I do not think it is a 3 or 4 week review. Just a little concerned as to how you see the time of it going.

The Minister for Economic Development:

I understand entirely what you are saying and that was why I made my opening remarks about trying to have some dialogue between ourselves and also with officers to see if we can find a way forward that would help to deal with some of the concerns that you have raised. I guess looking at it in reverse, just to confirm why we have decided to go down that package route for the reasons I have already stated, also if we do not do it this way round we will end up with a debate on just the legislation, so it will be an in principle debate and one would hope that would go through on the basis that the States have already overwhelmingly supported the principle. But it would mean that in this administration it would not be possible to get the regulations back to debate them so then you would go into another administration and I think in terms of certainty that is probably not an ideal scenario either.

[15:00]

The Connétable of St. Brelade:

Is there not a danger that this proposition could well end up being debated without full consultation and without the full scrutiny process taking place? That could undermine it to a degree where you are putting it at risk.

The Minister for Economic Development:

Yes, we cannot do it if we cannot accommodate and agree with you a reasonable and fair period for scrutiny and also the ability to consult effectively. That is why the internal discussions are ongoing with the law draftsmen and what have you as to the pace that we can reasonably expect to move at and when we can reasonably expect to give enough information to you for you to start your process. Also to factor in things like consultation which, you are absolutely right, need to be properly culminated in the acceptable timeframes, not curtailed timeframes just to meet our objective.

The Connétable of St. Brelade:

Can we just come back to consultation again, where if it is not going to be done prior, and I can understand why you would not do it prior to lodging date because we need to know exactly what we are going to look at, is where is the consultation period going to be? Are you trying to say it is going to be at the same time as scrutiny or are you saying scrutiny is going to do the consultation because that is ...

The Minister for Economic Development:

No, we are waiting for clarity from law officers on the timing, the law drafting and various other elements. We are hopeful that that will allow us enough time when that is completed that you will have a packaged which you can scrutinise. We will also have started, hopefully, the consultation process.

The Connétable of St. Brelade:

Obviously we have had the opportunity to meet some of the staff at ports in a very interesting tour and gave us a great insight into what they are trying to do. I did get the feeling it was a little bit disjointed between E.D. (Economic Development) and port as to what the focus is on ports and what they are trying to achieve and the timeframe they are trying to achieve it in. Obviously it is your department, how closely have you been speaking to those staff involved because I get the feeling that they do not totally understand the role of scrutiny within the process and that potentially leaves us in a difficult position.

The Minister for Economic Development:

Well, I would hope it is completely joined up. Chris sits within E.D.D. (Economic Development Department), there is a lot of dialogue between E.D.D. and the team in ports that are leading on the project from their side. The objectives are united. If there is a lack of understanding of process, if that is what you are saying ...

The Connétable of St. Brelade:

I think that is what I am getting at.

The Minister for Economic Development:

... I think it would largely depend on who you have spoken to and if it is around a particular project management function then there may need to be some clarity there. But from my point of view we are completely aligned, certainly at the senior level, senior officers and all the rest of it. But if there is anyone within the project management function that is not giving you that impression then we need to deal with that if that is not the case.

Strategic Policy Manager, Economic Development:

Can I just add to what the Minister is saying there? Everything now that is going to be coming to yourselves through the scrutiny officer is going to come through myself. There are 2 areas: one is the legislation which is an E.D. function which we are developing and then you have got the ports incorporation, the operational aspects which is being done through a key project manager and the idea that everything will be filtered through our office and will come to your officer and then through to you. We had a discussion last week and we are proposing that we will draw up a table of contents which will be the business case with target dates that we will share with you so you will be aware of the time for scrutinising various aspects. The other part is to do with, as I was talking about before, the actual jigsaw, how everything is going to fit together. So you have an idea of how things are supposed to be developed and where they will fit into the whole scheme of things. We also discussed and agreed it is the way forward, and again we will need to discuss with your scrutiny officer, the idea to give you an update on a month by month basis on how progress is being made. If there are parts within the business case that will be complete then we are happy to forward that on to you to scrutinise rather than having the final business case. So it will be part of the business case but it does not change depending on other areas.

The Deputy of St. Martin:

That unfortunately is the 64,000 dollar word, "change" and as much as we will do everything we can to try to keep this on track as regards timing our concern is that we review one section of these 9, and to be perfectly honest, as Mike says, this is an enormous undertaking, this incorporation, any one of these headings could involve quite a sizeable review on its own. So there is an enormous amount of work for us to do. We are keen to get going. Our concern is that we might, for example, review the staff arrangements and the movement of staff into the incorporated company and find that that is perfectly okay and we could issue papers and do everything right 3 months before we get to the point where we see the legislation. It may be that when to legislation or the business case or something right at the end there may be a slight change of tack which means that the staff arrangements that we have looked at might not be what

comes in the final document. I know that could possibly work but there is always this danger and it is only when we get to the final document we see everything sitting on the desk that we know that it is finalised that we can be really assured that we have done what we need to do.

Chief Officer, Economic Development:

Perhaps it is worth just saying 3 things. One is that within the project management process, within those work streams there are critical times when stuff is finalised, signed off by all parties and locked into the process. That then feeds into the business plan as something which is non-negotiable. I think where we want to work with you and scrutiny officers, I think this is critically important, is this balance between not bombarding you with every single piece of information of on the way up through the process but making sure that you have enough information to judge the progress and how these things are evolving such that when the final proposition and report is put together you have got the context to be able to make the review of the complete thing.

The Deputy of St. Martin:

You mentioned non-negotiable. Are you saying, for example, if we dealt with staff arrangements that you could see a point in, say, February, where the arrangements for the transfer of staff into the incorporated company would be complete and that transfer would be non-negotiable when it came to setting it into the final document?

Chief Officer, Economic Development:

Yes, all parties had agreed, that is the management staff and the unions had agreed to that, then I think that becomes something that is locked in as a fundamental part of the incorporation. Remember the principle of staff transfer was enshrined in the original proposition which got quite strong support, and that was that every employee would be transferred into the new incorporated body on the same terms and conditions. As long as, I think, that is preserved and you can assure yourselves, which you must be able to do, that that is the case that will then be restated in the final report and proposition but we will not be in a position to do that until we have agreed with all the 3 parties, but once that have agreed they have agreed. It is a formal agreement to that transfer.

The Deputy of St. Martin:

Do you think there is a danger that the unions, for example, would not want to agree that until they had seen the business case and the final document sitting on the table in May?

Chief Officer, Economic Development:

Well, it is rather chicken and egg because that forms a fundamental assumption. If, for instance, one were to vary the terms and conditions, which is not the intent because, as we said, that is ... then that would fundamentally change, or could fundamentally change the business case. It

certainly would fundamentally change the financial model as you run it out through 20-25 years. So I think you have to lock in as much as possible early on and then assume that the business case will fully reflect those commitments that have been made, which it has to.

The Deputy of St. Martin:

Yes, I understand that but while we are using this an example, I can see an instance where, for example, the unions may have an understanding of what is coming in the business case or what is coming in asset transfer and could sign up to the agreement, yes, same terms and conditions, all fine, moving ahead, get this section on staff arrangements finalised and then we get to the asset transfer and they say: "Hang on, that is not quite what we thought was going to happen" or: "That is not quite the way we envisage the business case" and they start backpedalling or somebody starts backpedalling and saying: "Well, we signed up 2 months ago on that one on the basis that this was going to happen and that is not happening now and we are confused and it all ..."

The Minister for Economic Development:

But the issue would be around terms and conditions for staff, their interest is obviously the future employment of their staff plus the terms under which they are employed.

The Deputy of St. Martin:

Yes, maybe the unions is a bad example. It just could be anybody on any of these subjects could be moving forward on a basis that they have a perception on how we are moving into incorporation and that a change in another one of these sections may be on the way the new company or the business, or something, comes along which they think: "Oh, that is not what I was expecting."

Chief Officer, Economic Development:

I think one of the things that we can perhaps develop together is - this is not the right word but I cannot think of it at the moment - a risk register as to where the points of potential variation are. I do not think there would be an issue around staff transfer.

The Deputy of St. Martin:

No, no.

Chief Officer, Economic Development:

I think they are more around the issues of an asset transfer and there is no way that you can create the new entity without the assets to back it and probably the area around regulation, for want of a better word, in its broadest sense and what regulatory powers still rest with the incorporated entity which is, although still 100 per cent States owned, not the same as government structures. So there are those areas that need to be worked on and finalised where probably the

sensitivities are in the highest risk, for want of a better word, of changes happening in the last 3 to 6 months of the project probably exist.

The Deputy of St. Martin:

Do you see Education, Sport and Culture coming forward and saying when it comes to asset transfer we would like to transfer some of the ports land into Education, Sport and Culture rather than transferring it into the incorporated body? Is that a realistic challenge for the future?

Chief Officer, Economic Development:

If they would like a skateboard park, Deputy, I am sure they could have it.

The Deputy of St. Martin:

I was not thinking of that, I was thinking of maybe certain areas that are used by my own parish around St. Catherine's breakwater, where, for example, the sailing club are at the moment in harbours land and they may feel they would sit more happily not in the incorporated harbours and maybe inside Education, Sport and Culture. There may be other parts of land which could move to ...

The Minister for Economic Development:

There are many examples like that of assets that the harbour would perhaps argue are not commercially viable from a commercial entities perspective, so Education, Sport and Culture it could be argued would provide more a social service or community service by providing those. Indeed, you would get into arguments or debates around the historical outlying harbours, of which from a ports perspective there is no commercial return, there is a liability indeed in terms of maintaining them and they could well sit more comfortably elsewhere. Somewhere like Jersey Heritage Trust. None of that has been progressed because the view has been the ports are the best place to manage these assets albeit as a public obligation on behalf of the public for the good of the Island. But they are a liability from a commercial perspective.

The Connétable of St. Brelade:

Could I come back to public consultation again because I think as a member of the public I would want to know in this process in terms of incorporation, not just from a passenger point of view but even from a freight point of view, the long term viability of the harbour and the charges will stay reasonable under a new private company. Until all the regulations are in place and we can see the protection that is going to be provided then the public cannot really comment, but I still want to know when that public consultation bit is going to come because I think the public will want to put their views across as to whether, within the regulations, they feel that there is enough protection in

there, as probably will Condor, whoever the next Huelin-Renouf is going to be and so on, that they are going to be protected from excessive charging.

The Minister for Economic Development:

Frankly, as early as possible is a somewhat glib answer but it is true, that is when the feedback from consultation needs to be or the consultation process needs to start and be completed. So that it can feed into the final development of the proposal. In terms of the particular issues that you have raised, the competition authority obviously plays an important part. There is the wider debate, we touched on the historic harbours a moment ago, and things like the coastguard, which, as you will be well aware, are a cost which are carried by the ports and the commercial entities are having to pay for it, which they do not particularly like. So there are all sorts of dynamics that feed through into the issue that you are talking about, about controlling what harbour dues and harbour charges are going to be in the future. Jersey is unique in some respects by having the coastguard incorporated as a cost which the commercial port users have to pay for, and consequently every Islander pays for because you can argue that our harbour dues are higher because we are having to accommodate something that otherwise would come out of general taxation.

The Connétable of St. Brelade:

I understand there are lots of swings and roundabouts for ports, things that are viable, things that will make money, things that potentially lose them money but again getting back to the point about the whole package and when the public will be able to comment on the whole package and if it is ... I can understand you have to have consultation through the process with various key stakeholders as to the parts you are trying to do within those work streams but I am trying to get the whole picture. From a timeframe point of view, if there is no available time for the public to consult I am not sure how we are going to be able to fully scrutinise it without that public consultation and that feedback.

[15:15]

The Minister for Economic Development:

I think what we are trying to say is that as we sit here today we can't give you a clear answer to that until we have got all the other elements in place, but in the coming few weeks we think we will be in a position to be much clearer on the timetable that will show you how we can hopefully accommodate all the elements that need to be incorporated, including consultation which is vital as you pointed out but also your own requirements.

Chief Officer, Economic Development:

One of the things I think the public will want to be assured of, and you have made a very good point, is about the charges. If you look at the other incorporated entities there is a regulatory oversight of them, which there will be in this case, and within that regulatory oversight the Minister has powers of direct guidance and in certain circumstances direction over the regulating body to effect what is happening. He has only used it once in the time has been here. That will be the same here, that gives ultimately the public the confidence that an incorporated entity cannot, on day one, double the prices and increase the input costs to the economy. There is no way, for instance, that the Economic Development Department would lodge legislation in the absence of regulation, or even legislation with regulation, that would allow that to happen.

The Connétable of St. Brelade:

It is not allowed at Jersey Post, it not allowed at Jersey Telecom.

Chief Officer, Economic Development:

Yes, it would be fundamentally damaging to the economy, which is why this stuff is quite complicated. Are there tensions between the ports wishing to have complete commercial freedom and us saying: "No, these are the 2 strategic transport assets and there has to be some element of ultimate oversight of what is being charged"? Yes, there is an actual tension there and that has been resolved through the whole project management process.

The Connétable of St. Brelade:

That is the point we were talking about before the meeting, was that if Gatwick quadrupled their charges there are other airports in the U.K. (United Kingdom) you can fly to and fly out of but in Jersey we have got one airport and realistically one harbour so really the protection is ensuring that charges are not too excessive and making sure the regulator has enough power, with the Minister as well, to ensure that that does not happen. That is what the public need to be totally convinced about, and I am sure some Members as well need to be totally convinced about that.

The Minister for Economic Development:

It is quite interesting, is it not, that on the Gatwick example you have just used, it was a virtual doubling of prices to Flybe which saw them have to withdraw from the marketplace, but that was as result of the makeup and style of their particular service. But it is an ever present risk, I suppose particularly for an Island such as Jersey that key strategic assets like the port, both ports for that matter, have to be properly regulated to ensure that the correct oversight is in place to ensure the broader interests of the Island are maintained.

The Connétable of St. Brelade:

Under an incorporated body will the airport be allowed to - although probably as a Minister you would not want to see - as it happens in the U.K. with some airlines like Ryanair, for example, where they would be given incentives or they could given incentives over and above other airlines to come in. Was that something that you would allow?

The Minister for Economic Development:

That already effectively happens. The airport have jurisdiction now to negotiate on new routes. They are trying to develop their business, they want more flow through the airport and it is already happening. A good example is the introduction of easyJet where they have been able to, looking at the whole network, work with easyJet to give them confidence that they are going to see a flow of business that will sustain their model. It is something that already happens so there is no change required. If there is anything above and beyond that, as we saw for example back at the time that Heathrow was re-established for a short period with British Midland, the ability to deliver what the Island had seen as a strategic link was only achievable because we stepped into the breach and provided some additional funding based on and through the use of our economic model that inbound traffic was going to be beneficial to the Island economy. As it turned out the model and the decision was more than vindicated by one particular piece of business which paid for the first year and a bit in its own right. It was a substantial investment, I have to say, to support it but that was E.D. looking at the broader benefits to the economy and there is a clear separation there. So the airport can do their own work in terms of developing links and routes, new routes in particular, and they do. We can step in where it is in the broader interests of the Island.

The Deputy of St. Martin:

Just going back to consultation again, because it is one of the crucial ones, is there a possibility, Minister, of maybe taking this in a slightly unconventional way, in the same way that we are going to try to start our scrutiny review with maybe not a 100 per cent picture but a 95 per cent picture. Is there a possibility that early in the new year you might be able to go to the public and say: "This is the general idea that we have with asset transfer. It is not finalised completely but this is 95 per cent of what we want to do and this is what the general idea is with a business case or one of the others that might be of interest specifically to the public and ask for comments to come in before they see the ... I know a lot of people would not be happy with that but some may say: "Okay, I can see where you are going and see the general idea, this is what I think." So that might be one way of saving a little bit of time.

The Minister for Economic Development:

I think one of the difficulties is that first of all one runs the risk that the public feel over consulted and under-listened-to. So we have to be very careful with ...

The Connétable of St. Brelade:

I cannot believe you said that after the referendum.

The Minister for Economic Development:

Surprising, is it not? Yes, surprising. I think they are very justified in the view that they have. I think we have to be very careful that this project could turn into multiple consultations. In reality it is going to be a number, the nature of it. I think if we go out with some speculative questions, it is going to be confusing and potentially misleading, which incidentally was the referendum position. So I think we need to think very carefully about it. All I can say is that we are looking at all the ways that we can of accelerating the process to ensure that the stakeholders and parties have had an important input to make to this project and have an appropriate period of time in which to do that. That includes obviously the most important scrutiny element, of which you represent.

The Deputy of St. Martin:

You used the word “non-negotiable” earlier but I think we must remember in all of this that it is not impossible that we are going to get to the end and find there is either a scrutiny reaction or public reaction to certain elements of the package which may have to be revisited.

The Minister for Economic Development:

It is quite possible, I would suggest that it has happened previously, that that is right and you scrutinise it and you identify some areas that could benefit from improvement and indeed that we might seek to adopt some of those recommendations. So, yes, you are absolutely right. But I would hope by stage that the public and Members of the States would see that as a positive reaction to a good scrutiny process.

The Deputy of St. Martin:

I think the secret will almost certainly be that when we get to the final piece of legislation and the final document, and it is just sitting there on the desk, and there is no surprises. If all the way through the next 6 months, the lead up to that day, presents us with a paper which does not get changed in the final piece or is not changed in the last fortnight before lodging or something like that. If it all sticks to the timetable and sticks to the general core of what we are trying to do, that will make life a lot easier.

Chief Officer, Economic Development:

In response to that, that is a discipline which from our side of the fence we must stick to absolutely because it is ...

The Deputy of St. Martin:

Because if we get to the final document and there is one part of it that is not quite what we all had in mind, there is a risk of the jigsaw unravelling.

The Connétable of St. Brelade:

With having 9 work streams, how are you ensuring that all those work streams are progressing towards a final date. I know we have obviously got Chris here today, but you got one officer overseeing it to ensure everything is working towards ...

Chief Officer, Economic Development:

Yes, all of those 9 work streams are working alongside each other, but it is being worked under a signal project management structure and the incorporation project board meets once a month at least to review how all of that progress is doing and how it is all knitting together because there are dependencies that flow through those projects. So this has been managed as close to a big project, project management discipline as I have ever seen here. It has been ... this is what I would call a proper job in terms of project management. I think it will set a standard for the management to do some of the more complex projects right across Government. There are people at the top of it that are doing it who have pure project management expertise. It does not matter for them whether they are project managing building an incinerator, the new hospital or whatever, it is discipline that we have brought to bear on this project, because it is so complicated.

The Deputy of St. Martin:

Is the danger that those top quality project managers have never dealt with scrutiny before or dealt with public consultation before?

The Minister for Economic Development:

I am sure they have dealt with very challenging environments before. A project manager is always seeking to shorten the timeframes within which the thing is done. That is their mantra. But we have had exactly the conversations you have had with us, and reflected in your letter, with them saying we need to reflect properly the scrutiny process and the legislative process in the Chamber otherwise we might as well not ...

The Deputy of St. Martin:

Notwithstanding having the best people to do this, I think we still all have to agree this is a hugely ambitious piece of timetabling, it is a massive piece of work. We have accepted it is properly the biggest piece of work we are going to do in our 3 years, the public are going to have huge interest, and as the Minister said, interest and sensitivity on this, everybody on the Island will be affected. If you live in St. Ouen, you are going to be worried about Greve De Lecq, if you are in St. Martin, you

are worried about ... everybody is going to have interest and the Crown jewels thing will keep dropping and people will be concerned so we want to make sure we are doing the right thing.

The Connétable of St. Brelade:

Obviously we have had some information as to how they are working, turning to the business case, how is that progressing at the present time because obviously the economic and commercial case for it is going to be ... is the make or break of it really, it has got to pay its own way. How has that been progressed?

Chief Officer, Economic Development:

You will remember we built financial models, extensive financial models for the airport and then the harbour which form the core of what I think you are talking as the business case. It is a financial model that governs the incremental value of incorporation. Those things are live, they are being constantly worked on and updated based on different assumptions that are coming in in other work streams. That business case work streams is working alongside everybody else. So it has all been brought together. So what we are not doing here, we are not starting off with a clean sheet of paper, because we built the financial models before the initial proposition. They have now been populated - for want of a better word - with a lot more certainty than they were at that point. There were some big assumptions made.

The Connétable of St. Brelade:

Has there been any surprises in that work, in the numbers?

Chief Officer, Economic Development:

No, I do not think there have any significant surprises but when you play with anything over 25 years, a small change in year one could be a quite significant change in year 25 and those things need all to be comprehended. But the basic assumptions around staff, staff costs, transfer on the same basis, the type of fee structures that is permissible to get, both at the harbour and the airport have all been built in there and were all built into that initial model. So, you know, there is no underlying assumption for instance that the fees, the port harbour dues or aerial fees would need to be doubled overnight because we just know that that is not going to happen. There are no hidden surprises in there. The other important thing is there has been attempt to push major capital items off the end of the process. The most significant one probably being the next piece of work on the runway, which is probably going to be at the end of £20 million piece of work. The easiest thing to do is to shove that off the end of your model and say: "Well, do not worry", that has not happened, it is brought into the scope of the financial model and plays out to what is required.

The Deputy of St. Martin:

In terms of the ... it is a big one, it is the assets and what they are. When are you likely to reach a decision as to the finality of what those assets will be? Obviously it must be something that is still in negotiation at the moment.

Chief Officer, Economic Development:

It is, there are a lot of assets and they have to be compared on an individual basis as well. You know, the easiest thing to do would be to draw a big line and sell inside that box.

The Connétable of St. Brelade:

How have the discussions gone on? There is a lot of outlying assets as well away from the main harbour and the main airport.

Chief Officer, Economic Development:

Well, the underlying principles that are driving that is that the outlying harbours, everything that is currently under the jurisdiction of the harbours through the Harbours Administration (Jersey) Law will move into the new company and there will be an obligation placed on the harbour to maintain them in the way that they are maintained today. As the Minister has said earlier, is that a commercially viable thing or and by itself, no it is not, so what happens it that revenues that are generated from the commercial port are used effectively to cross-subsidise that.

[15:30]

It is almost like the universal service allocation that the post office have. They have to do it, it is public service obligation that they have. So all of those assets are being ... all the work around what is required to convey them is to be undertaken between the Harbours and the conveyancing group in the Law Officers' Department. But that in itself is a very, very big piece of work and I think one of the things we will be dealing with is are there any assets that the public or indeed a States Member or Members may feel should be ... you mentioned earlier a number of assets to the E.S.C. (Education, Sport and Culture) or whatever. That has to be reconciled because what we cannot afford to do when this proposition is debated is have an argument on the floor of the Chamber about asset A or asset B being in or out, it has to be effectively an agreed position.

The Minister for Economic Development:

You can imagine the scenario of having various amendments moving different assets into different locations. Your E.S.C. point was interesting because it did not relate just to the educational side, it is a sailing club or a sport, in that respect it could equally be under Jersey Heritage Trust, which is the responsibility of E.S.C. where you could, I think I alluded to earlier, say all the outlying

harbours could be viewed as historic structures and in fact should be the responsibility of Jersey Heritage Trust. One way or another they have to be paid for.

The Connétable of St. Brelade:

But that is really getting to the core ... what we were trying to get at was how far have the discussions gone, if I take my own parish for example, in terms of obviously there is the airport playing field, for example, currently comes under Harbours and Airports. I personally would prefer to see them not in Harbours and Airports. There is no risk in future of it being developed. I know it is in the coastal zone, it is unlikely, but nevertheless it is part of the airport. The same applies, for example, for parts of the St. Aubin's harbour nearby. I have been contacted, and it is my fault I have not got back to them yet ... but there needs to be some discussion about whether as a parish we are happy with those things. I just wonder how far those discussions had gone or whether there is going to be any discussion over it. The Minister is quite right, you could end up on the floor of House with people pulling sections.

Chief Officer, Economic Development:

The underlying assumption, as with the staff, is that the assets that are currently covered by the Harbours Administration (Jersey) Law and all the other legislation will transfer into the new organisation as will all of the obligations that come along with them. The airport playing fields are a good example. There is an arrangement between E.S.C. who administer it, it sits in your parish, and the underlying ownership is with, at the moment, Jersey Airport. That arrangement will be moved straight into, unless they are taken outside it, the new organisation. So they do not get the assets without the obligations, that would be ...

The Minister for Economic Development:

So protections for a particular parish remain exactly in place and the incorporated body who would have responsibility for many of the assets that in truth they probably, if they had the choice, would not choose to have nevertheless they will under this arrangement have an obligation to still look after them, would remain in place. So planning requirements if there was going to be any development proposals and, of course, any parties would have the opportunity as they currently do to object or ...

The Connétable of St. Brelade:

But there is more likelihood of an incorporated company being more commercially minded, and quite rightly so, and making the most of all the assets they have got. That is the worry to the public, is that there are some assets that the incorporated body may feel they want to use in a different way.

Chief Officer, Economic Development:

But I think the assets fall into 2 different classes, and the airport is a good example. There are areas of undeveloped land that clearly lie inside the airport operational footprint and there are other areas of land - and the playing fields is a good example - that do not. So there is no working assumption or no assumption at all in the financial model that we are going to develop the airport playing fields. Are there other assumptions in there regarding the development of areas within the operational footprint like the F.B.O., like the movement of the cargo centre? Yes, there are but they are different things. There is no assumption that we just draw a significant big red line around these things and say: "Well, it is fair game inside that." The other thing I think from the playing fields perspective, as you have highlighted yourself, is that incorporated entity is subject to planning in the Island Plan. You cannot drive a coach and horses through that and neither would it. Any financial model that made any assumption that was inconsistent with that would not be worth the paper it was written on, however aspirational it might be.

The Connétable of St. Brelade:

It is probably a contentious thing to say but I think a company is likely to be less environmentally conscious maybe than a States Department might be and may feel that some operations are okay. I think you are right, the airport playing fields, I think they are safe, I do not think anybody is going to do anything with them. But there are fields in between, I think one recently that somebody tried to not develop but certainly run some operations on, fortunately they pulled that planning application but I think it shows some intent that there could be some use of what is on the edge of the green zone. The worry would be that if we are not having the negotiations with each parish as to what they think the potential for some of these areas are then there is a potential risk when you get to the House that people may say: "Well, we are not happy with that being there" if you have not had the conversation before.

The Minister for Economic Development:

There has to be full engagement.

The Connétable of St. Brelade:

Well, that is really what I am getting at. As long as we have full engagement with everybody.

The Minister for Economic Development:

I think it would be a hopeless scenario if it was not because quite simply what would happen is that certain Members would simply object, put amendments in and we would have the scenario which I painted earlier, which would make the whole process unworkable.

The Deputy of St. Martin:

Right, I think we can only reiterate the concerns I put in my letter to you, Minister, and we will try our level best to accommodate as much as we possibly can but we do see a huge amount of work which can only ramp up as we get closer and closer to D day. While we have got just 5 minutes can I just thank you, Minister, for your efforts over the last couple of weeks with the Huelin-Renouf situation. I realise it is not resolved yet but I am aware that you and your team have put in a lot of work over time to make sure that we continue a low low link with the U.K. One thing that has come out of discussions is the Condor Ferries ramp licences, 15, 20 years away or a new licence which could potentially be for 15 or 20 years. Can you tell us how soon you think we are going to be in serious negotiations with Condor over that subject? Is that something that is going to happen in the next few months or the next year or the next 3 or 4 years?

The Minister for Economic Development:

Well, discussions have been ongoing first of all between Jersey and Guernsey because we view the sea routes as a network, the U.K., Guernsey, Jersey, France and certainly their long-term viability, sustainability is as a network. So we have had dialogue at an early stage with Guernsey on that because they have obviously formed an integral part of that network. We have also had discussions, there has been a negotiating team in place having discussions with Condor along the lines of what they would offer to the Islands for the servicing of that network should they be granted a long-term agreement. I think we have come at this from the point of view that whether it is Condor or whether it were to be another operator there is going to need to be significant investment in ships and infrastructure to service such a network in an efficient and effective way. I think an example of that is we have seen in the last few years that the reliability in particular of the Condor service has fallen short of the mark that I think we would accept and the Islanders would find acceptable, largely because they have a fleet of ageing vessels that are ever more costly to maintain and more problematic. So we are very clear that whether it is Condor or another company that significant investment would be required, probably £100 million over the length of the contract and for a company to invest the sum of £100 million or more to get a return on that investment there needs to be a requisite period of time for that to be allowed to happen. That is the basis of the discussions with Condor which are already ongoing with Guernsey and I would suspect that clarity on that opportunity will be fairly soon in arriving at a position where it will need to go into the public domain and indeed fall to yourselves.

The Deputy of St. Martin:

So we are talking months, are we?

The Minister for Economic Development:

I would say we are talking weeks or possibly a month or 2.

The Deputy of St. Martin:

Okay, that will be another interesting discussion or consultation for the public to have.

The Minister for Economic Development:

Indeed, Chairman, there are no easy answers in anything to do with ships.

The Deputy of St. Martin:

Okay. We are just about done, unless you have got anything else?

The Connétable of St. Brelade:

Just a pat on the back for the new tourism board chairman, John Henwood. I was contacted by a concerned friend of mine who runs a hotel and he had written to them and was saying he had not had a response and it was disgraceful for a new tourism board. The next day he got a response. So it seems to be working and it seems to be getting the right ... the industry is getting the right response back from the board so from what I have heard so far it seems to be working.

The Minister for Economic Development:

I am very encouraged to hear that. We always welcome good news. It is usually thin on the ground these recent years. But in all seriousness, that is good news, I know they have been working extremely hard. They are in what you might describe as a sort of discovery phase where they are engaging with stakeholders, with industry in particular, and this is part of the process of developing a new tourism strategy. As I say, I think they have been doing a lot of hard work and speaking to an awful lot of people and I am delighted they are also being efficient at getting back to people.

The Connétable of St. Brelade:

Well, I got a pat on the back for ... because he said to me, who have you spoke to, what have you done? I did not actually do anything. He answered before I had an opportunity to even contract them it so it was good.

The Minister for Economic Development:

That is good, that is encouraging.

The Deputy of St. Martin:

I note today, Minister, we have had the announcement of a new chairman of the Innovation Fund, which is good news and I can only hope he gets the other board members in line quickly and move forward.

The Minister for Economic Development:

Yes, I am delighted with that appointment. I think it is a very good appointment for the Innovation Fund and to progress the project which is important for the economy we need to hopefully be able to support him with a high quality board. That is what the objective is now.

The Connétable of St. Brelade:

Have we got a date when that is likely to be up and running because I have been contacted by one or 2 people asking me that question about when funds would be available.

The Minister for Economic Development:

It is not the funds so much as having a mechanism in place.

The Connétable of St. Brelade:

A mechanism to access.

The Minister for Economic Development:

That requires obviously the board and the N.E.Ds (Non-Executive Directors) to be appointed and we are targeting October.

The Connétable of St. Brelade:

Good.

The Deputy of St. Martin:

All right, Minister, team, thank you very much for coming this afternoon. I fear - that may be the wrong word - that all the subjects that we have discussed this afternoon we will be talking to you again about in the not too distant future.

The Minister for Economic Development:

Yes. Do not fear, Chairman, they are opportunities. Good, thank you.

[15:42]